

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Rudman offered the following:

Amendment (with title amendment)

Remove 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 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:

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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;
42 chapter 400; chapter 401; chapter 457; chapter 458; chapter 459;
43 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;
44 chapter 465; chapter 466; chapter 467; part I, part II, part
45 III, part IV, part V, part X, part XIII, or part XIV of chapter
46 468; 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
50 care facility licensed under chapter 651, or a pharmacy
51 permitted 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.

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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 health care provider or health care payor to abide by sincerely
67 held religious, moral, or ethical beliefs. With respect to
68 health care providers or payors that are entities, such beliefs
69 are determined by reference to the entities' governing
70 documents; any published ethical, moral, or religious guidelines
71 or directives; mission statements; constitutions; articles of
72 incorporation; bylaws; policies; or regulations.

73 (2) RIGHT OF MEDICAL CONSCIENCE.—

74 (a) A health care provider or health care payor has the
75 right to opt out of participation in or payment for any health
76 care service on the basis of a conscience-based objection. A
77 health care provider must, at the time of the conscience-based
78 objection or as soon as practicable thereafter, provide written
79 notice of his or her conscience-based objection to the health
80 care provider's supervisor or employer, if applicable, and
81 document his or her conscience-based objection to a particular
82 health care service in the patient's medical file. Additionally,
83 if a patient, or potential patient, when attempting to schedule
84 an appointment with the provider indicates to the provider that
85 he or she is seeking a specific health care service for which
86 the provider has a conscience-based objection, the provider must

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

87 notify the patient that he or she does not provide such service
88 before scheduling the appointment. A health care provider who is
89 a student must provide written notice of his or her conscience-
90 based objection to the educational institution at the time the
91 conscience-based objection is made or as soon as practicable
92 thereafter.

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

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

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

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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

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

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

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

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

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

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

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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

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

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

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

160 (6) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.-

161 This section may not be construed to override any requirement to
162 provide emergency medical treatment in accordance with state law
163 or the Emergency Medical Treatment and Active Labor Act, 42
164 U.S.C. s. 1395dd.

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

167 456.61 Use of free speech by a health care practitioner;
168 prohibition.-

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

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

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

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

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

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

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200 **T I T L E A M E N D M E N T**

201 Remove everything before the enacting clause and insert:

202 A bill to be entitled
 203 An act relating to protections of medical conscience;
 204 providing legislative intent; creating s. 381.00321,
 205 F.S.; defining terms; providing that health care
 206 providers and health care payors have the right to opt
 207 out of participation in or payment for certain health
 208 care services on the basis of conscience-based
 209 objections; providing requirements for a health care

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

210 provider's notice and documentation of such objection;
211 requiring health care providers to notify patients or
212 potential patients seeking a specific health care
213 service of any such objection before scheduling an
214 appointment; providing construction; prohibiting
215 health care payors from declining to cover any health
216 care service they are obligated to cover during the
217 plan year; prohibiting discrimination or adverse
218 action against health care providers who decline to
219 participate in a health care service on the basis of
220 conscience-based objection; providing whistle-blower
221 protections for health care providers and health care
222 payors that take certain actions or disclose certain
223 information relating to the reporting of certain
224 violations; authorizing health care providers and
225 health care payors to file complaints with the
226 Attorney General for violation of specified
227 provisions; providing for civil penalties; authorizing
228 the Attorney General to take specified actions for
229 purposes of conducting an investigation of such
230 complaints; authorizing the Department of Legal
231 Affairs to adopt rules; providing health care
232 providers and health care payors immunity from civil
233 liability solely for declining to participate in or
234 pay for a health care service on the basis of

914905

Approved For Filing: 4/26/2023 9:09:59 AM

Amendment No.

235 conscience-based objection; providing construction;
236 creating s. 456.61, F.S.; prohibiting boards, or the
237 Department of Health if there is no board, from taking
238 disciplinary action against or denying a license to an
239 individual based solely on specified conduct;
240 authorizing boards within the department's
241 jurisdiction to revoke their approval of a specialty
242 board or other recognizing agency under certain
243 circumstances; providing severability; providing an
244 effective date.

914905

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