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SENATE BILL DRS45269-NB-83

Short Title: Health Care Heroes Conscience Protection Act. (Public)

Sponsors: Senators Hise, Daniel, and Sanderson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE RIGHT OF CONSCIENCE OF MEDICAL PRACTITIONERS,
3 HEALTH CARE INSTITUTIONS, AND HEALTH CARE PAYERS.

4 Whereas, the right of conscience is a fundamental and unalienable right, and was
5 central to the founding of the United States of America and deeply rooted in the United States'
6 history and tradition for centuries; and

7 Whereas, the right of conscience has been central to the practice of medicine for
8 millennia through the Hippocratic Oath; and

9 Whereas, despite its importance, threats to the right of conscience of medical
10 practitioners, health care institutions, and health care payers have become increasingly more
11 common and severe in recent years; and

12 Whereas, the swift pace of scientific advancement and the expansion of medical
13 capabilities promise only to make the current crisis worse, unless something is done to restore
14 conscience to its rightful place; and

15 Whereas, it is the public policy of the State of North Carolina to protect the right of
16 conscience for medical practitioners, health care institutions, and health care payers; and

17 Whereas, the right of conscience is fundamental, and no medical practitioner, health
18 care institution, or health care payer should be compelled to participate in a health care service
19 that they object to on the basis of conscience, whether such conscience is informed by religious,
20 moral, ethical, or philosophical beliefs or principles; and

21 Whereas, it is the purpose of this act to protect medical practitioners, health care
22 institutions, and health care payers from discrimination, punishment, or retaliation as a result of
23 an instance of conscientious medical objection; Now, therefore,

24 The General Assembly of North Carolina enacts:

25 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
26 to read:

27 "Article 1M.

28 "Health Care Heroes Conscience Protection Act.

29 **"§ 90-21.140. Short title.**

30 This Article shall be known and may be cited as the "Health Care Heroes Conscience
31 Protection Act."

32 **"§ 90-21.141. Definitions.**

33 The following definitions apply in this Article:

34 (1) Conscience. – Any of the following:

35 a. The religious, moral, or ethical beliefs or principles held by any
36 medical practitioner, health care institution, or health care payer.



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- 1 b. Any published religious, moral, or ethical guidelines or directives,
2 mission statements, articles of incorporation, bylaws, policies, or
3 regulations published or created by institutional entities or corporate
4 bodies.
- 5 (2) Disclosure. – A formal or informal communication or transmission, excluding
6 a communication or transmission concerning policy decisions that lawfully
7 exercise discretionary authority, unless the medical practitioner providing the
8 disclosure or transmission reasonably believes that the disclosure or
9 transmission evinces any of the following:
- 10 a. Any violation of law, rule, or regulation.
11 b. Any violation of any ethical guidelines for the provision of any health
12 care service.
13 c. Gross mismanagement, a gross waste of funds, an abuse of authority,
14 or a substantial and specific danger to public health or safety.
- 15 (3) Discrimination. – Any adverse action against any medical practitioner, health
16 care payer, or health care institution as a result of his, her, or its decision to
17 decline to participate in a health care service on the basis of conscience,
18 including any of the following, with the exception of the negotiation or
19 purchase of insurance by a nongovernmental entity:
- 20 a. Termination of employment.
21 b. Transfer or demotion from current position.
22 c. Adverse administrative action.
23 d. Reassignment to a different shift or job title.
24 e. Increased administrative duties.
25 f. Refusal of staff privileges.
26 g. Refusal of board certification or loss of career specialty.
27 h. Reduction of wages, benefits, or privileges.
28 i. Refusal to award a grant, contract, or other program.
29 j. Refusal to provide residency training opportunities.
30 k. Denial, deprivation, or disqualification of licensure.
31 l. Withholding or disqualifying from financial aid and other assistance.
32 m. Impediments to creating any health care institution or payer or
33 expanding or improving that health care institution or payer.
34 n. Impediments to acquiring, associating, or merging with any other
35 health care institution or payer.
36 o. The threat of any action listed in this subdivision or any other penalty,
37 disciplinary, or retaliatory action.
- 38 (4) Health care service. – Medical care provided to any patient at any time over
39 the entire course of treatment, including testing; diagnosis; referral;
40 dispensing or administering any drug, medication, or device; psychological
41 therapy or counseling; research; prognosis; therapy; record-making
42 procedure; notes related to treatment; set-up or performance of a surgery or
43 procedure; or any other care or services performed or provided by any medical
44 practitioner, allied health professionals, paraprofessionals, or employees of a
45 health care institution.
- 46 (5) Health care institution. – Any public or private hospital, clinic, medical center,
47 physician organization, professional association, ambulatory surgical center,
48 private physician's office, pharmacy, nursing home, medical or nursing
49 school, medical training facility, organizations, corporations, partnerships,
50 associations, agencies, networks, sole proprietorships, joint ventures, or any

1 other entity or location in which health care services are performed on behalf
2 of any person or which provides health care services.

3 (6) Health care payer. – Any employer, health plan, health maintenance
4 organization, insurance company, management services organization, or any
5 other entity that pays for or arranges for the payment, in whole or in part, of
6 any health care service provided to any patient.

