

Senate File 2286 - Introduced

SENATE FILE 2286
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3006)

A BILL FOR

1 An Act relating to protections for health care institutions,
2 health care payors, and medical practitioners including
3 those related to the exercise of a right of conscience,
4 whistleblower activities, and free speech, and providing
5 penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135S.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Adverse action*" includes termination of employment;
5 transfer or demotion from a current position; an adverse
6 administrative action; reassignment to a different shift or
7 job title; increased administrative duties; denial of staff
8 privileges; denial of board certification; loss of career
9 specialty; reduction of wages, benefits, or privileges; refusal
10 to award a grant, contract, or other funding opportunity;
11 refusal to provide residency training opportunities; denial,
12 deprivation, or disqualification of licensure; withholding
13 or disqualifying from financial aid and other assistance;
14 impediment of the establishment or improvement of a health care
15 institution or health care payor; impediment of the acquisition
16 or merger of a health care institution or health care payor;
17 or any other penalty, discipline, or retaliatory action.
18 "*Adverse action*" does not include the negotiation or purchase of
19 insurance by a nongovernmental entity.

20 2. a. "*Conscience*" means the ethical, moral, or religious
21 beliefs or principles held by a medical practitioner, health
22 care institution, or health care payor.

23 b. With respect to persons who are institutions,
24 corporations, or other legal entities, "*conscience*" is
25 determined by reference to that entity's governing documents
26 including but not limited to published ethical, moral, or
27 religious guidelines or directives, mission statements,
28 constitutions, articles of incorporation, bylaws, policies, or
29 regulations.

30 3. "*Discrimination*" means an adverse action taken against,
31 or a threat of adverse action communicated to, a medical
32 practitioner, health care institution, or health care payor as
33 a result of the refusal of the medical practitioner, health
34 care institution, or health care payor to participate in a
35 health care service on the basis of conscience.

1 4. "*Health care institution*" means a hospital, an
2 outpatient primary care location, a medical center, a physician
3 organization, a professional association, an ambulatory
4 surgical center, a private office of a medical practitioner, a
5 pharmacy, a health care facility, a medical or nursing school,
6 a medical training facility, or any other entity or location
7 in which health care services are performed. "*Health care*
8 *institution*" includes but is not limited to organizations,
9 corporations, partnerships, associations, agencies, networks,
10 sole proprietorships, and joint ventures.

11 5. "*Health care payor*" means an employer, a health plan,
12 an insurer, a management services organization, or any other
13 entity that pays for or arranges for payment, in whole or in
14 part, for a health care service.

15 6. "*Health care service*" means medical research and medical
16 care provided to a patient or client at any time during the
17 patient's or client's course of treatment, including but
18 not limited to initial examination, testing, diagnosis, or
19 referral; dispensing or administration of a drug, medication,
20 or device; psychological therapy or counseling; research,
21 prognosis, therapy, recordmaking, notes related to treatment,
22 set up, or performance of a surgery or procedure; or any
23 other care or service performed or provided by a medical
24 practitioner.

25 7. "*Insurer*" means any entity, including a health
26 service corporation, health maintenance organization, or any
27 similar corporation or organization, or an employer offering
28 self-insurance, that provides a health benefit plan.

29 8. "*Medical practitioner*" means a person who facilitates
30 or participates, or who is asked to facilitate or participate
31 in a health care service, including but not limited to a
32 health-related professional licensed by a board designated in
33 section 147.13, and any other person licensed, certified, or
34 otherwise authorized or permitted by the laws of this state
35 to administer a health care service in the ordinary course

1 of business or in the practice of a profession. *“Medical*
2 *practitioner”* includes any student enrolled in an educational
3 institution who is a prospective medical practitioner.

4 9. *“Participate in a health care service”* means to provide,
5 perform, assist with, facilitate, refer for, provide counseling
6 for, advise with regard to, admit for the purposes of
7 providing, or take part in a health care service in any way.

8 10. *“Person”* means the same as defined in section 4.1.

9 Sec. 2. NEW SECTION. 135S.2 **Exercise of conscience for**
10 **health care institutions, health care payors, and medical**
11 **practitioners — immunity — exception.**

12 1. *a.* A health care institution or health care payor shall
13 not be required to participate in or pay for a health care
14 service that violates the health care institution’s or health
15 care payor’s conscience, including by permitting the use of the
16 health care institution’s or health care payor’s facilities.

