## SLS 22RS-133

## ORIGINAL

2022 Regular Session

SENATE BILL NO. 29

BY SENATOR CATHEY

HEALTH CARE. Prohibits discrimination against healthcare professionals and provides for protection of healthcare professional credentials. (8/1/22)

1	AN ACT
2	To enact R.S. 37:23.5, relative to licensed healthcare professionals; to provide for prohibited
3	actions against licensed healthcare professionals; to provide for free speech; to
4	provide for the right to choose or reject healthcare treatment; to provide for
5	disciplinary actions; to provide for compensation after unproven accusations; to
6	provide for definitions; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 37:23.5 is hereby enacted to read as follows:
9	§23.5. Prohibited actions against licensed healthcare professionals
10	A. No employer of a licensed healthcare professional shall take adverse
11	action against the healthcare professional for treating a patient with any
12	healthcare treatment, procedure, or product administered with the consent of
13	the patient. The provisions of this Subsection shall apply to any medical
14	treatment, procedure, or product, regardless of approval status by a
15	government or medical authority.
16	<b>B.(1)</b> No employer of a licensed healthcare professional, healthcare
17	professional licensing board, government entity, or other healthcare authority

Page 1 of 5 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

1	shall intimidate, restrict, or prevent a healthcare professional from speaking
2	publicly about any healthcare or tangential topic, or take adverse action against
3	the healthcare professional for speaking publicly about any healthcare or
4	tangential topic.
5	(2) No government or private entity shall restrict or modify the free
6	speech of a healthcare professional making a private or public communication
7	on any platform.
8	<b>C.(1)</b> No employer of a licensed healthcare professional shall require the
9	healthcare professional to submit to any healthcare procedure, treatment, or
10	product.
11	(2) No employer of a licensed healthcare professional, healthcare
12	professional licensing board, government entity, or other healthcare authority
13	shall take adverse action against the healthcare professional for accepting or
14	rejecting a healthcare procedure, treatment, or product.
15	(3) No employer of a licensed healthcare professional, healthcare
16	professional licensing board, government entity, or other healthcare authority
17	shall take adverse action against the healthcare professional for exercising free
18	speech relative to accepting or rejecting a medical procedure, treatment, or
19	product.
20	D.(1) No healthcare licensing board, regulatory agency, or related
21	special interest group shall restrict a healthcare professional from making
22	medical statements if that healthcare professional reasonably believes the
23	information to be truthful, based on medical science, and in the best interest of
24	patients.
25	(2) No healthcare licensing board, regulatory agency, or related special
26	interest group shall suspend, revoke, pause, or otherwise disrupt the license or
27	practice of a healthcare professional if the healthcare professional furnishes
28	data, studies, research, or comparable academic literature used by the
29	healthcare professional to form a fundamental belief that the medical

1	statements made are truthful, based on medical science, and in the best interest
2	of patients no later than thirty days after the healthcare professional receives
3	a request for the information.
4	(3)(a) No healthcare licensing board, regulatory agency, or related
5	special interest group shall initiate an investigation, license enforcement
6	activity, or disciplinary action until the healthcare professional has been given
7	adequate opportunity to provide data pursuant to Paragraph (2) of this
8	Subsection and the licensing board, regulatory agency, or related special
9	interest group provides an example of reproducible medical science which
10	contradicts the healthcare professional with all of the following conditions met:
11	(i) The contradiction in research shall be reproduced by the accusing
12	entity.
13	(ii) The design of the experiment shall be made publicly available.
14	(iii) All experimental results shall be made publicly available.
15	(iv) The contradiction shall substantially contradict the healthcare
16	professional.
17	(b) Minor technical differences, procedural differences, or unintentional
18	oversights in the healthcare professional's testimony shall not be grounds for a
19	substantial contradiction.
20	(c) No portion of the contradicting science shall be redacted unless it is
21	protected health information pursuant to state or federal law.
22	(d) All scientific data shall be retained and made available for public
23	viewing indefinitely.
24	(4) No later than thirty days after the date of accusation, a healthcare
25	professional who is accused, but whose position cannot be refuted pursuant to
26	this Subsection by a healthcare licensing board, regulatory agency, or special
27	interest group, shall be compensated by a minimum settlement of five million
28	dollars, corrected for inflation at a baseline year of 2021, to be paid no later
29	than sixty days after the date of accusation. The accusing entity shall make a

1	permanent public record stating "Regarding [healthcare professional's name],
2	on [date of accusation], [accusing entity name], was unable to substantially
3	disprove the statements of [healthcare professional's name]." This statement
4	shall be prominently displayed on any materials regarding the accuser's
5	statements or relevant materials.
6	E. For the purposes of this Section, "adverse action" shall include but
7	not be limited to any of the following:
8	(1) The professional license or insurance policy of a healthcare
9	professional is revoked or challenged based upon services rendered by the
10	healthcare professional in a healthcare emergency or for speaking publicly on
11	any healthcare matters or employer policies.
12	(2) The employer treats the healthcare professional any differently than
13	peers.
14	(3) The employer affects the healthcare professional's employment.
15	(4) The employer affects the healthcare professional's opportunities.
16	(5) The employer threatens or intimidates a healthcare professional.
17	(6) The employer asserts insubordination against a healthcare
18	professional.
19	(7) The employer places the healthcare professional on indefinite or
20	unpaid leave.
21	(8) The employer restricts or limits the normal healthcare duties of a
22	healthcare professional.
23	(9) The employer requires a healthcare professional to agree to or sign
24	any agreement or contract that modifies an existing employment agreement or
25	limits any provisions of this Section.
26	(10) A healthcare licensing board or other healthcare licensing entity
27	investigates, interrogates, or subjects a healthcare professional to undue
28	scrutiny.
29	F. For the purposes of this Section, "healthcare professional" shall

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# 1 include any individual licensed in a healthcare profession in accordance with

# <u>this Title.</u>

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Brandi Cannon.

#### DIGEST 2022 Regular Session

Cathey

<u>Proposed law</u> provides that a licensed healthcare professional shall not be adversely affected for any of the following:

- (1) Treating a patient with any healthcare treatment, procedure, or product administered with the consent of the patient.
- (2) Speaking publicly about any healthcare or tangential topic.
- (3) Accepting or rejecting a healthcare procedure, treatment, or product.
- (4) Exercising free speech.

Proposed law defines "adverse action".

<u>Proposed law</u> prohibits disciplinary actions unless certain conditions are met and provides for a minimum settlement of \$5,000,000 if the healthcare professional's position cannot be refuted in accordance with <u>proposed law</u>.

Effective August 1, 2022.

(Adds R.S. 37:23.5)