

2024 -- H 7577 SUBSTITUTE A

LC004704/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTHCARE PROVIDER SHIELD BILL

Introduced By: Representatives Edwards, Kislak, Ajello, McNamara, Kazarian, Knight,
Donovan, Craven, McEntee, and Felix

Date Introduced: February 09, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. This act shall be known and may be cited as the “Healthcare Provider Shield
2 Act.”

3 SECTION 2. Findings of fact.

4 The general assembly finds and therefore declares that:

5 (1) Access to gender-affirming health care services as defined by § 23-100-2 and access to
6 reproductive health care services as defined by § 23-100-2, as authorized under the laws of this
7 state, is a legal right.

8 (2) Interference with legally protected health care activity, as defined by § 23-100-2, or the
9 aiding and assisting of legally protected health care activity, as defined by § 23-100-2, whether or
10 not under the color of law, is against the public policy of this state.

11 (3) Any public act of another state that prohibits, criminalizes, sanctions, or authorizes a
12 person to bring a civil action against or otherwise interferes with a person, provider, payer or other
13 entity in this state that engages in legally protected health care activity or aids and assists legally
14 protected health care activity shall be an interference with the exercise and enjoyment of the rights
15 secured by this state and is against the public policy of this state.

16 SECTION 3. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
17 amended by adding thereto the following chapter:

18 CHAPTER 100

19 HEALTHCARE PROVIDER SHIELD

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

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

3 **23-100-2. Definitions.**

4 As used in this chapter, the followings words shall have the following meanings unless the
5 context clearly indicates otherwise:

6 (1) "Aid and assist legally protected health care activity" and "aiding and assisting legally
7 protected health care activity" mean:

8 (i) Any act or omission of a person aiding or effectuating or attempting to aid or effectuate
9 any other person in legally protected health care activity; or

10 (ii) The provision or administration of, or attempted provision or administration of,
11 insurance coverage for gender-affirming health care services or reproductive health care services
12 to a beneficiary or a dependent of a beneficiary by any insurer, payor or employer.

13 (iii) "Aiding and assisting legally protected health care activity" does not include any
14 conduct that violates Rhode Island law or deviates from the applicable standard of care or that could
15 form the basis of a civil, criminal or administrative action under the laws of this state had the course
16 of conduct that forms the basis for liability occurred entirely within this state.

17 (2) "Aggrieved person" means:

18 (i) A person against whom hostile litigation is filed or prosecuted or the legal representative
19 of a person against whom hostile litigation is filed or prosecuted; or

20 (ii) The employer of a person against whom hostile litigation is filed or prosecuted if the
21 legally protected health care activity or aiding and assisting legally protected health care activity of
22 the person that forms the basis of the hostile litigation was performed within the scope of the
23 person's employment.

24 (3) "Foreign judgment" means any judgment or decree of a court of another state.

25 (4) "Gender-affirming health care services" means all supplies, care and services of a
26 medical, behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventive,
27 rehabilitative or supportive nature, including medication, relating to the treatment of gender
28 dysphoria and gender incongruence in accordance with the accepted standard of care as defined by
29 major medical professional organizations and agencies with expertise in the field of gender-
30 affirming health care, including the Standards of Care for the Health of Transgender and Gender
31 Diverse People, Version 8, or subsequent version, published by the World Professional Association
32 for Transgender Health. "Gender-affirming health care services" does not include conversion
33 therapy as defined by §23-94-2.

34 (5) "Health care provider" means and shall apply to the following:

