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HOUSE BILL NO. 2605

Offered January 13, 2025

A BILL to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-380, relating to the Medical Conscience Protection Act established.

Patrons—Ware and Earley

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-380, as follows:

CHAPTER 21.

MEDICAL CONSCIENCE PROTECTION ACT.

§ 32.1-376. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Conscience" means the sincerely held ethical, moral, or religious beliefs or principles held by a health care professional.

"Discrimination" means any adverse action taken against, or any threat of adverse action communicated to, a health care professional as a result of exercising the rights protected in this chapter. "Discrimination" includes any penalty or disciplinary or retaliatory action, whether executed or threatened. "Discrimination" does not include the negotiation or purchase of, or the refusal to use or purchase, medical procedures or services by an individual or non-government entity; nor does it include good faith efforts to accommodate a health care professional exercising the rights protected by this chapter.

"Health care institution" means any organization, corporation, partnership, association, agency, network, sole proprietorship, joint venture, or other entity that provides medical procedures or services.

"Health care professional" means any person who is authorized to participate in any way in any medical procedure or service. "Health care professional" includes doctors, nurse practitioners, physician assistants, nurses, nurse aides, allied health professionals, medical assistants, medical school faculty and students, nursing school faculty and students, psychology and counseling school faculty and students, medical researchers, laboratory technicians, psychologists, counselors, and mental health professionals.

"Medical procedure or service" means medical research or health care provided to any patient at any time over the entire course of treatment. "Medical procedure or service" includes testing, diagnosis, referral, dispensing or administering any drug, medication, or device, psychological therapy or counseling, research, prognosis, therapy, clinical notes and records, and preparation for or performance of a surgery or procedure.

"Participate" means to provide, perform, assist with, facilitate, refer for, counsel for, advise with regard to, admit for the purposes of providing, or take part in any way in providing any medical procedure or service, or any form of such service.

§ 32.1-377. Rights of conscience of health care professionals.

A. No health care professional shall be required to participate in any medical procedure or service that violates such health care professional's conscience.

B. The exercise of the right of conscience is limited to conscience-based objections to a particular medical procedure or service. This section may not be construed to waive or modify any duty a health care professional may have to provide other medical procedures or services that do not violate such health care professional's conscience.

C. No health care professional shall be civilly, criminally, or administratively liable for exercising such health care professional's right of conscience not to participate in a medical procedure or service. No health care institution shall be civilly, criminally, or administratively liable for the exercise of the right of conscience by a health care professional employed, contracted, or granted admitting privileges by the health care institution.

D. No health care professional shall face discrimination in any manner as a result of such health care professional's decision to decline to participate in a medical procedure or service on the basis of conscience.

E. Notwithstanding any other provision of this chapter to the contrary, a health care professional or health care institution that is held out to the public as religious, states in governing documents a religious purpose or mission, and has internal operating policies or procedures that implement religious beliefs shall have the right to make employment, staffing, contracting, and admitting privilege decisions consistent with religious beliefs.

F. Nothing in this chapter shall be construed to override the requirement to provide emergency medical

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59 *treatment to all patients as set forth in 42 U.S.C. § 1395dd.*

60 **§ 32.1-378. Whistleblower protection.**

61 A. *No health care professional shall face discrimination in any manner because the health care*
 62 *professional:*

63 1. *Provided, caused to be provided, or is about to provide or cause to be provided to his employer, the*
 64 *Attorney General, the Department of Health Professions, the U.S. Department of Health and Human Services*
 65 *Office for Civil Rights, or any other federal agency charged with protecting health care rights of conscience*
 66 *information relating to any violation of, or any act or omission the health care professional reasonably*
 67 *believes to be a violation of, any provision of this chapter;*

68 2. *Testified or is about to testify in a proceeding concerning such violation; or*

69 3. *Assisted or participated, or is about to assist or participate, in such a proceeding.*

70 B. *Unless the disclosure is specifically prohibited by law, no health care professional shall face*
 71 *discrimination in any manner because the health care professional disclosed any information that the health*
 72 *care professional reasonably believes evinces:*

73 1. *Any violation of any law, rule, or regulation;*

74 2. *Any violation of any ethical guidelines for the provision of any medical procedure or service; or*

75 3. *Gross mismanagement, a gross waste of funds, an abuse of authority, practices or methods of treatment*
 76 *that may put patient health at risk, or a substantial and specific danger to public health or safety.*

77 C. *The provisions of subsection B shall not apply when the disclosure concerns the lawful exercise of*
 78 *discretionary decision-making authority unless the health care professional reasonably believes that the*
 79 *disclosure evinces a violation of law or misconduct listed in subsection B.*

80 **§ 32.1-379. Free speech protection.**

81 *No agency, department, board, or other government entity of the Commonwealth, including the*
 82 *Department of Health Professions, the Board of Medicine, or any other agency, department, or board*
 83 *regulating the practice of a medical procedure or service in the Commonwealth, shall reprimand, sanction,*
 84 *or deny or revoke, or threaten to revoke, a license, certification, or registration of, or otherwise discriminate*
 85 *against, a health care professional for engaging in speech or expressive activity that is protected by the First*
 86 *Amendment to the Constitution of the United States, unless such agency, department, board, or entity*
 87 *demonstrates by clear and convincing evidence that the health care professional's speech was the direct*
 88 *cause of physical harm to a person with whom the health care professional had a practitioner-patient*
 89 *relationship within the three years immediately preceding the incident of physical harm.*

90 **§ 32.1-380. Civil remedies.**

91 A. *A civil action for damages or injunctive relief, or both, may be brought by any health care professional*
 92 *for any violation of any provision of this chapter. Any additional burden or expense on another health care*
 93 *professional or health care institution arising from the exercise of the right of conscience shall not be a*
 94 *defense to any violation of this chapter. However, no civil action may be brought against an individual who*
 95 *declines to use or purchase any medical procedure or service from a specific health care professional for*
 96 *exercising the rights granted in this chapter.*

97 B. *Any party aggrieved by any violation of this chapter may commence a civil action and shall be entitled,*
 98 *upon the finding of a violation, to recover actual damages sustained, along with the costs of the action and*
 99 *reasonable attorney fees. Such damages shall be cumulative and in no way limited by any other remedies that*
 100 *may be available under any other federal, state, or local law. A court considering such civil action may also*
 101 *award injunctive relief, which may include reinstatement of a health care professional to his previous*
 102 *position, reinstatement of a health care professional's board certification, and re-licensure of a health care*
 103 *institution.*