

2024 -- S 2262

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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AN ACT

RELATING TO HEALTH AND SAFETY -- HEALTHCARE PROVIDER SHIELD ACT

Introduced By: Senators Euer, Mack, Pearson, DiMario, Miller, Sosnowski, DiPalma,
McKenney, Murray, and F. Lombardi

Date Introduced: February 08, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 **CHAPTER 100**

4 **HEALTHCARE PROVIDER SHIELD ACT**

5 **23-100-1. Short title.**

6 This chapter shall be known and may be cited as the "Healthcare Provider Shield Act".

7 **23-100-2. Declaration of policy.**

8 The general assembly hereby finds and declares the following:

9 (1) Access to transgender healthcare services and access to reproductive healthcare services
10 as defined by this chapter is a legal right in this state.

11 (2) Interference with legally protected healthcare activity, or the aiding and assisting of

12 legally protected healthcare activity, as defined by this chapter, whether or not under the color of
13 law, is against the public policy of this state.

14 (3) Any public act of a foreign jurisdiction that prohibits, criminalizes, sanctions, or
15 authorizes a person to bring a civil action against or otherwise interferes with a person, provider,
16 payer, or other entity in this state that engages in legally protected healthcare activity or aids and
17 assists legally protected healthcare activity shall be an interference with the exercise and enjoyment
18 of the rights secured by this chapter and shall be a violation of the public policy of this state.

19 **23-100-3. Definitions.**

1 As used in this chapter, the followings words shall have the following meanings:

2 (1) "Aggrieved person" means:

3 (i) A person against whom hostile litigation is filed or their legal representative;

4 (ii) A person in the state that receives a subpoena in connection with hostile litigation, as
5 defined in subsection (3) of this section, from any court, state or federal, in the United States or any
6 of its territories, that seeks information concerning legally protected healthcare activity, as defined
7 by subsection (5) of this section, or aiding and assisting with legally protected healthcare activity,
8 as defined in subsection (2) of this section; or

9 (iii) A person or entity that employs a person against whom hostile litigation has been filed,
10 if the action is based on the employee's legally protected healthcare activity or the aiding or
11 assisting with legally protected healthcare activities performed within the scope of their
12 employment.

13 (2) "Aid and assist legally protected healthcare activity" means:

14 (i) The undertaking of any act or omission to aid or effectuate, or attempt to aid or
15 effectuate, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of the
16 right to transgender healthcare services or reproductive healthcare services in this state, regardless
17 of the patient's location or whether the healthcare provider is licensed in the state where the patient
18 is located at the time the service is rendered; or

19 (ii) The undertaking of any act or omission to aid or effectuate, or attempt to aid or
20 effectuate, any person in the provision of, or attempted provision of, transgender healthcare services

21 or reproductive healthcare services in this state, regardless of the patient's location or whether the
22 healthcare provider is licensed in the state where the patient is located at the time the service is
23 rendered.

24 (iii) For the purposes of this chapter, "aiding and assisting legally protected healthcare
25 activity" shall include, but not be limited to, the provision or administration or attempted provision
26 or administration of insurance coverage for transgender healthcare services or reproductive
27 healthcare services, by any insurer, payor, or employer.

28 (3) "Hostile litigation" means litigation or other legal action, including, but not limited to,
29 administrative action, to deter, prevent, sanction, or punish any person engaging in legally protected
30 healthcare activity or aiding and assisting legally protected healthcare activity by:

31 (i) Filing or prosecuting any action in any other state where liability, in whole or part,
32 directly or indirectly, is based on engaging in legally protected healthcare activity or aiding and
33 assisting legally protected healthcare activity that occurred in this state, including any action in
34 which liability is based on any theory of vicarious, joint, or several liability derived therefrom; or

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1 (ii) Attempting to enforce any order or judgment issued in connection with any such action
2 by any party to the action, or any person acting on behalf of a party to the action.

3 (iii) Any action shall be considered to be based on conduct that occurred in this state if any
4 part of any act or omission involved in the course of conduct that forms the basis for liability in the
5 action occurs or is initiated in this state, whether or not such act or omission is alleged or included
6 in any pleading or other filing in the action.

7 (iv) Hostile litigation does not include a lawsuit or judgment entered in another state that
8 is based on conduct for which a cause of action would exist under the laws of this state if the course
9 of conduct that forms the basis for liability had occurred entirely in this state, including any
10 contract, tort, common law, or statutory claims.

11 (4) "Law enforcement agency" means any state, municipal, college or university police
12 department, sheriff's department, correctional facility, prosecutorial office, court, probation office,
13 or a program of more than one of any such entity, or any other non-federal entity in the state charged
14 with the enforcement of laws or the custody of detained persons.

