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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2023	.	
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The Committee on Rules (Trumbull) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. It is the intent of the Legislature to provide the right of medical conscience for health care providers and payors to ensure they can care for patients consistent with their moral, ethical, and religious convictions. Further, it is the intent of the Legislature that licensed health care providers and payors be free from threat of discrimination for providing conscience-based health care.



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12 Section 2. Section 381.00321, Florida Statutes, is created
13 to read:

14 381.00321 The right of medical conscience of health care
15 providers and health care payors.-

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

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

24 (b) "Conscience-based objection" means an objection based
25 on a sincerely held religious, moral, or ethical belief.
26 Conscience with respect to entities is determined by reference
27 to the entities' governing documents; any published ethical,
28 moral, or religious guidelines or directives; mission
29 statements; constitutions; articles of incorporation; bylaws;
30 policies; or regulations.

31 (c) "Department" means the Department of Health.

32 (d) "Educational institution" means a public or private
33 school, college, or university.

34 (e) "Health care payor" means a health insurer, an
35 employer, a health care sharing organization, a health plan, a
36 health maintenance organization, a management services
37 organization, or any other entity that pays for, or arranges for
38 the payment of, any health care service, whether such payment is
39 in whole or in part.

40 (f) "Health care provider" means:



41 1. Any person or entity licensed under chapter 394; chapter
42 400; chapter 401; chapter 457; chapter 458; chapter 459; chapter
43 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter
44 465; chapter 466; chapter 467; part I, part II, part III, part
45 IV, part V, part X, part XIII, or part XIV of chapter 468;
46 chapter 478; chapter 480; part I, part II, or part III of
47 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
48 491; or

49 2. Any provider as defined in s. 408.803, a continuing care
50 facility licensed under chapter 651, or a pharmacy permitted
51 under chapter 465.

52
53 This term includes any student enrolled in an educational
54 institution who is seeking to become a health care provider.

55 (g) "Health care service" means medical research, medical
56 procedures, or medical services including, but not limited to,
57 testing; diagnosis; referral; dispensing or administering any
58 drug, medication, or device; psychological therapy or
59 counseling; research; therapy; recordmaking procedures; set up
60 or performance of a surgery or procedure; or any other care or
61 services performed or provided by any health care provider.

62 (h) "Participate" or "participation" means to pay for or
63 take part in any way in providing or facilitating any health
64 care service or any part of such service.

65 (i) "Right of medical conscience" means the right of a
66 person to abide by the person's sincerely held religious, moral,
67 or ethical beliefs when such beliefs are contrary to the duties
68 placed on the person in the course of the practice of the
69 person's profession as a health care provider or health care



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70 payor. With respect to health care providers or payors that are
71 entities, such beliefs are determined by reference to the
72 entity's governing documents; any published ethical, moral, or
73 religious guidelines or directives; mission statements;
74 constitutions; articles of incorporation; bylaws; policies; or
75 regulations.

76 (2) RIGHT OF MEDICAL CONSCIENCE.-

77 (a) A health care provider or health care payor has the
78 right to opt out of participation in or payment for any health
79 care service on the basis of a conscience-based objection. A
80 health care provider must, at the time of the conscience-based
81 objection or as soon as practicable thereafter, provide written
82 notice of his or her conscience-based objection to the health
83 care provider's supervisor or employer, if applicable, and
84 document his or her conscience-based objection to a particular
85 health care service in the patient's medical file. Additionally,
86 if a patient, or potential patient, when attempting to schedule
87 an appointment with the provider indicates to the provider that
88 he or she is seeking a specific health care service for which
89 the provider has a conscience-based objection, the provider must
90 notify the patient that he or she does not provide such service
91 before scheduling the appointment. A health care provider who is
92 a student must provide written notice of his or her conscience-
93 based objection to the educational institution at the time the
94 conscience-based objection is made or as soon as practicable
95 thereafter.

96 (b) The exercise of the right of medical conscience is
97 limited to conscience-based objections to a specific health care
98 service. This section may not be construed to waive or modify



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99 any duty a health care provider or health care payor may have to
100 provide or pay for other health care services that do not
101 violate their right of medical conscience, to waive or modify
102 any duty to provide any informed consent required by law, or to
103 allow a health care provider or payor to opt out of providing
104 health care services to any patient or potential patient because
105 of that patient's or potential patient's race, color, religion,
106 sex, or national origin. Additionally, a health care payor may
107 not decline to pay for a health care service it is contractually
108 obligated to cover during the plan year.

109 (c) A health care provider may not be discriminated against
110 or suffer adverse action because the health care provider
111 declined to participate in a health care service on the basis of
112 a conscience-based objection.