17 *b.* An insurer shall list any health care service the insurer
18 refuses to pay for on the basis of the insurer’s right of
19 conscience in the insurer’s policies, plans, contracts, or
20 other agreements.

21 *c.* Except as provided in subsection 4, a health care
22 institution or health care payor that refuses to participate in
23 or pay for a health care service under this section is immune
24 from liability for damages allegedly arising from the refusal,
25 and such refusal shall not be the basis for any discrimination
26 against the health care institution or health care payor, or
27 any personnel, agent, or governing board of the health care
28 institution or health care payor.

29 2. *a.* A medical practitioner has the right not to
30 participate in a health care service that violates the medical
31 practitioner’s conscience.

32 *b.* A health care institution may require a medical
33 practitioner who is employed, contracted, or granted admitting
34 privileges by the health care institution and who is seeking
35 to exercise their conscience by not participating in a health

1 care service, to submit to the health care institution a
2 written refusal signed by the medical practitioner. A written
3 refusal made under this paragraph may refer only generally to
4 the grounds of conscience. Except as provided in subsection
5 4, a health care institution is immune from liability for the
6 exercise of conscience by a medical practitioner.

7 c. A medical practitioner who refuses to participate in a
8 health care service under this section is immune from liability
9 for damages allegedly arising from the refusal, and such
10 refusal shall not be the basis for any discrimination against
11 the medical practitioner.

12 3. This section shall not be construed to relieve a health
13 care institution of the requirement to provide emergency
14 medical services to all individuals as required under 42 U.S.C.
15 §1395dd.

16 4. The immunity provisions of this section shall not apply
17 to a health care institution or a health care payor owned or
18 operated by the state or a political subdivision of the state.

19 5. Notwithstanding any other provision of this chapter to
20 the contrary, a medical practitioner, health care institution,
21 or health care payor that holds itself out to the public as
22 religion-based, states in the entity's governing documents
23 that the entity has a religious purpose or mission, and that
24 has internal operating policies or procedures that implement
25 the entity's religious beliefs, shall have the right to make
26 employment, staffing, contracting, and admitting privilege
27 decisions consistent with the entity's religious beliefs.

28 **Sec. 3. NEW SECTION. 135S.3 Exercise of conscience not**
29 **grounds for loss of privileges, immunities, or public benefits.**

30 The exercise of conscience by a health care institution,
31 health care payor, or medical practitioner not to participate
32 in a health care service shall not be grounds for loss of any
33 privileges, immunities, or public benefits under state law.

34 **Sec. 4. NEW SECTION. 135S.4 Whistleblower protections.**

35 1. A medical practitioner or health care institution shall

1 not be discriminated against because the medical practitioner
2 or health care institution does any of the following:

3 *a.* Provides, causes to be provided, or intends to provide
4 or cause to be provided information relating to a suspected
5 violation of this chapter to the medical practitioner or health
6 care institution's employer, the attorney general, any agency
7 charged with protecting health care rights of conscience,
8 the United States department of health and human services,
9 the United States commission on civil rights, or any other
10 federal agency charged with protecting health care rights of
11 conscience.

12 *b.* Testifies or intends to testify in a proceeding
13 concerning a violation of this chapter.

14 *c.* Assists or participates, or intends to assist or
15 participate, in a proceeding under this chapter.

16 2. It shall be unlawful to discriminate against a medical
17 practitioner because the medical practitioner discloses
18 information that the medical practitioner reasonably believes
19 evidences any of the following:

20 *a.* A violation of any law or rule.

21 *b.* A violation of any standard of care or ethical guidelines
22 for the provision of any health care service.

23 *c.* Gross mismanagement, a gross waste of funds, an abuse
24 of authority, practices, or methods of treatment that may put
25 patient or client health at risk, or a substantial and specific
26 danger to public health or safety.

27 3. This section shall not be construed to exempt a
28 person from the requirements of the federal Health Insurance
29 Portability and Accountability Act of 1996, Pub. L. No.
30 104-191, including amendments thereto and regulations
31 promulgated thereunder, or any other applicable confidentiality
32 and patient or client privacy requirements.