15 (5) "Legally protected healthcare activity" means:

16 (i) The exercise and enjoyment, or attempted exercise and enjoyment, by any person of the
17 right to transgender healthcare services or reproductive healthcare services in this state; and

18 (ii) The provision, or attempted provision, of transgender healthcare services or
19 reproductive healthcare services permitted under the laws and regulations of this state by a person
20 duly licensed under the laws of this state and physically present in this state, regardless of the
21 patient's location or whether the healthcare provider is licensed in the state where the patient is
22 located at the time the service is rendered.

23 (iii) "Legally protected healthcare activity" shall not include any service rendered below
24 the applicable professional standard of care of this state.

25 (iv) The protections available for engaging in "legally protected healthcare activity" shall
26 not apply to a lawsuit, judgment, or civil, criminal, or administrative action that is based on conduct
27 for which an action would exist under the laws of this state if the course of conduct that forms the
28 basis for liability had occurred entirely in this state.

29 (6) "Reproductive healthcare services" means all supplies, care, and services of a medical,
30 behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative,
31 rehabilitative, or supportive nature, including medication, relating to pregnancy, contraception,
32 assisted reproduction, pregnancy loss management, or the termination of a pregnancy provided in
33 accordance with the accepted standard of care as defined by major medical professional
34 organizations and agencies with expertise in the relevant field.

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1 (7) "Transgender healthcare services" means all supplies, care, and services of a medical,
2 behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventative,
3 rehabilitative, or supportive nature, including medication, relating to the treatment of gender
4 dysphoria and gender incongruence as provided in accordance with the accepted standard of care
5 as defined by major medical professional organizations and agencies with expertise in the relevant
6 field including the World Professional Association for Transgender Healthcare Standards of Care
7 for the Health of Transgender and Gender Diverse People, 8th edition, or its successor in function.
8 "Transgender healthcare services" does not include conversion therapy as defined by § 23-94-2.

9 **23-100-4. Tortious interference with legally protected healthcare activity.**

10 (a) If a person, whether or not acting under color of law, engages or attempts to engage in
11 hostile litigation, any aggrieved person may initiate a civil action against that person for injunctive,
12 monetary, or other appropriate relief within three (3) years after the cause of action accrues.

13 (b) If the court finds for the petitioner in an action authorized by this section, recovery may
14 include damages for the amount of any judgment issued in connection with any hostile litigation,
15 and any and all other expenses, costs, and reasonable attorney's fees incurred in connection with
16 the hostile litigation and with the tortious interference action.

17 (c) A court of this state may exercise jurisdiction over a person in an action authorized by
18 this section if:

19 (1) Personal jurisdiction is found;

20 (2) The person has commenced any action in any court in this state and, during the
21 pendency of that action or any appeal therefrom, a summons and complaint is served on the person,
22 authorized representative, or the attorney appearing on the person's behalf in that action or as
23 otherwise permitted by law; or

24 (3) The exercise of jurisdiction is permitted under the Constitution of the United States.

25 **23-100-5. Foreign judgments.**

26 (a) In any action filed to enforce a foreign judgment issued in connection with hostile
27 litigation, a court of this state shall not give any force or effect to any judgment issued without
28 jurisdiction or due process or to any judgment that is penal in nature.

29 (b) Foreign judgments issued in connection with hostile litigation shall be brought by filing
30 a new and independent action on the judgment within five (5) years after the rendition of the
31 judgment, and not after.

32 **23-100-6. Testimony, documents, and subpoenas.**

33 (a) Notwithstanding any other provision in this chapter or court rule to the contrary, except
34 as required by federal law, a court shall not order a person who is domiciled or found within this

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1 state to give testimony or a statement or produce documents or other things with any proceeding in
2 a tribunal outside this state concerning hostile litigation.

3 (b) An aggrieved person may move to modify or quash any subpoena issued to a person in
4 this state in connection with such hostile litigation on any grounds provided by court rule, statute,
5 or on the grounds that the subpoena is inconsistent with the public policy of this state.

6 (c) No justice or special justice shall issue a summons in a case, except as required by
7 federal law, where prosecution is pending concerning legally protected health care activity, as
8 defined in § 23-100-3, or aiding and assisting legally protected healthcare activity, as defined in §
9 23-100-3, or where a grand jury investigation concerning legally protected healthcare activity or
10 aiding and assisting legally protected healthcare activity has commenced or is about to commence
11 for a criminal violation of a law of such other state unless the acts forming the basis of the
12 prosecution or investigation would also constitute an offense if occurring entirely in this state.

13 (d) A judge, clerk, or official shall not issue a subpoena if the subpoena is sought to be
14 issued in connection with hostile litigation.