113 (3) SPEECH AND WHISTLE-BLOWER PROTECTIONS.—

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

117 1. Providing or causing to be provided, or intending to
118 provide or cause to be provided, information relating to any
119 violation of or any act or omission the health care provider or
120 health care payor reasonably believes to be a violation of any
121 provision of this act to his or her employer, the Attorney
122 General, the department, any other state agency charged with
123 protecting the right of medical conscience, the United States
124 Department of Health and Human Services, the Office of Civil
125 Rights, or any other federal agency charged with protecting the
126 right of medical conscience;

127 2. Testifying or intending to testify in a proceeding



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128 concerning such violation; or

129 3. Assisting or participating in or intending to assist or
130 participate in such a proceeding.

131 (b) Unless the disclosure is specifically prohibited by
132 law, a health care provider or health care payor may not be
133 discriminated against in any manner for disclosing information
134 that the health care provider or health care payor reasonably
135 believes constitutes:

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

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

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

142 (4) ENFORCEMENT.—A health care provider or health care
143 payor may file a complaint with the Attorney General alleging
144 any violation of this section. If the Attorney General
145 determines there has been a violation of this section, the
146 Attorney General may commence a civil action for damages,
147 injunctive relief, or any other appropriate relief, including
148 attorney fees. For the purpose of conducting an investigation,
149 the Attorney General may administer oaths, take depositions,
150 make inspections when authorized by law, issue subpoenas
151 supported by affidavit, serve subpoenas and other process, and
152 compel the attendance of witnesses and the production of books,
153 papers, documents, and other evidence.

154 (5) IMMUNITY FROM LIABILITY.—A health care provider or
155 health care payor may not be held civilly liable solely for
156 declining to participate in or pay for a health care service on



157 the basis of a conscience-based objection. However, this section
158 does not limit a person's ability to recover damages or other
159 relief under any other applicable law due to behavior that
160 constitutes a violation of this section or that is not related
161 to a conscience-based objection.

162 (6) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.—
163 This section may not be construed to override any requirement to
164 provide emergency medical treatment in accordance with federal
165 or state law.

166 Section 3. Section 456.61, Florida Statutes, is created to
167 read:

168 456.61 Use of free speech by a health care practitioner;
169 prohibition.—

170 (1) A board, or the department if there is no board, may
171 not take disciplinary action against a health care
172 practitioner's license or deny a license to an individual solely
173 because the individual has spoken or written publicly about a
174 health care service or public policy, including, but not limited
175 to, speech through the use of a social media platform as defined
176 in s. 501.2041, provided that the individual is not using such
177 speech or written communication to provide medical advice or
178 treatment to a specific patient or patients, and provided that
179 such speech or written communication does not separately violate
180 any other applicable law or rule.

181 (2) If a specialty board or other recognizing agency
182 approved by any board within the jurisdiction of the department
183 revokes the certification of an individual solely because the
184 individual has spoken or written publicly about a health care
185 service or public policy, including, but not limited to, speech



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186 through the use of a social media platform as defined in s.
187 501.2041, provided such individual was not providing medical
188 advice or treatment to a specific patient and provided such
189 speech did not separately violate of any other applicable law,
190 the board within the jurisdiction of the department may revoke
191 its approval of such specialty board or other recognizing
192 agency.

193 Section 4. If any provision of this act or its application
194 to any person or circumstance is held invalid, the invalidity
195 does not affect other provisions or applications of the act
196 which can be given effect without the invalid provision or
197 application, and to this end the provisions of this act are
198 severable.

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

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201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete everything before the enacting clause
204 and insert:

205 A bill to be entitled
206 An act relating to protections of medical conscience;
207 providing legislative intent; creating s. 381.00321,
208 F.S.; defining terms; providing that health care
209 providers and health care payors have the right to opt
210 out of participation in or payment for certain health
211 care services on the basis of conscience-based
212 objections; providing requirements for a health care
213 provider's notice and documentation of such objection;
214 requiring health care providers to notify patients or



215 potential patients seeking a specific health care
216 service of any such objection before scheduling an
217 appointment; providing construction; prohibiting
218 health care payors from declining to cover any health
219 care service they are obligated to cover during the
220 plan year; prohibiting discrimination or adverse
221 action against health care providers who decline to
222 participate in a health care service on the basis of
223 conscience-based objection; providing whistle-blower
224 protections for health care providers and health care
225 payors that take certain actions or disclose certain
226 information relating to the reporting of certain
227 violations; authorizing health care providers and
228 health care payors to file complaints with the
229 Attorney General for violation of specified
230 provisions; providing for civil penalties; authorizing
231 the Attorney General to take specified actions for
232 purposes of conducting an investigation of such
233 complaints; providing health care providers and health
234 care payors immunity from civil liability solely for
235 declining to participate in or pay for a health care
236 service on the basis of conscience-based objection;
237 providing construction; creating s. 456.61, F.S.;
238 prohibiting boards, or the Department of Health if
239 there is no board, from taking disciplinary action
240 against or denying a license to an individual based
241 solely on specified conduct; authorizing boards within
242 the department's jurisdiction to revoke their approval
243 of a specialty board or other recognizing agency under



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certain circumstances; providing severability;
providing an effective date.