

By Senator Torres

15-00900A-22

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1                   A bill to be entitled  
2           An act relating to denial of health care services;  
3           creating s. 381.027, F.S.; providing a short title;  
4           defining terms; requiring a covered entity to adopt a  
5           policy relating to providing notice of its refused  
6           services by a specified date; providing requirements  
7           for such notice; requiring the covered entity to  
8           submit a complete list of refused services to the  
9           Department of Health by a specified date; requiring  
10          that the covered entity notify the department within a  
11          specified period after a change is made to such list;  
12          requiring a covered entity to submit the list, along  
13          with its application, if applying for certain state  
14          grants or contracts; providing a civil penalty;  
15          requiring the department to adopt rules; requiring the  
16          department to publish and maintain on its website a  
17          current list of covered entities and their refused  
18          services; requiring the department to develop and  
19          administer a certain public education and awareness  
20          program; providing construction; providing for  
21          severability; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 381.027, Florida Statutes, is created to  
26 read:

27           381.027 Requirements for covered entities; notice of  
28 refused services; department duties.-

29           (1) SHORT TITLE.-This section may be cited as the "Health

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30 Care Transparency and Accessibility Act.”

31 (2) DEFINITIONS.—As used in this section, the term:

32 (a) “Covered entity” means any health care facility that  
33 uses, plans to use, or relies upon a denial of care provision to  
34 refuse to provide a health care service, or referral for a  
35 health care service, for any reason. The term does not include a  
36 health care practitioner.

37 (b) “Denial of care provision” means any federal or state  
38 law that purports or is asserted to allow a health care facility  
39 to opt out of providing a health care service, or referral for a  
40 health care service, including, but not limited to, ss.  
41 381.0051(5), 390.0111(8), 483.918, and 765.1105; 42 U.S.C. ss.  
42 18023(b)(4) and 18113; 42 U.S.C. s. 300a-7; 42 U.S.C. s. 238n;  
43 42 U.S.C. s. 2000bb et seq.; s. 507(d) of the Departments of  
44 Labor, Health and Human Services, and Education, and Related  
45 Agencies Appropriations Act of 2019, Division B of Pub. L. No.  
46 115-245; and 45 C.F.R. part 88.

47 (c) “Department” means the Department of Health.

48 (d) “Health care facility” has the same meaning as in s.  
49 381.026(2).

50 (e) “Health care practitioner” has the same meaning as in  
51 s. 456.001.

52 (f) “Health care service” has the same meaning as in s.  
53 624.27(1).

54 (g) “Referral” has the same meaning as in s. 456.053(3).

55 (h) “Refused service” means a health care service that a  
56 covered entity chooses not to provide, or not to provide a  
57 referral for, based on one or more denial of care provisions.  
58 The term includes health care services that the covered entity

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59 selectively provides to some, but not all, patients based on  
60 their identity, objections to a health care service, or other  
61 nonmedical reasons.

62 (3) REQUIREMENTS FOR COVERED ENTITIES; PENALTY.-

63 (a) By October 1, 2022, each covered entity shall adopt a  
64 policy for providing patients with a complete list of its  
65 refused services. A covered entity shall:

66 1. Provide written notice to the patient or the patient's  
67 representative which includes the complete list of its refused  
68 services before any health care service is initiated.

69 a. In the case of an emergency, the covered entity must  
70 promptly provide written notice after the patient is capable of  
71 receiving such notice or when the patient's representative is  
72 available.

73 b. The patient or patient's representative shall  
74 acknowledge receipt of the written notice of refused services.

75 2. Retain all acknowledgements of receipt of the written  
76 notice of refused services for a period of at least 3 years.

77 3. Provide a complete list of its refused services to any  
78 person upon request.

79 (b) By October 1, 2022, a covered entity shall submit to  
80 the department a complete list of its refused services. If any  
81 change is made to the list, the covered entity must notify the  
82 department within 30 days after making the change.

83 (c) If applying for any state grant or contract related to  
84 providing a health care service, a covered entity must submit,  
85 along with its application, a complete list of its refused  
86 services.

87 (d) A covered entity that fails to comply with this

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88 subsection is subject to a fine not exceeding \$5,000 for each  
89 day that the covered entity is not in compliance.

90 (4) DEPARTMENT DUTIES.—

91 (a) The department shall adopt rules to implement this  
92 section which must include a process for receiving and  
93 investigating complaints regarding covered entities that fail to  
94 comply with this section.

95 (b) By January 1, 2023, the department shall publish and  
96 maintain on its website a current list of covered entities and  
97 the refused services for each covered entity.

98 (c) The department shall develop and administer a public  
99 education and awareness program regarding the denial of health  
100 care services, including how the denial of health care services  
101 can negatively impact health care access and quality, how the  
102 denial of health care services may be avoided, and how the  
103 denial of health care services affects vulnerable people and  
104 communities.

105 (5) CONSTRUCTION.—

106 (a) This section does not authorize denials of health care  
107 services or discrimination in the provision of health care  
108 services.

109 (b) This section does not limit any cause of action under  
110 state or federal law, or limit any remedy in law or equity,  
111 against a health care facility or health care practitioner.

112 (c) Compliance with this section does not reduce or limit  
113 any potential liability for covered entities associated with the  
114 refused services or any violations of state or federal law.

115 (d) Section 761.03 does not provide a claim relating to, or  
116 a defense to a claim under, this section, or provide a basis for

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117 challenging the application or enforcement of this section or  
118 the use of funds associated with the application or enforcement  
119 of this section.

120 (6) SEVERABILITY.—If any provision of this section or its  
121 application to any person or circumstance is held invalid, the  
122 invalidity does not affect other provisions or applications of  
123 this section which can be given effect without the invalid  
124 provision or application, and to this end the provisions of this  
125 section are severable.

126 Section 2. This act shall take effect July 1, 2022.