15 (e) A business entity that is incorporated, or has its principal place of business, in this state
16 shall not:

17 (1) Knowingly provide records, information, facilities, or assistance in response to a
18 subpoena, warrant, court order, or other civil or criminal legal process that relates to an
19 investigation into, or the enforcement of, another state's law that asserts criminal or civil liability
20 for legally protected healthcare activity or aiding and assisting legally protected healthcare; or

21 (2) Comply with a subpoena, warrant, court order, or other civil or criminal legal process
22 for records, information, facilities, or assistance related to legally protected healthcare activity or
23 aiding and assisting legally protected healthcare unless the subpoena, warrant, court order, or other
24 civil or criminal legal process includes, or is accompanied by, an attestation, made under penalty
25 of perjury, stating that the subpoena, warrant, court order, or other civil or criminal legal process
26 does not seek documents, information, or testimony relating to an investigation into, or the
27 enforcement of, another state's law that asserts criminal or civil liability for legally protected
28 healthcare activity or aiding and assisting legally protected healthcare activity. Any false attestation
29 submitted under this section is subject to a statutory penalty of ten thousand dollars (\$10,000) per
30 violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of this
31 state for any suit, penalty, or damages arising out of a false attestation under this section.

32 (3) Any business entity described in subsection (e)(1) of this section that is served with a
33 subpoena, warrant, court order, or other civil or criminal legal process described in subsection (e)(1)

34 of this section is entitled to rely on the representations made in an attestation described in subsection

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1 (e)(2) of this section in determining whether the subpoena, warrant, court order, or other civil or
2 criminal legal process relates to an investigation into, or the enforcement of, another state's law that
3 asserts criminal or civil liability for legally protected healthcare activity or aiding and assisting
4 legally protected healthcare activity.

5 **23-100-7. Orders authorizing the interception of wire, oral, or electronic**
6 **communications or search warrants.**

7 (a) A court in this state shall not issue an ex parte order for wiretapping or eavesdropping
8 to obtain any wire, oral, or electronic communication that relates to an investigation into a legally
9 protected healthcare activity or aiding and assisting with legally protected healthcare activity.

10 (b) A court in this state shall not issue a search warrant or an order for the interception of
11 any communication or conversation for the purpose of investigating or recovering evidence that
12 related to legally protected healthcare activity or aiding and assisting legally protected healthcare
13 activity.

14 **23-100-8. Choice of law.**

15 Notwithstanding any general or special law or common law conflict of law rule to the
16 contrary, the laws of this state shall govern in any case or controversy heard in this state related to
17 legally protected healthcare activity or aiding and assisting legally protected healthcare activity,
18 except as may be required by federal law.

19 **23-100-9. Noncooperation.**

20 (a) No public agency, including a state or local law enforcement agency, or state or local
21 employee, appointee, officer or official, or any other person acting on behalf of a public agency
22 shall knowingly provide any information or expend or use time, money, facilities, property,
23 equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding
24 seeking to impose civil or criminal liability upon a person or entity for:

25 (1) Legally protected healthcare activity; or

26 (2) Aiding and assisting legally protected healthcare activity.

27 (b) Notwithstanding any general or special law to the contrary and except as required by

28 federal law, no officer or employee of a law enforcement agency of this state, while acting under
29 color of law, shall provide information or assistance to a federal law enforcement agency or any
30 other state's law enforcement agency or any private citizen or quasi-law enforcement agent in
31 relation to an investigation or inquiry into services constituting legally protected healthcare activity,
32 or aiding and assisting legally protected healthcare activity, if such services would be lawful as
33 provided if they occurred entirely in this state.

34 (c) Notwithstanding any other law or provision of this chapter to the contrary, arrest of a

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1 person is prohibited if the arrest is related to criminal liability that is based on legally protected
2 healthcare activity or aiding and assisting legally protected health care activity.

3 (d) This section shall not apply to:

4 (1) Any investigation or proceeding where the conduct subject to potential liability under
5 the investigation or proceeding would be subject to liability under the laws of this state if committed
6 in this state; or

7 (2) A public agency or employee, appointee, officer or official who, in the course of normal
8 business, is responding to a warrant or extradition demand on the good faith belief that the warrant
9 or demand is valid in this state.

10 SECTION 2. Chapter 12-9 of the General Laws entitled "Extradition" is hereby amended
11 by adding thereto the following section:

12 **12-9-36. Legally protected healthcare activity exception to extradition.**

13 Notwithstanding any other provision in this chapter to the contrary, except as required by
14 federal law, the governor shall not surrender a person charged in another state as a result of
15 engaging in legally protected healthcare activity as defined in § 23-100-3 or aiding and assisting
16 legally protected healthcare activity as defined in § 23-100-3 unless the executive authority of the
17 demanding state alleges in writing that the accused was physically present in the demanding state
18 at the time of the commission of the alleged offense and that thereafter the accused fled from the
19 demanding state.

