



2026 South Dakota Legislature

House Bill 1153

Introduced by: **Representative** Heinemann

1 **An Act to protect certain rights of healthcare providers.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

4 Terms used in this chapter mean:

5 (1) "Conscience," the ethical, moral, or religious beliefs or principles held by a
 6 healthcare provider, which, for an entity described in subsections 2(b) and 2(c) of
 7 this section, are determined by reference to the entity's articles of incorporation,
 8 bylaws, constitution, directives, guidelines, mission statement, policies,
 9 regulations, and other governing documents;

10 (2) "Healthcare provider," any:

11 (a) Allied health professional; counselor; employee of a hospital, clinic, nursing
 12 home, or pharmacy; faculty or student of a medical school, nursing school,
 13 or school of counseling or psychology; laboratory technician; medical
 14 assistant; medical researcher; mental health professional; nurse, nurse
 15 aide, or nurse practitioner; pharmacist or pharmacy technician; physician
 16 or physician assistant; psychologist; social worker; or other individual who
 17 is authorized to participate, in any way, in any medical service;

18 (b) Agency, association, corporation, joint venture, network, organization,
 19 partnership, sole proprietorship, or other entity, which provides any medical
 20 service; or

21 (c) Employer, health maintenance organization, health plan, insurance
 22 company, management services organization, or any other entity that
 23 arranges for payment of, contracts for, reimburses, remunerates, or
 24 otherwise pays for, in whole or in part, any medical service; and

25 (3) "Medical service," administering, dispensing, or prescribing a device, drug,
 26 medication, or treatment; arranging or preparing for a surgical procedure;

1 counseling or providing therapy; diagnosing; making records; performing medical
 2 research; referring; testing; treating; or providing any other healthcare-related
 3 service to any client or patient.

4 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

5 A healthcare provider may not be required to participate in or pay for a medical
 6 service that violates the provider's conscience. The right protected in this section:

- 7 (1) Is limited to a particular medical service;
- 8 (2) Does not modify or waive any duty a provider may have to provide or pay for a
 9 medical service that does not violate the provider's conscience; and
- 10 (3) Does not allow a provider to decline payment for a medical service it is
 11 contractually obligated to pay for under the terms of a contract with an insured
 12 party.

13 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

14 A healthcare provider may not be discriminated against:

- 15 (1) As a result of exercising the right protected in section 2 of this Act;
- 16 (2) Engaging in protected speech pursuant to section 4 of this Act;
- 17 (3) Because the provider:
 - 18 (a) Provided or caused to be provided, or is about to provide or cause to be
 19 provided, information relating to any act or omission the provider
 20 reasonably believes to be a violation of this chapter to the provider's
 21 employer, the attorney general, the United States Department of Health
 22 and Human Services, the United States Department of Health and Human
 23 Services' Office for Civil Rights, or any other state or federal agency charged
 24 with protecting healthcare rights; or
 - 25 (b) Assisted, participated, or testified in, or is about to assist, participate, or
 26 testify in, a proceeding concerning a violation of this chapter; or
- 27 (4) Unless disclosure is specifically prohibited by law or concerns a lawful exercise of
 28 discretionary decision-making authority, for disclosing information related to a
 29 matter of conscience, protected by section 2 of this Act, which the provider
 30 reasonably believes is evidence of:
 - 31 (a) A violation of any applicable law, regulation, or rule;
 - 32 (b) A violation of any applicable ethical guideline for the provision of a medical
 33 service; or

1 (c) An abuse of authority or methods of treatment or practices that may put
2 patient health at risk; gross mismanagement; a gross waste of funds; or a
3 substantial and specific danger to public health or safety.

4 For purposes of this section, "discriminated against" means any adverse action
5 taken against, or any threat of adverse action communicated to, a healthcare provider,
6 which includes any executed or threatened discipline, penalty, or retaliation.
7 Discrimination does not include good-faith efforts by an employer to accommodate the
8 right of conscience, protected by section 2 of this Act, of an employee, including
9 reassignment of duties or modification of schedules; an employment action taken after
10 establishing undue hardship on the conduct of the business; or the negotiation or purchase
11 of, or the refusal to purchase or use, insurance coverage or a medical service by an
12 individual or nongovernmental entity.

13 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

14 The Department of Health, the State Board of Medical and Osteopathic Examiners,
15 or any other state agency that regulates any medical service in this state:

16 (1) May not reprimand or sanction a healthcare provider; deny, revoke, or threaten to
17 deny or revoke a provider's certification, license, or registration; or discriminate
18 against a provider, as described in section 3 of this Act, for a provider's
19 engagement in or exercise of association, expression, or speech that is protected
20 from government interference by the First Amendment to the United States
21 Constitution, unless the state agency demonstrates by clear and convincing
22 evidence that the provider's association, expression, or speech was the direct cause
23 of harm to a patient or client with whom the provider had a provider-patient
24 relationship or provider-client relationship within the three years immediately
25 preceding the harm; and

26 (2) May not approve, contract with, recognize, or require an individual to obtain
27 credentials issued or approved by, a specialty board or other credentialing body
28 that revokes the credentials of, or refuses to issue credentials to, a provider solely
29 because the provider engaged in protected conduct described in subdivision (1).

30 Within twenty-one days after receiving any complaint alleging that a provider
31 engaged in conduct that is protected pursuant to subdivision (1), a state agency or
32 credentialing body must furnish the provider with a copy of the complaint. If the copy is
33 not timely furnished, the state agency or credentialing body must pay the provider an

1 administrative penalty of five hundred dollars for each day exceeding the twenty-first day,
2 until the copy is furnished.

3 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

4 Nothing in this chapter may be interpreted to undermine the right of a religious
5 healthcare provider to make administrative, admitting privilege, contracting, employment,
6 and staffing decisions consistent with the provider's religious beliefs if the provider:

7 (1) Is held out to the public as religious; and

8 (2) Has internal operating policies or procedures that implement the provider's
9 religious purpose or mission.

10 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

11 Nothing in this chapter may be construed to conflict with the requirements of the
12 Emergency Medical Treatment and Labor Act, 42 U.S.C. § 1395dd (January 1, 2026).

13 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

14 A healthcare provider may not be held administratively, civilly, or criminally liable
15 for:

16 (1) Exercising the right protected in section 2 of this Act; or

17 (2) The exercise of the right protected in section 2 of this Act by another healthcare
18 provider that is contracted with, employed by, or granted admitting privileges by
19 the provider.

20 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 34:**

21 Any person aggrieved by a violation of this chapter may commence a civil action
22 and is entitled, upon the court's finding of a violation, to injunctive and declaratory relief
23 and to recover damages, together with the costs of the action and reasonable attorney
24 fees. Damages recovered pursuant to this section are cumulative and may not be limited
25 by any other remedy available under federal, state, or local law.

26 Any additional burden or expense on another healthcare provider arising from the
27 exercise of the right protected in section 2 of this Act is not a defense against a claim for
28 violation of this Act.

1 A civil action may not be brought against an individual who declines to use or
2 purchase a medical service from a specific healthcare provider due to the provider's
3 exercise of the right protected in section 2 of this Act.