

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Healthcare Regulation  
2 Subcommittee

3 Representative Bartleman offered the following:

4  
5 **Substitute Amendment for Amendment (361973) by**  
6 **Representative Rudman**

7 Remove everything after the enacting clause and insert:  
8 Section 1. The Legislature finds that the right of  
9 conscience is central to the practice of medicine. It is the  
10 intent of the Legislature to provide medical conscience rights  
11 for health care providers to ensure that they can care for  
12 patients consistent with their moral, ethical, and religious  
13 convictions. Further, it is the intent of the Legislature that  
14 licensed health care providers shall be free from threat of  
15 discrimination for providing conscience-based health care.

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16 Section 2. Section 381.00321, Florida Statutes, is created  
17 to read:

18 381.00321 Rights of conscience of health care providers.-

19 (1) DEFINITIONS.-As used in this section, the term:

20 (a) "Adverse action" means the discharge, suspension,  
21 transfer, demotion, discipline, suspension, exclusion,  
22 revocation of privileges, withholding of bonuses, or reduction  
23 in salary or benefits; any action that may negatively impact the  
24 advancement or graduation of a student, including, but not  
25 limited to, the withholding of scholarship funds; or any other  
26 negative action taken against a health care provider.

27 (b) "Agency" means the Agency for Health Care  
28 Administration.

29 (c) "Business entity" has the same meaning as provided in  
30 s. 606.03. The term also includes a charitable organization as  
31 defined in s. 496.404 and a corporation not for profit as  
32 defined in s. 617.01401.

33 (d) "Conscience-based objection" means an objection based  
34 on a sincerely held religious, moral, or ethical belief.  
35 Conscience with respect to entities, is determined by reference  
36 to the entities' governing documents, any published ethical,  
37 moral, or religious guidelines or directives, mission  
38 statements, constitutions, articles of incorporation, bylaws,  
39 policies, or regulations.

40 (e) "Department" means the Department of Health.

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41 (f) "Educational institution" means a public or private  
42 school, college, or university.

43 (g) "Governmental entity" means the state or any political  
44 subdivision thereof, including the executive, legislative, and  
45 judicial branches of government; the independent establishments  
46 of the state, counties, municipalities, districts, authorities,  
47 boards, or commissions; any agencies that are subject to chapter  
48 286, including, but not limited to, the department and any  
49 boards under the jurisdiction of the department.

50 (h) "Health care service" means medical procedures,  
51 medical care, or medical services provided to any patient at any  
52 time over the entire course of treatment, or medical research,  
53 including, but not limited to, testing; diagnosis; referral;  
54 dispensing or administering any drug, medication, or device;  
55 psychological therapy or counseling; research; prognosis;  
56 therapy; recordmaking procedures; notes related to treatment;  
57 set up or performance of a surgery or procedure; or any other  
58 care or services performed or provided by any health care  
59 provider.

60 (i) "Health care provider" means:

61 1. Any person or entity licensed under chapter 394;  
62 chapter 400; chapter 401; chapter 457; chapter 458; chapter 459;  
63 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;  
64 chapter 465; chapter 466; chapter 467; part I, part II, part  
65 III, part IV, part V, part X, part XIII, or part XIV of chapter

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66 468; chapter 478; chapter 480; part I, part II, or part III of  
67 chapter 483; chapter 484; chapter 486; chapter 490; or chapter  
68 491; or

69 2. Any provider as defined in s. 408.803, a continuing care  
70 facility licensed under chapter 651, or a pharmacy permitted  
71 under chapter 465.

72  
73 The term includes any student enrolled in an educational  
74 institution who is seeking to become a health care provider.

75 (k) "Participate" or "participation" means to pay for or  
76 take part in any way in providing or facilitating any health  
77 care service or any part of such service.

78 (2) RIGHTS OF CONSCIENCE.-

79 (a)1. A health care provider has the right to opt out of  
80 participation in or payment for any health care service on the  
81 basis of a conscience-based objection. A health care provider  
82 must, at the time of the conscience-based objection or timely  
83 thereafter:

84 a. Provide written notification of the conscience-based  
85 objection to the health care practitioner's supervisor or  
86 employer, if applicable; or

87 b. Document the conscience-based objection to a particular  
88 health care service in the patient's medical file.

