

CHAPTER 2023-57

Committee Substitute for Senate Bill No. 1580

An act relating to protections of medical conscience; providing legislative intent; creating s. 381.00321, F.S.; defining terms; providing that health care providers and health care payors have the right to opt out of participation in or payment for certain health care services on the basis of conscience-based objections; providing requirements for a health care provider's notice and documentation of such objection; requiring health care providers to notify patients or potential patients seeking a specific health care service of any such objection before scheduling an appointment; providing construction; prohibiting health care payors from declining to cover any health care service they are obligated to cover during the plan year; prohibiting discrimination or adverse action against health care providers who decline to participate in a health care service on the basis of conscience-based objection; providing whistle-blower protections for health care providers and health care payors that take certain actions or disclose certain information relating to the reporting of certain violations; authorizing health care providers and health care payors to file complaints with the Attorney General for violation of specified provisions; providing for civil penalties; authorizing the Attorney General to take specified actions for purposes of conducting an investigation of such complaints; authorizing the Department of Legal Affairs to adopt rules; providing health care providers and health care payors immunity from civil liability solely for declining to participate in or pay for a health care service on the basis of conscience-based objection; providing construction; creating s. 456.61, F.S.; prohibiting boards, or the Department of Health if there is no board, from taking disciplinary action against or denying a license to an individual based solely on specified conduct; authorizing boards within the department's jurisdiction to revoke their approval of a specialty board or other recognizing agency under certain circumstances; providing severability; providing an effective date.

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

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 in a manner 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.

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

381.00321 The right of medical conscience of health care providers and health care payors.—

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

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

(b) “Conscience-based objection” means an objection based on a sincerely held religious, moral, or ethical belief. Conscience with respect to entities is determined by reference to the entities’ governing documents; any published ethical, moral, or religious guidelines or directives; mission statements; constitutions; articles of incorporation; bylaws; policies; or regulations.

(c) “Department” means the Department of Health.

(d) “Educational institution” means a public or private school, college, or university.

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

(f) “Health care provider” means:

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

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

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

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

(h) “Participate” or “participation” means to pay for or take part in any way in providing or facilitating any health care service or any part of such service.

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

(2) RIGHT OF MEDICAL CONSCIENCE.—

(a) A health care provider or health care payor has the right to opt out of participation in or payment for any health care service on the basis of a conscience-based objection. A health care provider must, at the time of the conscience-based objection or as soon as practicable thereafter, provide written notice of his or her conscience-based objection to the health care provider’s supervisor or employer, if applicable, and document his or her conscience-based objection to a particular health care service in the patient’s medical file. Additionally, if a patient, or potential patient, when attempting to schedule an appointment with the provider indicates to the provider that he or she is seeking a specific health care service for which the provider has a conscience-based objection, the provider must notify the patient that he or she does not provide such service before scheduling the appointment. A health care provider who is a student must provide written notice of his or her conscience-based objection to the educational institution at the time the conscience-based objection is made or as soon as practicable thereafter.

(b) The exercise of the right of medical conscience is limited to conscience-based objections to a specific health care service. This section may not be construed to waive or modify any duty a health care provider or health care payor may have to provide or pay for other health care services that do not violate their right of medical conscience, to waive or modify any duty to provide any informed consent required by law, or to allow a health care provider or payor to opt out of providing health care services to any patient or potential patient because of that patient’s or potential patient’s race, color, religion, sex, or national origin. Additionally, a health care payor may not decline to pay for a health care service it is contractually obligated to cover during the plan year.

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

(3) SPEECH AND WHISTLE-BLOWER PROTECTIONS.—

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

1. Providing or causing to be provided, or intending to provide or cause to be provided, information relating to any violation of or any act or omission the health care provider or health care payor reasonably believes to be a

violation of any provision of this act to his or her employer, the Attorney General, the department, any other state agency charged with protecting the right of medical conscience, the United States Department of Health and Human Services, the Office of Civil Rights, or any other federal agency charged with protecting the right of medical conscience;

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

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

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

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

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

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

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

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

(6) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.—This section may not be construed to override any requirement to provide emergency medical treatment in accordance with state law or the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. s. 1395dd.

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

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

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

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

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

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

Approved by the Governor May 11, 2023.

Filed in Office Secretary of State May 11, 2023.