7 (7) Medical practitioner. – Any person or individual who may be or is asked to
8 participate in a health care service in the normal course of employment,
9 including physicians, nurse practitioners, physician assistants, registered
10 nurses, nurse aides, allied health professionals, medical assistants, hospital
11 employees, clinic employees, nursing home employees, pharmacists,
12 pharmacy technicians and employees, medical school faculty and students,
13 nursing school faculty and students, psychology and counseling faculty and
14 students, medical researchers, laboratory technicians, counselors, social
15 workers, or any other person who facilitates or participates in the provision of
16 health care services to any person.

17 (8) Participation in a health care service. – Performance, assistance, referral,
18 consultation with, or admittance of any person or individual to provide any
19 health care service.

20 **§ 90-21.142. Protections.**

21 (a) A medical practitioner, health care institution, or health care payer shall have the right
22 not to participate in or pay for any health care service which violates his, her, or its conscience.

23 (b) No medical practitioner, health care institution, or health care payer shall be civilly,
24 criminally, or administratively liable for exercising his, her, or its right of conscience not to
25 participate in or pay for a health care service. No health care institution shall be civilly,
26 criminally, or administratively liable for the exercise of conscience rights not to participate in a
27 health care service by a medical practitioner employed, contracted, or granted admitting
28 privileges by the health care institution.

29 (c) It shall be unlawful for any person to discriminate against any medical practitioner,
30 health care institution, or health care payer that refuses to participate in or pay for a health care
31 service on the basis of conscience under this Article.

32 **§ 90-21.143. Exemption; limitation.**

33 (a) Notwithstanding any other provision of law, any medical practitioner, health care
34 institution, or health care payer that holds itself out to the public as religious, states in its
35 governing documents that it has a religious purpose or mission, and has internal operating
36 policies or procedures that implement its religious beliefs, shall have the right to make
37 employment, staffing, contracting, and admitting privilege decisions consistent with its religious
38 beliefs.

39 (b) No provision of this Article shall be construed to override the requirement to provide
40 emergency medical treatment to a patient in accordance with 42 U.S.C. § 1395dd, et seq.

41 (c) This Article shall be supplemental to existing protections of the right of conscience
42 recognized in this State contained in the General Statutes and the North Carolina Constitution
43 and shall not be construed to abridge, limit, or take away any existing protections.

44 (d) Exercise of any right of conscience under this Article shall be limited to
45 conscience-based objections to particular health care services.

46 **§ 90-21.144. Civil remedies.**

47 (a) A civil action for damages or injunctive relief may be brought by any medical
48 practitioner, health care institution, or health care payer for any violation of any provision of this
49 Article. Any additional burden or expense on another medical practitioner, health care institution,
50 or health care payer arising from the exercise of the right of conscience shall not be a defense to
51 any violation of this Article. No civil action may be brought against an individual who declines

1 to use or purchase health care services from a specific medical practitioner, health care institution,
2 or health care payer for exercising the rights granted in this Article.

3 (b) Any party aggrieved by any violation of this Article may commence a civil action and
4 shall be entitled, upon the finding of a violation, to recover the following:

5 (1) Statutory damages equal to three times the cost of the actual damages
6 sustained by the aggrieved party. Damages recovered under this subdivision
7 shall be cumulative and not limited by any other remedies which may be
8 available under any other federal, State, or municipal law.

9 (2) Total costs of the action and reasonable attorneys' fees.

10 (c) Injunctive Relief. – Injunctive relief may be obtained to reinstate a medical
11 practitioner to a previous position, reinstate board certification, or re-license a health care
12 institution or health care payer.

13 **"§ 90-21.145. Protection from retaliation.**

14 (a) No medical practitioner shall be discriminated against in any manner because the
15 medical practitioner does any of the following:

16 (1) Provided, caused to be provided, or takes steps to provide or cause to be
17 provided to his or her employer, the Attorney General, any State agency, the
18 United States Department of Health and Human Services, or any other federal
19 agency, any information or an act or omission that is a violation of any
20 provision of this Article.

21 (2) Testified or prepared to testify in a proceeding concerning a violation of this
22 Article.

23 (3) Assisted or participated in a proceeding concerning a violation of this Article.

24 (b) Unless a disclosure or report of information is specifically prohibited by law, no
25 medical practitioner shall be discriminated against in any manner because the medical
26 practitioner disclosed any information under this Article that the medical practitioner reasonably
27 believes evinces any of the following:

28 (1) Any violation of law, rule, or regulation.

29 (2) Any violation of any standard of care or other ethical guidelines for the
30 provision of any health care service.

31 (3) Gross mismanagement, a gross waste of funds, an abuse of authority, or a
32 substantial and specific danger to public health or safety."

33 **SECTION 2.** If any provision of this act or its application is held invalid, the
34 invalidity does not affect other provisions or applications of this act that can be given effect
35 without the invalid provisions or application, and to this end the provisions of this act are
36 severable.

37 **SECTION 3.** This act becomes effective October 1, 2021.