20 SECTION 3. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
21 is hereby amended by adding thereto the following chapter:

22

CHAPTER 37.8

23

PROTECTIONS FOR PROVIDERS ACT24 **5-37.8-1. License protections for providers of legally protected healthcare activity.**25 (a) As used in this section:26 (1) Aiding and assisting with legally protected healthcare activity has the same meaning as
27 set forth in § 23-100-3.28 (2) Healthcare provider has the same meaning as set forth in § 5-37.3-3 and also includes,
29 but is not limited to, the licensed professionals as forth in chapter 32 of title 5 ("electrolysis and
30 laser hair removal"), chapter 40.1 of title 5 ("occupational therapy"), chapter 37 of title 5
31 ("osteopathic physicians"), chapter 39.1 of title 5 ("social workers"), chapter 63.2 of title 5 ("mental
32 health counselors and marriage and family therapists"), chapter 54 of title 5 ("physician assistants"),
33 chapter 36.1 of title 5 ("naturopathic healthcare providers"), chapter 48 of title 5 ("speech-language
34 pathologists"), chapter 92 of title 5 ("genetic counselors"), and chapter 30 of title 5 ("chiropractic

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1 physicians").2 (3) Legally protected healthcare activity has the same meaning as set forth in § 23-100-3.3 (b) No healthcare provider who is certified, registered, or licensed in Rhode Island shall be
4 subject to professional disciplinary action by a board or the director, including the revocation,
5 suspension or cancellation of the certificate, or registration or reprimand, censure or monetary fine
6 nor shall a board or the director refuse to issue, renew, or take adverse action on an application for
7 certification, registration, or licensure of a qualified healthcare practitioner based solely on:8 (1) The healthcare provider engaging in legally protected healthcare or aiding and assisting
9 with legally protected healthcare activity;10 (2) A criminal, civil, or disciplinary action, including license suspension or revocation, in
11 another state against the healthcare practitioner that is based on the practitioner engaging in legally
12 protected healthcare activity or aiding and assisting with legally protected healthcare activity; or

13 (3) A criminal, civil, or disciplinary action, including license suspension or revocation, in
14 another state against the healthcare practitioner that is based solely on the practitioner violating
15 another state's law prohibiting legally protected healthcare activity or aiding and assisting with
16 legally protected healthcare activity.

17 (c) No board or the director shall make available for public dissemination on a healthcare
18 provider's individual profile the record of any criminal conviction or charge for a felony or serious
19 misdemeanor, final disciplinary action by a licensing board in another state or a medical
20 malpractice court judgment, arbitration award or settlement that resulted from legally protected
21 healthcare activity, aiding and assisting legally protected healthcare activity, or for any judgment,
22 discipline or other sanction arising from such healthcare services if the services as provided were
23 consistent with the applicable professional standard of care and did not otherwise violate Rhode
24 Island law.

25 **5-37.8-2. Insurance protections for providers of legally protected healthcare activity.**

26 (a) As used in this section:

27 (1) Aiding and assisting with legally protected healthcare activity has the same meaning as
28 set forth in § 23-100-3.

29 (2) Healthcare provider has the same meaning as set forth in § 5-37.3-3 and also includes,
30 but is not limited to, the licensed professionals as forth in chapter 32 of title 5 ("electrolysis and
31 laser hair removal"), chapter 40.1 of title 5 ("occupational therapy"), chapter 37 of title 5
32 ("osteopathic physicians"), chapter 39.1 of title 5 ("social workers"), chapter 63.2 of title 5 ("mental
33 health counselors and marriage and family therapists"), chapter 54 of title 5 ("physician assistants"),
34 chapter 36.1 of title 5 ("naturopathic healthcare providers"), chapter 48 of title 5 ("speech-language

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1 pathologists"), chapter 92 of title 5 ("genetic counselors"), and chapter 30 of title 5 ("chiropractic
2 physicians").

3 (3) Legally protected healthcare activity has the same meaning as set for in § 23-100-3.

4 (4) "Prohibited action" means:

5 (i) Refusing to issue a malpractice policy;

6 (ii) Charging higher rates for a malpractice policy, including malpractice policies that

7 include coverage for cross-border care;
8 (iii) Canceling or terminating a malpractice policy;
9 (iv) Refusing to renew a malpractice policy; or
10 (v) Imposing any sanctions, fines, penalties, or rate increases.

11 (b) An insurer that issues malpractice insurance for a healthcare provider who is certified,
12 registered, or licensed in Rhode Island shall not take a prohibited action against an applicant for or
13 the named insured under a malpractice policy in this state because the applicant or insured has
14 engaged in a legally protected healthcare activity as defined in § 23-100-3 or aiding and assisting
15 with legally protected healthcare activity as defined in § 23-100-3 in this state, as long as the care
16 provided by the applicant or insured was consistent with the applicable professional standard of
17 care and did not violate Rhode Island law.

18 (c) A carrier shall not refuse to credential an applicant, or terminate a participating
19 healthcare provider's participation, in a provider network based solely on the applicant's or
20 participating healthcare provider's engagement in legally protected healthcare activity, as defined
21 in § 23-100-3, or aiding and assisting with legally protected health care activity, as defined § 23-
22 100-3.

23 (d) A carrier shall not take adverse action against a healthcare provider or subject the
24 healthcare provider to financial disincentives based solely on the provider engaging in legally
25 protected healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally protected
26 healthcare activity, as defined § 23-100-3 as long as the care provided did not violate the law of
27 this state. Adverse action in this section means refusing or failing to pay a provider for otherwise
28 covered services as defined in the applicable health benefit plan.

