



206378

LEGISLATIVE ACTION

Senate

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House

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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.



206378

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



206378

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



206378

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



206378

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



206378

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



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





206378

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



206378

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certain circumstances; providing severability;  
providing an effective date.