

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.(1) No employer of a licensed healthcare professional, healthcare**
17 **professional licensing board, government entity, or other healthcare authority**

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 C.(1) 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

