

1 A bill to be entitled
2 An act relating to protections of medical conscience;
3 providing legislative findings and intent; creating s.
4 381.00321, F.S.; providing definitions; authorizing
5 health care providers and health care payors to opt
6 out of participation in or payment for certain health
7 care services by conscience-based objections without
8 discrimination or threat of adverse actions; requiring
9 a health care provider to notify a patient and the
10 provider's supervisor or employer, if applicable, when
11 the provider declines to participate in certain health
12 care services on the basis of a conscience-based
13 objection; providing for civil remedies, damages, and
14 immunity from liability; creating s. 456.61, F.S.;
15 prohibiting certain boards and the Department of
16 Health from taking disciplinary action against, or
17 denying a license to, an individual based on the use
18 of free speech based on a conscience-based objection;
19 providing for severability; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. The Legislature finds that the right of
25 conscience is central to the practice of medicine. It is the

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26 intent of the Legislature to provide medical conscience rights
27 for health care providers and payors to ensure that they can
28 care for patients consistent with their moral, ethical, and
29 religious convictions. Further, it is the intent of the
30 Legislature that licensed health care providers and payors shall
31 be free from threat of discrimination for providing conscience-
32 based health care.

33 Section 2. Section 381.00321, Florida Statutes, is created
34 to read:

35 381.00321 Rights of conscience of health care providers
36 and health care payors.-

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

38 (a) "Adverse action" means the discharge, suspension,
39 transfer, demotion, discipline, suspension, exclusion,
40 revocation of privileges, withholding of bonuses, or reduction
41 in salary or benefits; any action that may negatively impact the
42 advancement or graduation of a student, including, but not
43 limited to, the withholding of scholarship funds; or any other
44 negative action taken against a health care provider.

45 (b) "Agency" means the Agency for Health Care
46 Administration.

47 (c) "Business entity" has the same meaning as provided in
48 s. 606.03. The term also includes a charitable organization as
49 defined in s. 496.404 and a corporation not for profit as
50 defined in s. 617.01401.

51 (d) "Conscience-based objection" means an objection based
52 on a sincerely held religious, moral, or ethical belief.
53 Conscience with respect to entities, is determined by reference
54 to the entities' governing documents, any published ethical,
55 moral, or religious guidelines or directives, mission
56 statements, constitutions, articles of incorporation, bylaws,
57 policies, or regulations.

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

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

61 (g) "Governmental entity" means the state or any political
62 subdivision thereof, including the executive, legislative, and
63 judicial branches of government; the independent establishments
64 of the state, counties, municipalities, districts, authorities,
65 boards, or commissions; any agencies that are subject to chapter
66 286, including, but not limited to, the department and any
67 boards under the jurisdiction of the department.

68 (h) "Health care service" means medical procedures,
69 medical care, or medical services provided to any patient at any
70 time over the entire course of treatment, or medical research,
71 including, but not limited to, testing; diagnosis; referral;
72 dispensing or administering any drug, medication, or device;
73 psychological therapy or counseling; research; prognosis;
74 therapy; recordmaking procedures; notes related to treatment;
75 set up or performance of a surgery or procedure; or any other

76 care or services performed or provided by any health care
 77 provider.

78 (i) "Health care payor" means a health insurer, an
 79 employer, a health care sharing organization, a health plan, a
 80 health maintenance organization, a management services
 81 organization, or any other entity that pays for, or arranges for
 82 the payment of any health care service, whether such payment is
 83 in whole or in part.

84 (j) "Health care provider" means:

85 1. Any person or entity licensed under chapter 394;
 86 chapter 400; chapter 401; chapter 457; chapter 458; chapter 459;
 87 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;
 88 chapter 465; chapter 466; chapter 467; part I, part II, part
 89 III, part IV, part V, part X, part XIII, or part XIV of chapter
 90 468; chapter 478; chapter 480; part I, part II, or part III of
 91 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
 92 491; or

93 2. Any provider as defined in s. 408.803, a continuing care
 94 facility licensed under chapter 651, or a pharmacy permitted
 95 under chapter 465.

96
 97 The term includes any student enrolled in an educational
 98 institution who is seeking to become a health care provider.

99 (k) "Participate" or "participation" means to pay for or
 100 take part in any way in providing or facilitating any health

101 care service or any part of such service.

