

By the Committee on Rules; and Senator Trumbull

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1 A bill to be entitled
2 An act relating to protections of medical conscience;
3 providing legislative intent; creating s. 381.00321,
4 F.S.; defining terms; providing that health care
5 providers and health care payors have the right to opt
6 out of participation in or payment for certain health
7 care services on the basis of conscience-based
8 objections; providing requirements for a health care
9 provider's notice and documentation of such objection;
10 requiring health care providers to notify patients or
11 potential patients seeking a specific health care
12 service of any such objection before scheduling an
13 appointment; providing construction; prohibiting
14 health care payors from declining to cover any health
15 care service they are obligated to cover during the
16 plan year; prohibiting discrimination or adverse
17 action against health care providers who decline to
18 participate in a health care service on the basis of
19 conscience-based objection; providing whistle-blower
20 protections for health care providers and health care
21 payors that take certain actions or disclose certain
22 information relating to the reporting of certain
23 violations; authorizing health care providers and
24 health care payors to file complaints with the
25 Attorney General for violation of specified
26 provisions; providing for civil penalties; authorizing
27 the Attorney General to take specified actions for
28 purposes of conducting an investigation of such
29 complaints; authorizing the Department of Legal

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30 Affairs to adopt rules; providing health care
31 providers and health care payors immunity from civil
32 liability solely for declining to participate in or
33 pay for a health care service on the basis of
34 conscience-based objection; providing construction;
35 creating s. 456.61, F.S.; prohibiting boards, or the
36 Department of Health if there is no board, from taking
37 disciplinary action against or denying a license to an
38 individual based solely on specified conduct;
39 authorizing boards within the department's
40 jurisdiction to revoke their approval of a specialty
41 board or other recognizing agency under certain
42 circumstances; providing severability; providing an
43 effective date.

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45 Be It Enacted by the Legislature of the State of Florida:

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

54 Section 2. Section 381.00321, Florida Statutes, is created
55 to read:

56 381.00321 The right of medical conscience of health care
57 providers and health care payors.-

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

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59 (a) "Adverse action" means the discharge, transfer,
60 demotion, discipline, suspension, exclusion, revocation of
61 privileges, withholding of bonuses, or reduction in salary or
62 benefits; any action that may negatively impact the advancement
63 or graduation of a student, including, but not limited to, the
64 withholding of scholarship funds; or any other disciplinary or
65 retaliatory action taken against a health care provider.

66 (b) "Conscience-based objection" means an objection based
67 on a sincerely held religious, moral, or ethical belief.
68 Conscience with respect to entities is determined by reference
69 to the entities' governing documents; any published ethical,
70 moral, or religious guidelines or directives; mission
71 statements; constitutions; articles of incorporation; bylaws;
72 policies; or regulations.

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

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

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

82 (f) "Health care provider" means:

83 1. Any person or entity licensed under chapter 394; chapter
84 400; chapter 401; chapter 457; chapter 458; chapter 459; chapter
85 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter
86 465; chapter 466; chapter 467; part I, part II, part III, part
87 IV, part V, part X, part XIII, or part XIV of chapter 468;

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88 chapter 478; chapter 480; part I, part II, or part III of
89 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
90 491; or

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

94
95 This term includes any student enrolled in an educational
96 institution who is seeking to become a health care provider.

97 (g) "Health care service" means medical research, medical
98 procedures, or medical services, including, but not limited to,
99 testing; diagnosis; referral; dispensing or administering any
100 drug, medication, or device; psychological therapy or
101 counseling; research; therapy; recordmaking procedures; set up
102 or performance of a surgery or procedure; or any other care or
103 services performed or provided by any health care provider.

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

107 (i) "Right of medical conscience" means the right of a
108 health care provider or health care payor to abide by sincerely
109 held religious, moral, or ethical beliefs. With respect to
110 health care providers or payors that are entities, such beliefs
111 are determined by reference to the entities' governing
112 documents; any published ethical, moral, or religious guidelines
113 or directives; mission statements; constitutions; articles of
114 incorporation; bylaws; policies; or regulations.

115 (2) RIGHT OF MEDICAL CONSCIENCE.—

116 (a) A health care provider or health care payor has the

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117 right to opt out of participation in or payment for any health
118 care service on the basis of a conscience-based objection. A
119 health care provider must, at the time of the conscience-based
120 objection or as soon as practicable thereafter, provide written
121 notice of his or her conscience-based objection to the health
122 care provider's supervisor or employer, if applicable, and
123 document his or her conscience-based objection to a particular
124 health care service in the patient's medical file. Additionally,
125 if a patient, or potential patient, when attempting to schedule
126 an appointment with the provider indicates to the provider that
127 he or she is seeking a specific health care service for which
128 the provider has a conscience-based objection, the provider must
129 notify the patient that he or she does not provide such service
130 before scheduling the appointment. A health care provider who is
131 a student must provide written notice of his or her conscience-
132 based objection to the educational institution at the time the
133 conscience-based objection is made or as soon as practicable
134 thereafter.

