

By: Oliverson

H.B. No. 2816

A BILL TO BE ENTITLED

AN ACT

1
2 relating to protection of the rights of conscience of persons from
3 providing and health care facilities from offering certain health
4 care services; providing a civil remedy; authorizing disciplinary
5 action.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. The legislature finds that:

8 (1) the public policy of this state is to respect the
9 conscience of all physicians and health care providers and the
10 right of each physician and health care provider to hold their own
11 belief about whether certain health care services are morally
12 acceptable;

13 (2) without comprehensive protections, the rights of
14 conscience of physicians, health care providers, and health care
15 facilities may be violated; and

16 (3) each physician and health care provider must be
17 protected from required participation in and each health care
18 facility must be protected from required provision of a health care
19 service the physician, provider, or facility for rights of
20 conscience has declined participation in or provision of and from
21 discriminatory adverse action resulting from the nonparticipation
22 or non-provision.

23 SECTION 2. Chapter 161, Health and Safety Code, is amended
24 by adding Subchapter Z to read as follows:

1 SUBCHAPTER Z. TEXAS HEALTH CARE CONSCIENCE PROTECTION ACT

2 Sec. 161.751. DEFINITIONS. In this subchapter:

3 (1) "Conscience" means a sincerely held set of
4 religious or philosophical moral convictions.

5 (2) "Health care facility" means a public or private
6 organization, corporation, partnership, sole proprietorship,
7 association, agency, network, joint venture, or other entity that
8 provides health care services to patients. The term includes a
9 hospital, clinic, medical center, ambulatory surgical center,
10 private physician's office, pharmacy, nursing home, laboratory or
11 diagnostic facility, infirmary, dispensary, medical school,
12 nursing school, pharmacy school, or medical training facility.

13 (3) "Health care provider" means a nurse, nurse aide,
14 medical assistant, hospital employee, allied health professional,
15 counselor, therapist, laboratory technician, clinic employee,
16 nursing home employee, pharmacist, pharmacy employee, researcher,
17 medical, pharmacy, or nursing school student, professional,
18 paraprofessional, or, without regard to whether the person holds a
19 license, any other person who furnishes or assists in the
20 furnishing of a health care service.

21 (4) "Health care service" means any phase of patient
22 medical care or treatment. The term includes:

23 (A) examination, testing, diagnosis, referral,
24 prognosis, dispensing or administering a drug or device, ancillary
25 research, instruction, therapy, treatment, and preparing for or
26 performing a surgery or procedure;

27 (B) family planning, counseling, and referrals,

1 and any other advice in connection with the use or procurement of
2 contraceptives, sterilization, or abortion; and

3 (C) record-making procedures, preparation of
4 treatment notes, and any other care or treatment rendered by a
5 physician, health care provider, or health care facility.

6 (5) "Physician" means an individual licensed to
7 practice medicine in this state.

8 Sec. 161.752. RIGHT TO DECLINE PARTICIPATION IN OR OFFER
9 HEALTH CARE SERVICE; CONSTRUCTION OF SUBCHAPTER. (a) Except as
10 provided by Subsection (b):

11 (1) a person may decline to participate in a health
12 care service for reasons of conscience; and

13 (2) a health care facility may decline to offer a
14 health care service consistent with the facility's established
15 beliefs and rights of conscience.

16 (b) A person may not decline to participate in and a health
17 care facility may not decline to offer the following services:

18 (1) emergency medical treatment required by 42 U.S.C.
19 Section 1395dd; or

20 (2) except as provided by Chapter 166, life-sustaining
21 treatment.

22 (c) Nothing in this subchapter may be construed to:

23 (1) supersede Chapter 166 governing the provision,
24 withholding, or withdrawing of life-sustaining treatment;

25 (2) apply to emergency medical treatment required by
26 42 U.S.C. Section 1395dd, life-sustaining treatment, or
27 cardiopulmonary resuscitation; or

1 (3) prevent a health care provider, health care
2 facility, or health care payer that holds itself out to the public
3 as religious, includes in its governing documents a statement of
4 its religious purpose or mission, and has internal operating
5 policies or procedures to implement its religious beliefs, from
6 making employment, staffing, contracting, or admitting privilege
7 decisions consistent with those religious beliefs.

8 (d) An exercise of the rights of conscience under this
9 section is limited to a person's right to refuse to participate in
10 or a health care facility's right to refuse to offer a specific
11 health care service.

12 Sec. 161.753. IMMUNITY OF PHYSICIANS, HEALTH CARE
13 PROVIDERS, AND HEALTH CARE FACILITIES. A physician, health care
14 provider, or health care facility may not be held civilly or
15 criminally liable because the physician or provider declines to
16 participate in or the facility declines to offer a health care
17 service wholly or partly for rights of conscience.