- 1 (i) A qualified physician licensed pursuant to chapters 37 and 37.3 of title 5;
2 (ii) A qualified osteopathic physician licensed pursuant to chapter 37 of title 5;
3 (iii) A qualified physician assistant licensed pursuant to chapter 54 of title 5;
4 (iv) A genetic counselor licensed pursuant to chapter 92 of title 5;
5 (v) A qualified psychologist licensed pursuant to chapter 44 of title 5;
6 (vi) A qualified social worker licensed pursuant to chapter 39.1 of title 5;
7 (vii) An advanced practice registered nurse, and a certified nurse practitioner, licensed
8 pursuant to chapter 34 of title 5, and a certified registered nurse anesthetist licensed pursuant to
9 chapters 34 and 34.2 of title 5;
10 (viii) A certified nurse midwife licensed pursuant to chapter 13 of title 23;
11 (ix) A licensed clinical mental health counselor or associate, and a licensed marriage and
12 family therapist or associate, licensed pursuant to chapter 63.2 of title 5;
13 (x) An electrologist licensed pursuant to chapter 32 of title 5;
14 (xi) A speech-language pathologist licensed pursuant to chapter 48 of title 5;
15 (xii) An occupational therapist licensed pursuant to chapter 40.1 of title 5;
16 (xiii) A chiropractic physician licensed pursuant to chapter 30 of title 5; and
17 (xiv) A pharmacist engaging in the practice of pharmacy and licensed pursuant to chapter
18 19.1 of title 5.
19 (6) "Hostile litigation" means any litigation or other legal action, including civil, criminal
20 or administrative action, to deter, prevent, sanction or punish any person engaging in legally
21 protected health care activity or aiding and assisting legally protected health care activity by:
22 (i) Filing or prosecuting any litigation or other legal action in any other state where liability
23 is based on legally protected health care activity or aiding and assisting legally protected health
24 care activity that occurred in this state, including any action in which liability is based on any theory
25 of vicarious, joint or several liability; or
26 (ii) Attempting to enforce any order or judgment issued in connection with any litigation
27 or other legal action under subsection (6)(i) of this section by any party to the action or by any
28 person acting on behalf of any party to the action.
29 (iii) For purposes of this chapter, litigation or other legal action is based on legally protected
30 health care activity or aiding and assisting legally protected health care activity that occurred in this
31 state if any part of any act or omission involved in the course of conduct that forms the basis for
32 liability in the action occurs or is initiated in this state, whether or not the act or omission is alleged
33 or included in any pleading or other filing in the lawsuit.
34 (7) "Law enforcement agency" means any police department in any city or town or the state

1 police as defined in the general laws. For purposes of this act, a law enforcement agency may
2 include any other non-federal entity in the state charged with the enforcement of laws relating to
3 the custody of detained persons.

4 (8) "Legally protected health care activity" means:

5 (i) The exercise and enjoyment or attempted exercise and enjoyment by any person of the
6 right secured by this state to gender-affirming health care services or reproductive health care
7 services; and

8 (ii) The provision or attempted provision of gender-affirming health care services or
9 reproductive health care services that are permitted under the laws and regulations of this state and
10 that are provided in accordance with the applicable standard of care by a person properly licensed
11 under the laws of this state and physically present in this state, regardless of whether the patient is
12 located in this state or whether the person is licensed in the state where the patient is located at the
13 time the services are rendered.

14 (iii) "Legally protected health care activity" does not include any conduct that could form
15 the basis of a civil, criminal or administrative action under the laws of this state had the course of
16 conduct that forms the basis for liability occurred entirely within this state and/or in violation of
17 Rhode Island law.

18 (9) "Reproductive health care services" means all supplies, care and services of a medical,
19 behavioral health, mental health, surgical, psychiatric, therapeutic, diagnostic, preventive,
20 rehabilitative or supportive nature, including medication, relating to pregnancy, contraception,
21 assisted reproduction, pregnancy loss management or the termination of a pregnancy in accordance
22 with the applicable standard of care as defined by major medical professional organizations and
23 agencies with expertise in the field of reproductive health care.

24 (10) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
25 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
26 United States. The term "this state" refers to the state of Rhode Island.

27 **23-100-3. Tortious interference with legally protected health care activity.**

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

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

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

3 (1) Personal jurisdiction is found;

4 (2) The person who engages or attempts to engage in hostile litigation has commenced any
5 action in any court in this state and, during the pendency of that action or any appeal therefrom, a
6 summons and complaint is served on the person, authorized representative, or the attorney
7 appearing on the person's behalf in that action or as otherwise permitted by law; or

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

9 **23-100-4. Foreign judgments issued in connection with hostile litigation.**

10 (a) Jurisdiction and due process required. A court of this state may not give any force or
11 effect to any foreign judgment in connection with hostile litigation if the court that issued the
12 foreign judgment did not:

13 (1) Have personal jurisdiction over the defendant;

14 (2) Have jurisdiction over the subject matter; or

15 (3) Provide due process of law.

16 (b) Limitations period. Notwithstanding any provision of law to the contrary, an action on
17 a foreign judgment in connection with hostile litigation must be commenced by filing a new and
18 independent action on the judgment within five (5) years of the foreign judgment.

19 **23-100-5. Testimony, documents, and subpoenas.**

20 (a) Notwithstanding any other provision in this chapter or court rule to the contrary, except
21 as required by federal law, a court may not order a person who is domiciled or found within this
22 state to give testimony or a statement or produce documents or other things with any proceeding in
23 a tribunal outside this state concerning hostile litigation.

24 (b) Any person in this state upon whom a subpoena seeking information concerning legally
25 protected healthcare activity is served by any state or federal court in connection with hostile
26 litigation, may move to modify or quash such subpoena on any grounds provided by court rule,
27 statute, or on the grounds that the subpoena is inconsistent with the public policy as set out in this
28 act.