135 (b) The exercise of the right of medical conscience is
136 limited to conscience-based objections to a specific health care
137 service. This section may not be construed to waive or modify
138 any duty a health care provider or health care payor may have to
139 provide or pay for other health care services that do not
140 violate their right of medical conscience, to waive or modify
141 any duty to provide any informed consent required by law, or to
142 allow a health care provider or payor to opt out of providing
143 health care services to any patient or potential patient because
144 of that patient's or potential patient's race, color, religion,
145 sex, or national origin. Additionally, a health care payor may

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146 not decline to pay for a health care service it is contractually
147 obligated to cover during the plan year.

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

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

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

156 1. Providing or causing to be provided, or intending to
157 provide or cause to be provided, information relating to any
158 violation of or any act or omission the health care provider or
159 health care payor reasonably believes to be a violation of any
160 provision of this act to his or her employer, the Attorney
161 General, the department, any other state agency charged with
162 protecting the right of medical conscience, the United States
163 Department of Health and Human Services, the Office of Civil
164 Rights, or any other federal agency charged with protecting the
165 right of medical conscience;

166 2. Testifying or intending to testify in a proceeding
167 concerning such violation; or

168 3. Assisting or participating in or intending to assist or
169 participate in such a proceeding.

170 (b) Unless the disclosure is specifically prohibited by
171 law, a health care provider or health care payor may not be
172 discriminated against in any manner for disclosing information
173 that the health care provider or health care payor reasonably
174 believes constitutes:

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

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

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

181 (4) ENFORCEMENT.—A health care provider or health care
182 payor may file a complaint with the Attorney General alleging
183 any violation of this section. If the Attorney General
184 determines there has been a violation of this section, the
185 Attorney General may commence a civil action for damages,
186 injunctive relief, or any other appropriate relief, including
187 attorney fees. For the purpose of conducting an investigation,
188 the Attorney General may administer oaths, take depositions,
189 make inspections when authorized by law, issue subpoenas
190 supported by affidavit, serve subpoenas and other process, and
191 compel the attendance of witnesses and the production of books,
192 papers, documents, and other evidence. The Department of Legal
193 Affairs may adopt rules to implement this subsection.

194 (5) IMMUNITY FROM LIABILITY.—A health care provider or
195 health care payor may not be held civilly liable solely for
196 declining to participate in or pay for a health care service on
197 the basis of a conscience-based objection. However, this section
198 does not limit a person's ability to recover damages or other
199 relief under any other applicable law due to behavior that
200 constitutes a violation of this section or that is not related
201 to a conscience-based objection.

202 (6) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.—
203 This section may not be construed to override any requirement to

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204 provide emergency medical treatment in accordance with state law
205 or the Emergency Medical Treatment and Active Labor Act, 42
206 U.S.C. s. 1395dd.

207 Section 3. Section 456.61, Florida Statutes, is created to
208 read:

209 456.61 Use of free speech by a health care practitioner;
210 prohibition.-

211 (1) A board, or the department if there is no board, may
212 not take disciplinary action against a health care
213 practitioner's license or deny a license to an individual solely
214 because the individual has spoken or written publicly about a
215 health care service or public policy, including, but not limited
216 to, speech through the use of a social media platform as defined
217 in s. 501.2041, provided that the individual is not using such
218 speech or written communication to provide medical advice or
219 treatment to a specific patient or patients, and provided that
220 such speech or written communication does not separately violate
221 any other applicable law or rule.

222 (2) If a specialty board or other recognizing agency
223 approved by any board within the jurisdiction of the department
224 revokes the certification of an individual solely because the
225 individual has spoken or written publicly about a health care
226 service or public policy, including, but not limited to, speech
227 through the use of a social media platform as defined in s.
228 501.2041, provided such individual was not providing medical
229 advice or treatment to a specific patient and provided such
230 speech did not separately violate any other applicable law, the
231 board within the jurisdiction of the department may revoke its
232 approval of such specialty board or other recognizing agency.

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233 Section 4. If any provision of this act or its application
234 to any person or circumstance is held invalid, the invalidity
235 does not affect other provisions or applications of the act
236 which can be given effect without the invalid provision or
237 application, and to this end the provisions of this act are
238 severable.

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