29 SECTION 4. Section 23-17-53 of the General Laws in Chapter 23-17 entitled "Licensing
30 of Healthcare Facilities" is hereby amended to read as follows:

31 **23-17-53. Physician contracts.**

32 (a) A hospital, by contract or otherwise, may not refuse or fail to grant or renew medical
33 staff membership or staff privileges, or condition or otherwise limit or restrict medical staff
34 membership or staff privileges, based in whole or in part on the fact that the physician or a partner,

1 associate, or employee of the physician is providing medical or healthcare services at a different
2 hospital, hospital system, or on behalf of a health plan. Notwithstanding the previous sentence, a
3 hospital may condition or otherwise limit or restrict staff privileges for reasons related to the
4 availability of limited resources as determined in advance by the hospital's governing body. Nor
5 shall a hospital by contract, or otherwise, limit a physician's participation or staff privileges or the
6 participation or staff privileges of a partner, associate, or employee of the physician at a different
7 hospital, hospital system or health plan.

8 (b) This section does not prevent a hospital from entering into contracts with physicians to
9 ensure physician availability and coverage at the hospital or to comply with regulatory requirements
10 or quality of care standards established by the governing body of the hospital, if contracts,
11 requirements or standards do not require that a physician join, participate in or contract with a
12 physician-hospital organization or similar organization as a condition of the grant or continuation
13 of medical staff membership or staff privileges at the hospital.

14 (c) This section does not prevent the governing body of a hospital from limiting the number
15 of physicians granted medical staff membership or privileges at the hospital based on a medical
16 staff development plan that is unrelated to a physician or a partner, associate, or employee of a
17 physician having medical staff membership or privileges at another hospital or hospital system.

18 (d) A contract provision that violates this section shall be void and of no force and effect.

19 (e) Hospitals shall allow patients of their medical staff to be evaluated and educated by the
20 various appropriate departments of the hospital upon referral by their treating physician, regardless
21 of the physician affiliation, as long as the physician has unrestricted privileges in their field of
22 practice.

23 (f) A hospital shall not take any adverse action, including, but not limited to, refusing or
24 failing to grant or renew medical staff membership or staff privileges, or condition or otherwise
25 limit or restrict medical staff membership or staff privileges, based, in whole or in part, as a result
26 of an adverse action against a healthcare provider's license or clinical privileges or other
27 disciplinary action by another state or healthcare institution that resulted from the healthcare
28 provider's engagement in legally protected healthcare activity, as defined in § 23-100-3, or aiding
29 and assisting with legally protected healthcare activity, as defined § 23-100-3, if the adverse action
30 was based solely on a violation of the other state's law prohibiting such legally protected healthcare
31 activity and related services, if that legally protected healthcare activity is consistent with the

32 applicable professional standard of care and did not violate Rhode Island law.

33 SECTION 5. Section 5-37-9.2 of the General Laws in Chapter 5-37 entitled "Board of
34 Medical Licensure and Discipline" is hereby amended to read as follows:

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1 **5-37-9.2. Physician profiles — Public access to data.**

2 (a)(1) The board shall compile the information listed in this section to create individual
3 profiles on licensed physicians, in a format created by the board, consistent with the provisions of
4 this section and any regulations promulgated under this section, that are available for dissemination
5 to the public and that include a conspicuous statement that: "This profile contains certain
6 information that may be used as a starting point in evaluating the physician. This profile should not
7 be your sole basis for selecting a physician."

8 (2) The following information shall be compiled by the board in accordance with state laws
9 and board regulations and procedures and shall be included in physician profiles, subject to the
10 limitations and requirements set forth below:

11 (i) Names of medical schools and dates of graduation;

12 (ii) Graduate medical education;

13 (iii) A description of any final board disciplinary actions within the most recent ten (10)
14 years;

15 (iv) A description of any final disciplinary actions by licensing boards in other states within
16 the most recent ten (10) years;

17 (v) A description of any criminal convictions for felonies within the most recent ten (10)
18 years. For the purposes of this subsection, a person is deemed to be convicted of a crime if he or
19 she pleaded guilty or if he or she was found or adjudged guilty by a court of competent jurisdiction,
20 or was convicted of a felony by the entry of a plea of nolo contendere;

21 (vi) A description of revocation or restriction of hospital privileges for reasons related to
22 competence taken by the hospital's governing body or any other official of the hospital after
23 procedural due process has been afforded, or the resignation from or nonrenewal of medical staff
24 membership or the restriction of privileges at a hospital. Only cases that have occurred within the
25 most recent ten (10) years, shall be disclosed by the board to the public; and

26 (vii) All medical malpractice court judgments and all medical malpractice arbitration
27 awards in which a payment is awarded to a complaining party since September 1, 1988, or during
28 the most recent ten (10) years, and all settlements of medical malpractice claims in which a payment
29 is made to a complaining party since September 1, 1988, or within the most recent ten (10) years.
30 Dispositions of paid claims shall be reported in a minimum of three (3) graduated categories
31 indicating the level of significance of the award or settlement. Information concerning paid medical
32 malpractice claims shall be put in context by comparing an individual physician's medical
33 malpractice judgments, awards, and settlements to the experience of other physicians licensed in
34 Rhode Island who perform procedures and treat patients with a similar degree of risk. All judgment,

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1 award, and settlement information reported shall be limited to amounts actually paid by or on behalf
2 of the physician.