29 (c) Except as required by federal law, a judicial officer may not issue a summons in a case
30 where prosecution is pending concerning legally protected health care activity, or aiding and
31 assisting legally protected healthcare activity, or where a grand jury investigation concerning
32 legally protected healthcare activity or aiding and assisting legally protected healthcare activity has
33 commenced or is about to commence for a criminal violation of a law of such other state unless the
34 acts forming the basis of the prosecution or investigation would also constitute an offense if

1 occurring entirely in this state.

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

4 (e) A business entity that is incorporated, or has its principal place of business, in this state
5 may not:

6 (1) Knowingly provide records, information, facilities, or assistance in response to an out
7 of state subpoena, warrant, court order, or other civil or criminal legal process that the business
8 entity has reason to believe relates to an investigation into, or the enforcement of, another state's
9 law that asserts criminal or civil liability for legally protected healthcare activity or aiding and
10 assisting legally protected healthcare; or

11 (2) Comply with an out of state subpoena, warrant, court order, or other civil or criminal
12 legal process for records, information, facilities, or assistance that the business entity has reason to
13 believe relates to legally protected healthcare activity or aiding and assisting legally protected
14 healthcare.

15 (3) Any business entity described in subsection (e)(1) or (e)(2) of this section that is served
16 with a an out of state subpoena, warrant, court order, or other civil or criminal legal process
17 described in subsection (e)(1) or (e)(2) of this section is entitled to request an attestation, made
18 under penalty of perjury, stating that the subpoena, warrant, court order, or other civil or criminal
19 legal process does not seek documents, information, or testimony relating to an investigation into,
20 or the enforcement of, another state's law that asserts criminal or civil liability for legally protected
21 healthcare activity or aiding and assisting legally protected healthcare activity, before providing
22 records, information, facilities or assistance.

23 (f) Any false attestation submitted under this section is subject to a statutory penalty of ten
24 thousand dollars (\$10,000) per violation. Submission of such attestation subjects the attester to the
25 jurisdiction of the courts of this state for any suit, penalty, or damages arising out of a false
26 attestation under this section. The business entity is entitled to rely on the representations made in
27 an attestation described in subsection (e)(3) of this section in determining whether the out of state
28 subpoena, warrant, court order, or other civil or criminal legal process relates to an investigation
29 into, or the enforcement of, another state's law that asserts criminal or civil liability for legally
30 protected healthcare activity or aiding and assisting legally protected healthcare activity.

31 **23-100-6. Prohibition on expenditure of public resources.**

32 (a) Notwithstanding any provision of state law to the contrary and except as required by
33 federal law, a public agency, including a law enforcement agency, and an employee, appointee,
34 officer or official or any other person acting on behalf of a public agency may not provide any

1 information or expend or use time, money, facilities, property, equipment, personnel or other
2 resources in furtherance of any interstate investigation or proceeding seeking to impose civil,
3 administrative or criminal liability upon a person or entity for:

4 (1) Legally protected health care activity; or

5 (2) Aiding and assisting legally protected health care activity.

6 **23-100-7. Noncooperation.**

7 (a) Except as required by federal law, an officer or employee of a law enforcement agency,
8 while acting under color of law, may not provide information or assistance to a federal law
9 enforcement agency, to any law enforcement agency in another state or political subdivision of
10 another state, or to any private citizen in relation to an investigation or inquiry into services
11 constituting legally protected health care activity or aiding and assisting legally protected health
12 care activity, if such services would be lawful as provided if they occurred entirely in this state.

13 (b) No arrest. Notwithstanding any provision of state law to the contrary and except as
14 required by federal law, arrest of a person in this state is prohibited if at the time of the arrest the
15 arresting official has information or knowledge that the arrest is related to criminal liability that is
16 based on legally protected health care activity or aiding and assisting legally protected health care
17 activity and the services would be lawful if they occurred entirely in this state.

18 (c) Exceptions. This section does not apply to a public agency, including a law enforcement
19 agency, or an employee, appointee, officer or official or any other person acting on behalf of a
20 public agency:

21 (1) When responding to a warrant or extradition demand on the good faith belief that the
22 warrant or demand is valid in this state; or

23 (2) When exigent circumstances make compliance with this section impossible. For the
24 purposes of this subsection, "exigent circumstances" means circumstances in which there is an
25 insufficient time to comply with this section and there is a compelling need for action due to the
26 presence of an imminent danger to public safety, there is a potential where evidence faces imminent
27 destruction, or any other circumstances where "exigent circumstances" as defined by common law
28 exists.