102 (2) RIGHTS OF CONSCIENCE.—

103 (a)1. A health care provider or health care payor has the
 104 right to opt out of participation in or payment for any health
 105 care service on the basis of a conscience-based objection. A
 106 health care provider must, at the time of the conscience-based
 107 objection or timely thereafter:

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

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

113 2. A health care provider who is a student must provide
 114 written notice of their conscience-based objection to their
 115 educational institution at the time of the conscience-based
 116 objection.

117 (b) The exercise of the right of medical conscience is
 118 limited to conscience-based objections to a specific health care
 119 service. This section may not be construed to waive or modify
 120 any duty a health care provider or health care payor may have to
 121 provide or pay for other health care services that do not
 122 violate their rights of conscience or any duty a health care
 123 provider may have to provide informed consent to a patient in
 124 accordance with general law.

125 (c) A person, a governmental entity, a business entity, or

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126 an educational institution may not discriminate against any
127 health care provider or health care payor because the health
128 care provider or health care payor declined to participate in or
129 pay for a health care service on the basis of a conscience-based
130 objection.

131 (3) SPEECH AND WHISTLEBLOWER PROTECTIONS.—

132 (a) A health care provider or health care payor may not be
133 discriminated against or suffer any adverse action in any manner
134 with respect to:

135 1. Providing or causing to be provided or intending to
136 provide or cause to be provided to their employer, the Attorney
137 General, the Department of Health, any other state agency
138 charged with protecting health care rights of conscience, the
139 United States Department of Health and Human Services, the
140 Office of Civil Rights, or any other federal agency charged with
141 protecting health care rights of conscience information relating
142 to any violation of or any act or omission the health care
143 provider reasonably believes to be a violation of any provision
144 of this act;

145 2. Testifying or intending to testify in a proceeding
146 concerning such violation; or

147 3. Assisting or participating or intending to assist or
148 participate in such a proceeding.

149 (b) Unless the disclosure is specifically prohibited by
150 law, a health care provider or health care payor may not be

151 discriminated against in any manner for disclosing information
 152 that the health care provider reasonably believes constitutes:

- 153 1. A violation of any law, rule, or regulation;
 154 2. A violation of any ethical guidelines for the provision
 155 of any medical procedure or service; or
 156 3. A practice or method of treatment that may put patient
 157 health at risk or present a substantial and specific danger to
 158 public health or safety.

159 (4) CIVIL REMEDIES.—A health care provider or health care
 160 payor has a civil cause of action for appropriate damages, an
 161 injunction, or any other appropriate relief in law or equity,
 162 including reasonable attorney fees against any person,
 163 governmental entity, business entity, or educational institution
 164 for any violation of this act.

165 (5) IMMUNITY FROM LIABILITY.—A health care provider or
 166 health care payor may not be civilly liable for declining to
 167 participate in a health care service on the basis of a
 168 conscience-based objection. A health care provider must comply
 169 with the notice requirement of paragraph (2)(c) to avoid civil
 170 liability under this section.

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

175 Section 3. Section 456.61, Florida Statutes, is created to

176 read:

177 456.61 Use of free speech by a health care practitioner;
 178 prohibition.-

179 (1) A board within the jurisdiction of the department, or
 180 the department if there is no board, may not take disciplinary
 181 action against, or deny a license to, an individual solely
 182 because the individual has spoken or written publicly about a
 183 health care service, including, but not limited to, speech
 184 through the use of a social media platform, as defined in s.
 185 501.2041, provided such individual is not providing medical
 186 advice or treatment to a specific patient and provided such
 187 speech does not violate of any other applicable law.

188 (2) A specialty board or other recognizing agency approved
 189 by any board within the jurisdiction of the department may not
 190 exclude an individual from membership solely because the
 191 individual has spoken or written publicly about a health care
 192 service including, but not limited to, speech through the use of
 193 a social media platform, as defined in s. 501.2041, provided
 194 such individual is not providing medical advice or treatment to
 195 a specific patient and provided such speech does not violate any
 196 other applicable law.

197 Section 4. If any provision of this act or the application
 198 thereof to any person or circumstance is held invalid, the
 199 invalidity does not affect other provisions or applications of
 200 this act which can be given effect without the invalid provision

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201 | or application, and to this end the provisions of this act are
202 | severable.

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