3 (3) Comparisons of malpractice payment data shall be accompanied by:

4 (i) An explanation of the fact that physicians treating certain patients and performing
5 certain procedures are more likely to be the subject of litigation than others and that the comparison
6 given is for physicians who perform procedures and treat patients with a similar degree of risk;

7 (ii) A statement that the report reflects data since September 1, 1988, or for the last ten (10)
8 years and the recipient should take into account the number of years the physician has been in
9 practice when considering the data;

10 (iii) An explanation that an incident, giving rise to a malpractice claim, may have occurred
11 years before any payment was made due to the time lawsuits take to move through the legal system;

12 (iv) An explanation of the effect of treating high-risk patients on a physician's malpractice
13 history; and

14 (v) An explanation that malpractice cases may be settled for reasons other than liability
15 and that settlements are sometimes made by the insurer without the physician's consent.

16 (4) Information concerning all settlements shall be accompanied by the following
17 statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect
18 negatively on the professional competence or conduct of the physician. A payment in settlement of
19 a medical malpractice action or claim should not be construed as creating a presumption that

20 medical malpractice has occurred." Nothing in this section shall be construed to limit or prevent
21 the board from providing further explanatory information regarding the significance of categories
22 in which settlements are reported.

23 (5) Pending malpractice claims and actual amounts paid by or on behalf of a physician in
24 connection with a malpractice judgment, award, or settlement shall not be disclosed by the board
25 to the public. Nothing in this section shall be construed to prevent the board from investigating and
26 disciplining a licensee on the basis of medical malpractice claims that are pending.

27 (6) The following information shall be reported to the board by the physician and shall be
28 included in physician profiles, subject to the limitations and requirements specified in this
29 subdivision:

30 (i) Specialty board certification;

31 (ii) Number of years in practice;

32 (iii) Names of the hospitals where the physician has privileges;

33 (iv) Appointments to medical school faculties and indication as to whether a physician has
34 a responsibility for graduate medical education within the most recent ten (10) years;

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1 (v) Information regarding publications in peer-reviewed medical literature within the most
2 recent ten (10) years;

3 (vi) Information regarding professional or community service activities and awards;

4 (vii) The location of the physician's primary practice setting; and

5 (viii) The identification of any language translating services that may be available at the
6 physician's primary practice location; provided, that a statement is included in the profile indicating
7 that these services may be temporary and that the physician's office should first be contacted to
8 confirm the present availability of language translation.

9 (b) A physician may elect to have his or her profile omit certain information provided
10 pursuant to subsections (a)(6)(iv) — (a)(6)(vi) of this section, concerning academic appointments
11 and teaching responsibilities, publication in peer-reviewed journals, and professional and
12 community service awards. In collecting information for these profiles and disseminating it, the
13 board shall inform physicians that they may choose not to provide any information required

14 pursuant to subsections (a)(6)(iv) — (a)(6)(vi) of this section.

15 (c) A physician profile shall not include the personal residence address, telephone number,
16 email address, or other personal contact information of the physician.

17 (d)(1) The board shall provide individual physicians with a copy of their profiles prior to
18 initial release to the public and each time a physician's profile is modified or amended based on
19 information not personally supplied to the board by the physician or not generated by the board
20 itself.

21 (2) Prior to initial release to the public and upon each modification or amendment requiring
22 physician review as provided in this subsection, a physician shall be provided not less than twenty-
23 one (21) calendar days to correct factual inaccuracies that appear in his or her profile.

24 (3) If a dispute arises between a physician and the board regarding the accuracy of factual
25 information in the physician's profile, the physician shall notify the board, in writing, of this
26 dispute.

27 (4) If a physician does not notify the board of a dispute during the twenty-one-day (21)
28 review period, the profile shall be released to the public and the physician will be deemed to have
29 approved the profile and all information contained in the profile.

30 (5) If a physician notifies the board of a dispute in accordance with this subsection, the
31 physician's profile shall be released to the public without the disputed information, but with a
32 statement to the effect that information in the identified category is currently the subject of a dispute
33 and is not available at this time.

34 (6) Within ten (10) calendar days after the board's receipt of notice of a dispute, the

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1 physician and the board or its authorized representative shall in good faith enter into discussions,
2 which may continue for up to thirty (30) days, to resolve the dispute. If the dispute is not resolved
3 within thirty (30) days, the disputed information shall be included in the profile with a statement
4 that this information is disputed by the physician.