33 Sec. 5. NEW SECTION. 135S.5 Free speech protections —
34 notification of complaints — penalty.

35 1. The department of health and human services, a licensing

1 board designated under chapter 147, or any other licensing
2 or certifying entity of a medical practitioner shall not
3 reprimand, sanction, or revoke or threaten to revoke a license
4 or certification of a medical practitioner who is licensed
5 or certified by the department, licensing board, or other
6 licensing or certifying entity for engaging in speech or
7 expressive activity protected under the first amendment to
8 the Constitution of the United States, unless the department,
9 licensing board, or other licensing or certifying entity
10 demonstrates beyond a reasonable doubt that the medical
11 practitioner's speech was the direct cause of physical
12 harm to a person with whom the medical practitioner had a
13 medical practitioner-patient or medical practitioner-client
14 relationship within the three years immediately preceding the
15 incident of physical harm.

16 2. a. Within fourteen days of receiving a complaint that
17 alleges a violation of speech or expressive activity protected
18 under subsection 1 that may result in revocation of a medical
19 practitioner's license, the department, licensing board, or
20 other licensing or certifying entity shall provide the medical
21 practitioner with a copy of the complaint.

22 b. If the department, licensing board, or other licensing or
23 certifying entity fails to provide a copy of the complaint to
24 the medical practitioner within fourteen days of receipt, the
25 department, licensing board, or other certifying entity shall
26 pay the medical practitioner an administrative penalty of five
27 hundred dollars for each week of noncompliance.

28 Sec. 6. NEW SECTION. 135S.6 Unlawful interference —
29 relief.

30 1. It is unlawful for a person to interfere or attempt to
31 interfere with the exercise of conscience not to participate in
32 a health care service, or in the whistleblower or free speech
33 rights and protections under this chapter, whether by duress,
34 coercion, or any other means.

35 2. A health care institution, health care payor, or medical

1 practitioner that alleges injury by unlawful interference
2 by a person under this chapter may bring a civil action in
3 a court of competent jurisdiction. If a court of competent
4 jurisdiction finds a person liable under this section, the
5 court may order any of the following:

6 *a.* Injunctive relief, when appropriate, including but not
7 limited to reinstatement of a medical practitioner to the
8 medical practitioner's previous position, or reinstatement
9 or reactivation of licensure or certification of a medical
10 practitioner, or reactivation or reinstatement of licensure of
11 a health care institution or a health care payor.

12 *b.* Monetary damages for injuries suffered.

13 *c.* Reasonable costs and attorney fees.

14 Sec. 7. NEW SECTION. 135S.7 Relationship to rights and
15 remedies relating to abortion.

16 This chapter shall not be construed to modify or limit the
17 rights and remedies provided under chapter 146.

18 Sec. 8. NEW SECTION. 135S.8 Severability.

19 If any provision of this chapter or its application to any
20 person or circumstance is held invalid, the invalidity shall
21 not affect other provisions or applications of this chapter
22 which can be given effect without the invalid provision or
23 application, and to this end the provisions of this chapter are
24 severable.

25 Sec. 9. APPLICABILITY. This Act applies to a health care
26 payor policy, contract, plan, or other agreement delivered,
27 issued for delivery, continued, or renewed in this state on or
28 after January 1, 2025.

29

EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill relates to protections for health care
33 institutions, health care payors, and medical practitioners
34 involving a right of conscience, whistleblower activities, and
35 free speech.

1 The bill provides definitions used in the bill including for
2 "conscience", "health care institution", "health care payor",
3 "health care service", and "medical practitioner".

4 The bill provides that a health care institution or health
5 care payor shall not be required to participate in or pay for a
6 health care service that violates the health care institution's
7 or health care payor's conscience. An insurer shall list any
8 health care service the insurer refuses to pay for on the basis
9 of the insurer's conscience in the insurer's policies, plans,
10 contracts, or other agreements.

11 A health care institution or health care payor that refuses
12 to participate in or pay for a health care service is immune
13 from liability for damages allegedly arising from the refusal,
14 and such refusal shall not be the basis for any discrimination
15 against the health care institution or health care payor, or
16 any personnel, agent, or governing board of the health care
17 institution or health care payor.

18 The bill also provides that a medical practitioner has
19 the right not to participate in a health care service that
20 violates the medical practitioner's conscience. A health care
21 institution may require a medical practitioner who is employed,
22 contracted, or granted admitting privileges by the health care
23 institution and who is seeking to exercise their conscience
24 by not participating in a health care service, to submit to
25 the health care institution a written refusal signed by the
26 medical practitioner. A health care institution is immune from
27 liability for the exercise of conscience not to participate in
28 a health care service by a medical practitioner. A medical
29 practitioner who refuses to participate in a health care
30 service due to exercise of conscience is immune from liability
31 for damages allegedly arising from the refusal, and such
32 refusal shall not be the basis for any discrimination against
33 the medical practitioner.