18 Sec. 161.754. ADVERSE ACTION. (a) A person, including a
19 health care facility, a political subdivision of this state, the
20 Texas Medical Board or another agency of this state, or a medical
21 school or other institution that conducts education or training
22 programs for health care providers violates this subchapter by
23 taking an adverse action against another person or health care
24 facility because the other person or health care facility:

25 (1) declines to participate in or offer a health care
26 service for reasons of conscience;

27 (2) testifies, assists, or participates in or is

1 preparing to testify, assist, or participate in a proceeding to
2 present information about any act or omission that the person
3 reasonably believes relates to a violation of this subchapter; or

4 (3) provides, causes to be provided, or is preparing
5 to provide or cause to be provided information about any act or
6 omission that the person reasonably believes relates to a violation
7 of this subchapter to:

8 (A) the person's employer;

9 (B) the attorney general, the Health and Human
10 Services Commission, or any state agency charged with protecting
11 health care rights of conscience; or

12 (C) the United States Department of Health and
13 Human Services, the Office of Civil Rights of the United States
14 Department of State, or any other federal agency charged with
15 protecting health care rights of conscience.

16 (b) Violations under this section include discrimination
17 against or taking an adverse action with regard to:

18 (1) licensure;

19 (2) certification;

20 (3) employment terms, benefits, seniority status,
21 promotion, or transfer;

22 (4) staff appointments or other privileges;

23 (5) denial of admission or participation in a program
24 for which the other person or facility is otherwise eligible;

25 (6) reference to rights of conscience in an
26 application form for an educational or funding program;

27 (7) questions regarding an educational or funding

1 program applicant's participation in providing a health care
2 service for rights of conscience;

3 (8) imposition of a burden in the terms or conditions
4 of employment;

5 (9) denial of aid, assistance, or benefits;

6 (10) conditional receipt of the aid, assistance, or
7 benefits; or

8 (11) coercion or disqualification of the other person
9 or facility receiving aid, assistance, or benefits.

10 Sec. 161.755. PROTOCOL FOR DECLINING PARTICIPATION IN
11 PROVISION OF HEALTH CARE SERVICE. (a) A health care facility shall
12 develop a written protocol for circumstances in which a person for
13 reasons of conscience declines to participate in providing a health
14 care service, other than emergency medical treatment under 42
15 U.S.C. Section 1395dd or life-sustaining treatment described by
16 Chapter 166. The protocol must:

17 (1) assist the patient in accessing the requested
18 health care service by providing prompt transfer or release of
19 medical records the patient requests; and

20 (2) state the person remains responsible for providing
21 all other appropriate health care services to the patient other
22 than the specific health care service for which the person declines
23 participation for reasons of conscience.

24 (b) A person who for reasons of conscience declines
25 participation in provision of a health care service shall:

26 (1) notify the health care facility of the
27 declination; and

1 (2) comply with the applicable protocol developed
2 under this section.

3 (c) This section does not permit a protocol developed under
4 this section regarding a health care service that is contrary to the
5 conscience of a physician or health care provider to require a
6 physician, health care provider, or health care facility to counsel
7 a patient or refer the patient or facilitate the referral of the
8 patient to another physician, provider, or facility.

9 Sec. 161.756. DISCIPLINARY ACTION; COMPLAINT. (a) A
10 physician, health care provider, or health care facility that holds
11 a license issued by a licensing agency in this state is subject to
12 review and disciplinary action by the licensing agency for a
13 violation of this subchapter as if the physician, provider, or
14 facility violated the applicable licensing law.

15 (b) A person who is injured by a violation of this
16 subchapter may file a complaint with the licensing agency that
17 issued a license to the physician, health care provider, or health
18 care facility that allegedly violated this subchapter.

19 (c) A physician or health care provider may not file a
20 complaint with the appropriate licensing agency under this section
21 unless the physician or health care provider complies with the
22 health care facility's protocol developed under Section 161.755.

23 Sec. 161.757. CIVIL REMEDIES. (a) A person or health care
24 facility that is injured by a violation of this subchapter may bring
25 a civil action against another person, entity, or political
26 subdivision of this state that violates this subchapter. A person
27 or facility that brings an action under this section may obtain:

1 (1) injunctive relief;

2 (2) damages incurred by the person or facility,

3 including:

4 (A) actual damages for all psychological,
5 emotional, and physical injuries resulting from the violation of
6 this subchapter, as applicable;

7 (B) court costs; and

8 (C) reasonable attorney's fees; or

9 (3) both injunctive relief and damages.

10 (b) Governmental immunity is waived and abolished to the
11 extent of liability under this section.

12 SECTION 3. Not later than December 1, 2025, a health care
13 facility, as that term is defined by Section 161.751, Health and
14 Safety Code, as added by this Act, shall adopt protocols required by
15 Section 161.755, Health and Safety Code, as added by this Act.

16 SECTION 4. Section 161.753, Health and Safety Code, as
17 added by this Act, applies only to a cause of action that accrues on
18 or after the effective date of this Act.

19 SECTION 5. This Act takes effect September 1, 2025.