89 2. A health care provider who is a student must provide  
90 written notice of their conscience-based objection to their

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91 educational institution at the time of the conscience-based  
92 objection.

93 (b) The exercise of the right of medical conscience is  
94 limited to conscience-based objections to a specific health care  
95 service. This section may not be construed to waive or modify  
96 any duty a health care provider may have to provide other health  
97 care services that do not violate their rights of conscience or  
98 to provide informed consent to a patient in accordance with  
99 general law.

100 (c) A person, a governmental entity, a business entity, or  
101 an educational institution may not discriminate against any  
102 health care provider because the health care provider declined  
103 to participate in a health care service on the basis of a  
104 conscience-based objection.

105 (3) SPEECH AND WHISTLEBLOWER PROTECTIONS.-

106 (a) A health care provider may not be discriminated  
107 against or suffer any adverse action in any manner with respect  
108 to:

109 1. Providing or causing to be provided or intending to  
110 provide or cause to be provided to their employer, the Attorney  
111 General, the Department of Health, any other state agency  
112 charged with protecting health care rights of conscience, the  
113 United States Department of Health and Human Services, the  
114 Office of Civil Rights, or any other federal agency charged with  
115 protecting health care rights of conscience information relating

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116 to any violation of or any act or omission the health care  
117 provider reasonably believes to be a violation of any provision  
118 of this act;

119 2. Testifying or intending to testify in a proceeding  
120 concerning such violation; or

121 3. Assisting or participating or intending to assist or  
122 participate in such a proceeding.

123 (b) Unless the disclosure is specifically prohibited by  
124 law, a health care provider may not be discriminated against in  
125 any manner for disclosing information that the health care  
126 provider reasonably believes constitutes:

127 1. A violation of any law, rule, or regulation;

128 2. A violation of any ethical guidelines for the provision  
129 of any medical procedure or service; or

130 3. A practice or method of treatment that may put patient  
131 health at risk or present a substantial and specific danger to  
132 public health or safety.

133 (4) CIVIL REMEDIES.—A health care provider has a civil  
134 cause of action for appropriate damages, an injunction, or any  
135 other appropriate relief in law or equity, including reasonable  
136 attorney fees against any person, governmental entity, business  
137 entity, or educational institution for any violation of this  
138 act.

139 (5) IMMUNITY FROM LIABILITY.—A health care provider may  
140 not be civilly liable for declining to participate in a health

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141 care service on the basis of a conscience-based objection. A  
142 health care provider must comply with the notice requirement of  
143 paragraph (2)(c) to avoid civil liability under this section.

144 (6) EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT.—This  
145 section does not override the requirement to provide emergency  
146 medical treatment to all patients as set forth in the Emergency  
147 Medical Treatment and Active Labor Act, 42 U.S.C. s. 1395dd.

148 Section 3. Section 456.61, Florida Statutes, is created to  
149 read:

150 456.61 Use of free speech by a health care practitioner;  
151 prohibition.—

152 (1) A board within the jurisdiction of the department, or  
153 the department if there is no board, may not take disciplinary  
154 action against, or deny a license to, an individual solely  
155 because the individual has spoken or written publicly about a  
156 health care service, including, but not limited to, speech  
157 through the use of a social media platform, as defined in s.  
158 501.2041, provided such individual is not providing medical  
159 advice or treatment to a specific patient and provided such  
160 speech does not violate of any other applicable law.

161 (2) A specialty board or other recognizing agency approved  
162 by any board within the jurisdiction of the department may not  
163 exclude an individual from membership solely because the  
164 individual has spoken or written publicly about a health care  
165 service including, but not limited to, speech through the use of

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166 a social media platform, as defined in s. 501.2041, provided  
167 such individual is not providing medical advice or treatment to  
168 a specific patient and provided such speech does not violate any  
169 other applicable law.

170 Section 4. If any provision of this act or the application  
171 thereof to any person or circumstance is held invalid, the  
172 invalidity does not affect other provisions or applications of  
173 this act which can be given effect without the invalid provision  
174 or application, and to this end the provisions of this act are  
175 severable.

176 Section 5. This act shall take effect July 1, 2023.