34 These provisions are not to be construed to relieve a
35 health care institution of the requirement under federal law

1 to provide emergency medical services to all individuals. The
2 immunity provisions do not apply to a health care institution
3 or health care payor owned or operated by the state or a
4 political subdivision of the state.

5 The bill provides that a medical practitioner, health care
6 institution, or health care payor that holds itself out to
7 the public as religion-based states in the entity's governing
8 documents that the entity has a religious purpose or mission,
9 and that has internal operating policies or procedures that
10 implement the entity's religious beliefs, shall have the right
11 to make employment, staffing, contracting, and admitting
12 privilege decisions consistent with the entity's religious
13 beliefs.

14 The bill provides that a medical practitioner's, health care
15 institution's, or health care payor's exercise of conscience
16 not to participate in a health care service shall not be
17 grounds for loss of any privileges, immunities, or public
18 benefits under state law.

19 The bill provides whistleblower protections by providing
20 that a medical practitioner or health care institution shall
21 not be discriminated against because the medical practitioner
22 or health care institution: provides, causes to be provided,
23 or intends to provide or cause to be provided information
24 relating to a suspected violation of the bill to the medical
25 practitioner or health care institution's employer or various
26 other entities specified in the bill; testifies or intends to
27 testify in a proceeding concerning a violation of the bill; or
28 assists or participates, or intends to assist or participate,
29 in a proceeding under the bill. It is also unlawful under the
30 bill to discriminate against a medical practitioner because
31 the medical practitioner discloses information to appropriate
32 government, regulation, or law enforcement entities that the
33 medical practitioner reasonably believes evidences a violation
34 of any law or rule; a violation of any standard of care or
35 ethical guidelines for the provision of any health care

1 service; or gross mismanagement, a gross waste of funds, an
2 abuse of authority, practices, or methods of treatment that
3 may put patient or client health at risk, or a substantial
4 and specific danger to public health or safety. These
5 provisions are not to be construed to exempt a person from the
6 requirements of the federal Health Insurance Portability and
7 Accountability Act.

8 The bill also provides that the department of health and
9 human services (HHS), a health professional licensing board,
10 or any other licensing or certifying entity of a medical
11 practitioner shall not reprimand, sanction, or revoke or
12 threaten to revoke a license or certification of a medical
13 practitioner for engaging in speech or expressive activity
14 protected under the first amendment to the Constitution of
15 the United States, unless HHS, a licensing board, or other
16 licensing or certifying entity demonstrates beyond a reasonable
17 doubt that the medical practitioner's speech was the direct
18 cause of physical harm to a person with whom the medical
19 practitioner had a medical practitioner-patient or medical
20 practitioner-client relationship within the three years
21 immediately preceding the incident of physical harm. Within 14
22 days of receiving a complaint alleging a violation of speech or
23 expressive activity protected under the bill that may result
24 in revocation of a medical practitioner's license, HHS, a
25 licensing board, or other licensing or certifying entity shall
26 provide the medical practitioner with a copy of the complaint.
27 If HHS, a licensing board, or other licensing or certifying
28 entity fails to provide the complaint within 14 days of
29 receipt, HHS, the licensing board, or other certifying entity
30 shall pay the medical practitioner an administrative penalty of
31 \$500 for each week of noncompliance.

32 The bill provides that it is unlawful for a person to
33 interfere or attempt to interfere with the exercise of
34 conscience not to participate in a health care service or the
35 whistleblower or free speech rights and protections authorized

1 under the bill. A health care institution, health care payor,
2 or medical practitioner injured by unlawful interference
3 under the bill is entitled to bring a civil action that, if
4 successful, may result in injunctive relief, monetary damages
5 for injuries suffered, and reasonable costs and attorney fees.

6 The provisions of the bill shall not be construed as
7 modifying or limiting the rights and remedies provided under
8 Code chapter 146 (abortions — refusal to perform).

9 The bill applies to a health care payor policy, contract,
10 plan, or other agreement delivered, issued for delivery,
11 continued, or renewed in the state on or after January 1, 2025.

12 The bill includes a severability clause.