5 (d)(e) Each profile shall contain a statement specifying the date of its last modification,
6 amendment, or update. If a physician has reviewed and approved or been deemed to have approved
7 his or her profile in accordance with this subsection, the physician is responsible for the accuracy

8 of the information contained in it. If a profile is released to the public without physician review as
9 required by this subsection, then notwithstanding any immunity from liability granted by § 5-37-
10 1.5 or § 23-1-32, the board or any state agency supplying physician information to the board is
11 solely responsible for the accuracy of the information it generates or supplies and that is contained
12 in physician profiles released to the public.

13 ~~(e)~~(f) In order to protect against the unauthorized use or disclosure of provider profiles by
14 department of health employees with access to the data, the department of health shall apply its
15 existing safeguards and procedures for protecting confidential information to physician profile
16 information.

17 ~~(f)~~(g) For each profile provided to the public by the board, the board may charge no more
18 than fifty cents (\$.50) per page or three dollars (\$3.00) per profile, whichever is greater.

19 SECTION 6. Chapter 23-1 of the General Laws entitled "Department of Health" is hereby
20 amended by adding thereto the following section:

21 **23-1-42.2. Professions and occupations licenses, certifications, and registration –**

22 **Confidentiality of personal information.**

23 Notwithstanding the licensure, certification, or registration requirements specified in
24 statutes governing professions and occupations administered by the department of health, the
25 director of health shall not include the personal residence address, telephone number, email address,
26 or other personal contact information of licensed professionals on any and all public provider
27 profiles, registries, and any other lists of professionals and occupations developed and maintained
28 by the department.

29 SECTION 7. Chapter 5-30 of the General Laws entitled "Chiropractic Physicians" is
30 hereby amended by adding thereto the following section:

31 **5-30-19. Adverse action for legally protected healthcare activity.**

32 An employer, agency, or institution shall not take any adverse action, including, but not
33 limited to, restricting or terminating any chiropractor's employment or ability to practice as a result
34 of an adverse action against a chiropractor's license or other disciplinary action by another state or

1 institution that resulted from the chiropractor's engagement in legally protected healthcare activity,

2 as defined in § 23-100-3, or aiding and assisting with legally protected healthcare activity, as
3 defined § 23-100-3 if the adverse action was based solely on a violation of the other state's law
4 prohibiting such legally protected healthcare activity and related services, if that legally protected
5 healthcare activity is consistent with the applicable professional standard of care and did not violate
6 Rhode Island law.

7 SECTION 8. Chapter 5-32 of the General Laws entitled "Electrolysis and Laser Hair
8 Removal" is hereby amended by adding thereto the following section:

9 **5-32-22. Adverse action for legally protected healthcare activity.**

10 An employer, agency, or institution shall not take any adverse action, including, but not
11 limited to, restricting or terminating any electrologist's employment or ability to practice as a result
12 of an adverse action against an electrologist's license or other disciplinary action by another state
13 or institution that resulted from the electrologist's engagement in legally protected healthcare
14 activity, as defined in § 23-100-3, or aiding and assisting with legally protected healthcare activity,
15 as defined § 23-100-3 if the adverse action was based solely on a violation of the other state's law
16 prohibiting such legally protected healthcare activity and related services, if that legally protected
17 healthcare activity is consistent with the applicable professional standard of care and did not violate
18 Rhode Island law.

19 SECTION 9. Chapter 5-36.1 of the General Laws entitled "License of Naturopathy Act of
20 2017" is hereby amended by adding thereto the following section:

21 **5-36.1-20. Adverse action for legally protected healthcare activity.**

22 An employer, agency, or institution shall not take any adverse action, including, but not
23 limited to, restricting or terminating any naturopath's employment or ability to practice as a result
24 of an adverse action against a naturopath's license or other disciplinary action by another state or
25 institution that resulted from the naturopath's engagement in legally protected healthcare activity,
26 as defined in § 23-100-3, or aiding and assisting with legally protected healthcare activity, as
27 defined § 23-100-3 if the adverse action was based solely on a violation of the other state's law
28 prohibiting such legally protected healthcare activity and related services, if that legally protected
29 healthcare activity is consistent with the applicable professional standard of care and did not violate
30 Rhode Island law.

31 SECTION 10. Chapter 5-39.1 of the General Laws entitled "License Procedure for Social
32 Workers" is hereby amended by adding thereto the following section:

33 **5-39.1-15. Adverse action for legally protected healthcare activity.**

34 An employer, agency, or institution shall not take any adverse action, including, but not

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1 limited to, restricting or terminating any social worker's employment or ability to practice as a
2 result of an adverse action against a social worker's license or other disciplinary action by another
3 state or institution that resulted from the social worker's engagement in legally protected healthcare
4 activity, as defined in § 23-100-3, or aiding and assisting with legally protected healthcare activity,
5 as defined § 23-100-3 if the adverse action was based solely on a violation of the other state's law
6 prohibiting such legally protected healthcare activity and related services, if that legally protected
7 healthcare activity is consistent with the applicable professional standard of care and did not violate
8 Rhode Island law.