29 **23-100-8. Choice of law.**

30 Notwithstanding any general or special law or common law conflict of law rule to the
31 contrary, the laws of this state govern in any case or controversy heard in this state involving legally
32 protected health care activity or aiding and assisting legally protected health care activity.

33 **23-100-9. Professions covered.**

34 (a) The protections afforded by the provisions of this chapter for providing gender-

1 affirming health care services, legally-protected health care activity, and reproductive health care
2 services, shall apply to the following healthcare providers:

3 (1) A qualified physician licensed pursuant to chapters 37 and 37.3 of title 5;

4 (2) A qualified osteopathic physician licensed pursuant to chapter 37 of title 5;

5 (3) A qualified physician assistant licensed pursuant to chapter 54 of title 5;

6 (4) A genetic counselor licensed pursuant to chapter 92 of title 5;

7 (5) A qualified psychologist licensed pursuant to chapter 44 of title 5;

8 (6) A qualified social worker licensed pursuant to chapter 39.1 of title 5;

9 (7) An advanced practice registered nurse, and a certified nurse practitioner, licensed
10 pursuant to chapter 34 of title 5, and a certified registered nurse anesthetist licensed pursuant to
11 chapters 34 and 34.2 of title 5;

12 (8) A certified nurse midwife licensed pursuant to chapter 13 of title 23;

13 (9) A licensed clinical mental health counselor or associate, and a licensed marriage and
14 family therapist or associate, licensed pursuant to chapter 63.2 of title 5;

15 (10) An electrologist licensed pursuant to chapter 32 of title 5;

16 (11) A speech-language pathologist licensed pursuant to chapter 48 of title 5;

17 (12) An occupational therapist licensed pursuant to chapter 40.1 of title 5;

18 (13) A chiropractic physician licensed pursuant to chapter 30 of title 5; and

19 (14) A pharmacist engaging in the practice of pharmacy and licensed pursuant to chapter
20 19.1 of title 5.

21 SECTION 4. Chapter 12-9 of the General Laws entitled "Extradition" is hereby amended
22 by adding thereto the following section:

23 **12-9-36. Interstate extradition.**

24 Notwithstanding any other provision in this chapter to the contrary, except as required by
25 federal law, the governor may not comply with any request received from the executive authority
26 of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal
27 violation of a law of that other state where the violation alleged involves legally protected health
28 care activity, as defined in § 23-100-2, or aiding and assisting legally protected health care activity,
29 as defined in § 23-100-2. Consistent with the requirements of the United States Constitution, this
30 limitation does not apply in the circumstance where the person who is the subject of the request for
31 arrest or surrender was physically present in the requesting state at the time of the commission of
32 the alleged offense and thereafter fled from that state.

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

1 CHAPTER 37.8

2 PROTECTIONS FOR HEALTHCARE PROVIDERS ACT

3 **5-37.8-1. License protections for providers of legally protected healthcare activity.**

4 (a) As used in this chapter:

5 (1) Aiding and assisting with legally protected healthcare activity has the same meaning as
6 set forth in § 23-100-2.

7 (2) "Healthcare provider" means:

8 (i) A qualified physician licensed pursuant to chapters 37 and 37.3 of title 5;

9 (ii) A qualified osteopathic physician licensed pursuant to chapter 37 of title 5;

10 (iii) A qualified physician assistant licensed pursuant to chapter 54 of title 5;

11 (iv) A genetic counselor licensed pursuant to chapter 92 of title 5;

12 (v) A qualified psychologist licensed pursuant to chapter 44 of title 5;

13 (vi) A qualified social worker licensed pursuant to chapter 39.1 of title 5;

14 (vii) An advanced practice registered nurse, and a certified nurse practitioner, licensed
15 pursuant to chapter 34 of title 5, and a certified registered nurse anesthetist licensed pursuant to
16 chapters 34 and 34.2 of title 5;

17 (viii) A certified nurse midwife licensed pursuant to chapter 13 of title 23;

18 (ix) A licensed clinical mental health counselor or associate, and a licensed marriage and
19 family therapist or associate, licensed pursuant to chapter 63.2 of title 5;

20 (x) An electrologist licensed pursuant to chapter 32 of title 5;

21 (xi) A speech-language pathologist licensed pursuant to chapter 48 of title 5;

22 (xii) An occupational therapist licensed pursuant to chapter 40.1 of title 5;

23 (xiii) A chiropractic physician licensed pursuant to chapter 30 of title 5; and

24 (xiv) A pharmacist engaging in the practice of pharmacy and licensed pursuant to chapter
25 19.1 of title 5.

