

By Senator Trumbull

2-00821C-23

20231580__

1 A bill to be entitled
2 An act relating to protections of medical conscience;
3 creating s. 381.00321, F.S.; defining terms; providing
4 that health care providers and health care payors have
5 the right to opt out of participation in or payment
6 for certain health care services on the basis of
7 conscience-based objections; providing requirements
8 for a health care provider's notice and documentation
9 of such objection; providing construction; prohibiting
10 health care payors from declining to cover any health
11 care service they are obligated to cover during the
12 plan year; prohibiting persons, governmental entities,
13 business entities, and educational institutions from
14 discriminating against health care providers and
15 health care payors that exercise such right; providing
16 whistle-blower protections for health care providers
17 and health care payors that take certain actions or
18 disclose certain information relating to the reporting
19 of certain violations; providing construction;
20 creating s. 456.61, F.S.; prohibiting boards, or the
21 Department of Health if there is no board, from taking
22 disciplinary action against or denying a license to an
23 individual based solely on specified conduct;
24 providing construction; providing severability;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 381.00321, Florida Statutes, is created

2-00821C-23

20231580__

30 to read:

31 381.00321 Rights of conscience of health care providers and
32 health care payors.-

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

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

41 (b) "Agency" means the Agency for Health Care
42 Administration.

43 (c) "Business entity" has the same meaning as provided in
44 s. 606.03. The term also includes a charitable organization as
45 defined in s. 496.404 and a corporation not for profit as
46 defined in s. 617.01401.

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

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

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

57 (g) "Governmental entity" means the state or any political
58 subdivision thereof, including the executive, legislative, and

2-00821C-23

20231580__

59 judicial branches of government; the independent establishments
60 of the state, counties, municipalities, districts, authorities,
61 boards, or commissions; and any agencies that are subject to
62 chapter 286, including, but not limited to, the department and
63 any boards under the jurisdiction of the department.

64 (h) "Health care payor" means a health insurer, an
65 employer, a health care sharing organization, a health plan, a
66 health maintenance organization, a management services
67 organization, or any other entity that pays for, or arranges for
68 the payment of, any health care service, whether such payment is
69 in whole or in part.

70 (i) "Health care provider" means:

71 1. Any person or entity licensed under chapter 394; chapter
72 400; chapter 401; chapter 457; chapter 458; chapter 459; chapter
73 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter
74 465; chapter 466; chapter 467; part I, part II, part III, part
75 IV, part V, part X, part XIII, or part XIV of chapter 468;
76 chapter 478; chapter 480; chapter 483; chapter 484; chapter 486;
77 chapter 490; or chapter 491; or

78 2. Any provider as defined in s. 408.803, a continuing care
79 facility licensed under chapter 651, or a pharmacy permitted
80 under chapter 465.

81
82 This term includes any student enrolled in an educational
83 institution who is seeking to become a health care provider.

84 (j) "Health care service" means medical research or medical
85 procedures, medical care, or medical services provided to any
86 patient at any time over the entire course of treatment,
87 including, but not limited to, testing; diagnosis; referral;

2-00821C-23

20231580__

88 dispensing or administering any drug, medication, or device;
89 psychological therapy or counseling; research; prognosis;
90 therapy; recordmaking procedures; notes related to treatment;
91 set up or performance of a surgery or procedure; or any other
92 care or services performed or provided by any health care
93 provider.

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

97 (2) RIGHTS OF CONSCIENCE.—

98 (a) A health care provider or health care payor has the
99 right to opt out of participation in or payment for any health
100 care service on the basis of a conscience-based objection. A
101 health care provider must, at the time of the conscience-based
102 objection or as soon as practicable thereafter, provide written
103 notice of his or her conscience-based objection to the health
104 care provider's supervisor or employer, if applicable, or
105 document his or her conscience-based objection to a particular
106 health care service in the patient's medical file. A health care
107 provider who is a student must provide written notice of his or
108 her conscience-based objection to the educational institution at
109 the time the conscience-based objection is made or as soon as
110 practicable thereafter.

111 (b) The exercise of the right of medical conscience is
112 limited to conscience-based objections to a specific health care
113 service. This section may not be construed to waive or modify
114 any duty a health care provider or health care payor may have to
115 provide or pay for other health care services that do not
116 violate the rights of conscience or any duty to provide any

2-00821C-23

20231580__

117 informed consent required by law. Additionally, a health care
118 payor may not decline to pay for a health care service it is
119 contractually obligated to cover during the plan year.

120 (c) A person, a governmental entity, a business entity, or
121 an educational institution may not discriminate against any
122 health care provider or health care payor because the health
123 care provider or health care payor declined to participate in or
124 pay for a health care service on the basis of a conscience-based
125 objection.

126 (3) SPEECH AND WHISTLE-BLOWER PROTECTIONS.-

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

130 1. Providing or causing to be provided, or intending to
131 provide or cause to be provided, information relating to any
132 violation of or any act or omission the health care provider or
133 health care payor reasonably believes to be a violation of any
134 provision of this act to his or her employer, the Attorney
135 General, the department, any other state agency charged with
136 protecting health care rights of conscience, the United States
137 Department of Health and Human Services, the Office of Civil
138 Rights, or any other federal agency charged with protecting
139 health care rights of conscience;

140 2. Testifying or intending to testify in a proceeding
141 concerning such violation; or

142 3. Assisting or participating in or intending to assist or
143 participate in such a proceeding.

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

2-00821C-23

20231580__

146 discriminated against in any manner for disclosing information
147 that the health care provider or health care payor reasonably
148 believes constitutes:

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

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

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

155 (4) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.—

156 This section may not be construed to override any requirement to
157 provide emergency medical treatment in accordance with federal
158 or state law.

159 Section 2. Section 456.61, Florida Statutes, is created to
160 read:

161 456.61 Use of free speech by a health care practitioner;
162 prohibition.—A board, or the department if there is no board,
163 may not take disciplinary action against a health care
164 practitioner's license or deny a license to an individual solely
165 because the individual has spoken or written publicly about a
166 health care service, including, but not limited to, speech
167 through the use of a social media platform as defined in s.
168 501.2041, provided that the individual is not using such speech
169 or written communication to provide medical advice or treatment
170 to a specific patient or patients, and provided that such speech
171 or written communication does not separately violate any other
172 applicable law or rule.

173 Section 3. If any provision of this act or its application
174 to any person or circumstance is held invalid, the invalidity

2-00821C-23

20231580__

175 does not affect other provisions or applications of the act
176 which can be given effect without the invalid provision or
177 application, and to this end the provisions of this act are
178 severable.

179 Section 4. This act shall take effect July 1, 2023.