9 SECTION 11. Chapter 5-40.1 of the General Laws entitled "Occupational Therapy" is
10 hereby amended by adding thereto the following section:

11 **5-40.1-22. Adverse action for legally protected healthcare activity.**

12 An employer, agency, or institution shall not take any adverse action, including, but not
13 limited to, restricting or terminating any occupational therapist's employment or ability to practice
14 as a result of an adverse action against an occupational therapist's license or other disciplinary
15 action by another state or institution that resulted from the occupational therapist's engagement in
16 legally protected healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally
17 protected healthcare activity, as defined § 23-100-3 if the adverse action was based solely on a
18 violation of the other state's law prohibiting such legally protected healthcare activity and related
19 services, if that legally protected healthcare activity is consistent with the applicable professional
20 standard of care and did not violate Rhode Island law.

21 SECTION 12. Chapter 5-48 of the General Laws entitled "Speech-Language Pathology
22 and Audiology" is hereby amended by adding thereto the following section:

23 **5-48-16. Adverse action for legally protected healthcare activity.**

24 An employer, agency, or institution shall not take any adverse action, including, but not
25 limited to, restricting or terminating any speech-language pathologist's or audiologist's
26 employment or ability to practice as a result of an adverse action against an speech language

27 pathologist's or audiologist's license or other disciplinary action by another state or institution that
28 resulted from the speech-language pathologist's or audiologist's engagement in legally protected
29 healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally protected
30 healthcare activity, as defined § 23-100-3 if the adverse action was based solely on a violation of
31 the other state's law prohibiting such legally protected healthcare activity and related services, if
32 that legally protected healthcare activity is consistent with the applicable professional standard of
33 care and did not violate Rhode Island law.

34 SECTION 13. Chapter 5-54 of the General Laws entitled "Physician Assistants" is hereby

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1 amended by adding thereto the following section:

2 **5-54-29. Adverse action for legally protected healthcare activity.**

3 An employer, agency, or institution shall not take any adverse action, including, but not
4 limited to, restricting or terminating any physician assistant's employment or ability to practice as
5 a result of an adverse action against a physician assistant's license or other disciplinary action by
6 another state or institution that resulted from the physician assistant's engagement in legally
7 protected healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally protected
8 healthcare activity, as defined § 23-100-3 if the adverse action was based solely on a violation of
9 the other state's law prohibiting such legally protected healthcare activity and related services, if
10 that legally protected healthcare activity is consistent with the applicable professional standard of
11 care and did not violate Rhode Island law.

12 SECTION 14. Chapter 5-63.2 of the General Laws entitled "Mental Health Counselors and
13 Marriage and Family Therapists" is hereby amended by adding thereto the following section:

14 **5-63.2-27. Adverse action for legally protected healthcare activity.**

15 An employer, agency, or institution shall not take any adverse action, including, but not
16 limited to, restricting or terminating any counselor's or therapist's employment or ability to practice
17 as a result of an adverse action against a counselor's or therapist's license or other disciplinary
18 action by another state or institution that resulted from the counselor's or therapist's engagement
19 in legally protected healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally
20 protected healthcare activity, as defined § 23-100-3 if the adverse action was based solely on a

21 violation of the other state's law prohibiting such legally protected healthcare activity and related
 22 services, if that legally protected healthcare activity is consistent with the applicable professional
 23 standard of care and did not violate Rhode Island law.

24 SECTION 15. Chapter 5-92 of the General Laws entitled "Genetic Counselors Licensing
 25 Act" is hereby amended by adding thereto the following section:

26 **5-92-12. Adverse action for legally protected healthcare activity.**

27 An employer, agency, or institution shall not take any adverse action, including, but not
 28 limited to, restricting or terminating any genetic counselor's employment or ability to practice as a
 29 result of an adverse action against a genetic counselor's license or other disciplinary action by
 30 another state or institution that resulted from the genetic counselor's engagement in legally
 31 protected healthcare activity, as defined in § 23-100-3, or aiding and assisting with legally protected
 32 healthcare activity, as defined § 23-100-3 if the adverse action was based solely on a violation of
 33 the other state's law prohibiting such legally protected healthcare activity and related services, if
 34 that legally protected healthcare activity is consistent with the applicable professional standard of

1 care and did not violate Rhode Island law.

1 SECTION 16. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO HEALTH AND SAFETY -- HEALTHCARE PROVIDER SHIELD ACT

1 This act would create a protective legal shield for healthcare providers, precluding any civil
2 or criminal action by other states or persons against healthcare providers involving persons seeking
3 access to transgender health care services and reproductive healthcare services provided in this
4 state.

5 This act would take effect upon passage.

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