

1 A bill to be entitled
2 An act relating to denial of health care services;
3 creating s. 381.027, F.S.; providing a short title;
4 providing definitions; requiring a covered entity to
5 adopt a policy relating to providing notice of its
6 refused services by a specified date; providing
7 requirements for such notice; requiring the covered
8 entity to submit a complete list of refused services
9 to the Department of Health by a specified date;
10 requiring that the covered entity notify the
11 department within a specified period after a change is
12 made to such list; requiring a covered entity to
13 submit the list, along with its application, if
14 applying for certain state grants or contracts;
15 providing a penalty; requiring the department to adopt
16 rules; requiring the department to publish and
17 maintain on its website a current list of covered
18 entities and their refused services; requiring the
19 department to develop and administer a certain public
20 education and awareness program; providing
21 construction; providing for severability; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Section 381.027, Florida Statutes, is created
 27 to read:

28 381.027 Requirements for covered entities; notice of
 29 refused services; department duties.-

30 (1) SHORT TITLE.-This section may be cited as the "Health
 31 Care Transparency and Accessibility Act."

32 (2) DEFINITIONS.-As used in this section, the term:

33 (a) "Covered entity" means any health care facility that
 34 uses, plans to use, or relies upon a denial of care provision to
 35 refuse to provide a health care service, or referral for a
 36 health care service, for any reason. The term does not include a
 37 health care practitioner.

38 (b) "Denial of care provision" means any federal or state
 39 law that purports or is asserted to allow a health care facility
 40 to opt out of providing a health care service, or referral for a
 41 health care service, including, but not limited to, ss.

42 381.0051(5), 390.0111(8), 483.918, and 765.1105; 42 U.S.C. ss.
 43 18023(b)(4) and 18113; 42 U.S.C. s. 300a-7; 42 U.S.C. s. 238n;
 44 42 U.S.C. s. 2000bb et seq.; s. 507(d) of the Departments of
 45 Labor, Health and Human Services, and Education, and Related
 46 Agencies Appropriations Act of 2019, Division B of Pub. L. No.
 47 115-245; and 45 C.F.R. part 88.

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

49 (d) "Health care facility" has the same meaning as in s.
 50 381.026(2).

51 (e) "Health care practitioner" has the same meaning as in
52 s. 456.001.

53 (f) "Health care service" has the same meaning as in s.
54 624.27(1).

55 (g) "Referral" has the same meaning as in s. 456.053(3).

56 (h) "Refused service" means a health care service that a
57 covered entity chooses not to provide, or not to provide a
58 referral for, based on one or more denial of care provisions.
59 The term includes health care services that the covered entity
60 selectively provides to some, but not all, patients based on the
61 their identity, objections to a health care service, or other
62 nonmedical reasons.

63 (3) REQUIREMENTS FOR COVERED ENTITIES; PENALTY.—

64 (a) By October 1, 2022, each covered entity shall adopt a
65 policy for providing patients with a complete list of its
66 refused services. A covered entity shall:

67 1. Provide written notice to the patient or the patient's
68 representative which includes the complete list of its refused
69 services before any health care service is initiated.

70 a. In the case of an emergency, the covered entity must
71 promptly provide written notice after the patient is capable of
72 receiving such notice or when the patient's representative is
73 available.

74 b. The patient or patient's representative shall
75 acknowledge receipt of the written notice of refused services.

76 2. Retain all acknowledgements of receipt of the written
77 notice of refused services for a period of at least 3 years.

78 3. Provide a complete list of its refused services to any
79 person upon request.

80 (b) By October 1, 2022, a covered entity shall submit to
81 the department a complete list of its refused services. If any
82 change is made to the list, the covered entity must notify the
83 department within 30 days after making the change.

84 (c) If applying for any state grant or contract related to
85 providing a health care service, a covered entity must submit,
86 along with its application, a complete list of its refused
87 services.

88 (d) A covered entity that fails to comply with this
89 subsection is subject to a fine not exceeding \$5,000 for each
90 day that the covered entity is not in compliance.

91 (4) DEPARTMENT DUTIES.—

92 (a) The department shall adopt rules to implement this
93 section which must include a process for receiving and
94 investigating complaints regarding covered entities that fail to
95 comply with this section.

96 (b) By January 1, 2023, the department shall publish and
97 maintain on its website a current list of covered entities and
98 the refused services for each covered entity.

99 (c) The department shall develop and administer a public
100 education and awareness program regarding the denial of health

101 care services, including how the denial of health care services
102 can negatively impact health care access and quality, how the
103 denial of health care services may be avoided, and how the
104 denial of health care services affects vulnerable people and
105 communities.

106 (5) CONSTRUCTION.—

107 (a) This section does not permit or authorize denials of
108 health care services or discrimination in the provision of
109 health care services.

110 (b) This section does not limit any cause of action under
111 state or federal law, or limit any remedy in law or equity,
112 against a health care facility or health care practitioner.

113 (c) Compliance with this section does not reduce or limit
114 any potential liability for covered entities associated with the
115 refused services or any violations of state or federal law.

116 (d) Section 761.03 does not provide a claim relating to,
117 or a defense to a claim under, this section, or provide a basis
118 for challenging the application or enforcement of this section
119 or the use of funds associated with the application or
120 enforcement of this section.

121 (6) SEVERABILITY.—If any provision of this section or its
122 application to any person or circumstance is held invalid, the
123 invalidity does not affect other provisions or applications of
124 this section which can be given effect without the invalid
125 provision or application, and to this end the provisions of this

HB 373

2022

126 | section are severable.

127 | Section 2. This act shall take effect July 1, 2022.