26 (3) Legally protected healthcare activity has the same meaning as set forth in § 23-100-2.

27 (4) "Prohibited action" means:

28 (i) Refusing to issue a malpractice policy;

29 (ii) Charging higher rates for a malpractice policy, including malpractice policies that
30 include coverage for cross-border care;

31 (iii) Canceling or terminating a malpractice policy;

32 (iv) Refusing to renew a malpractice policy; or

33 (v) Imposing any sanctions, fines, penalties, or rate increases.

34 (b) No healthcare provider who is certified, registered, or licensed in Rhode Island shall be

1 subject to professional disciplinary action by a board or the director, including the revocation,
2 suspension or cancellation of the certificate, or registration or reprimand, censure or monetary fine
3 nor shall a board or the director refuse to issue, renew, or take adverse action on an application for
4 certification, registration, or licensure of a qualified healthcare provider based solely on:

5 (1) The healthcare provider engaging in legally protected healthcare or aiding and assisting
6 with legally protected healthcare activity;

7 (2) A criminal, civil, or disciplinary action, including license suspension or revocation, in
8 another state against the healthcare provider that is based on the provider engaging in legally
9 protected healthcare activity or aiding and assisting with legally protected healthcare activity; or

10 (3) A criminal, civil, or disciplinary action, including license suspension or revocation, in
11 another state against the healthcare provider that is based solely on the provider violating another
12 state’s law prohibiting legally protected healthcare activity or aiding and assisting with legally
13 protected healthcare activity.

14 (c)(1) Notwithstanding any general or special law to the contrary, no person may be subject
15 to discipline by a board or director, including the revocation, suspension or cancellation of the
16 certificate of registration or reprimand, censure or monetary fine, for providing or assisting in the
17 provision of reproductive health care services or gender-affirming health care services, as those
18 terms are defined in chapter 100 of title 23 (“healthcare provider shield act”), or for any judgment,
19 discipline or other sanction arising solely from such health care services if the services as provided
20 would have been lawful and consistent with the applicable professional standard of care if they
21 occurred entirely in the state.

22 (2) Except as authorized by state or federal law, the board or director may not make
23 available for public dissemination on a healthcare provider’s individual profile the record of any
24 criminal conviction or charge for a felony or serious misdemeanor, final disciplinary action by a
25 licensing board in another state, or arbitration award or settlement that resulted solely from
26 providing or assisting in the provision of reproductive health care services or gender-affirming
27 health care services or for any judgment, discipline or other sanction arising solely from such
28 legally protected health care services if the services as provided would have been lawful and
29 consistent with the applicable professional standard of care if they occurred entirely in the state.
30 The board or director may not take adverse action on an application for registration of a qualified
31 healthcare provider based on a criminal or civil action, disciplinary action by a licensing board of
32 another state or a medical malpractice claim in another state arising solely from the provision of
33 reproductive health care services or gender-affirming health care services that, as provided, would
34 have been lawful and consistent with the applicable professional standard of care if they occurred

1 entirely in the state.

2 (3) Nothing in this section shall be construed to regulate the practice of medicine in any
3 other state.

4 **5-37.8-2. Insurance protections for providers of legally protected healthcare activity.**

5 (a) An insurer that issues malpractice insurance for a healthcare provider who is certified,
6 registered, or licensed in Rhode Island may not take a prohibited action against an applicant for or
7 the named insured under a malpractice policy in this state because the applicant or insured engaged
8 in a legally protected healthcare activity or aiding and assisting with legally protected healthcare
9 activity in this state, as long as the care provided by the applicant or insured was consistent with
10 the applicable professional standard of care and/or did not violate Rhode Island law.

11 (b) A carrier may not refuse to credential an applicant, or terminate a participating
12 healthcare provider's participation, in a provider network based solely on the applicant's or
13 participating healthcare provider's engagement in legally protected healthcare activity, or aiding
14 and assisting with legally protected health care activity, provided that the care provided by the
15 applicant or insured was consistent with the applicable professional standard of care and/or did not
16 violate Rhode Island law.

17 (c) A carrier may not take adverse action against a healthcare provider or subject the
18 healthcare provider to financial disincentives based solely on the provider engaging in legally
19 protected healthcare activity, or aiding and assisting with legally protected healthcare activity, as
20 long as the care provided was consistent with the applicable professional standard of care and/or
21 did not violate the law of this state. Adverse action in this section means refusing or failing to pay
22 a provider for otherwise covered services as defined in the applicable health benefit plan.

23 (d) No medical malpractice insurer may discriminate against a provider or adjust or
24 otherwise calculate a provider's risk classification or premium charges because, applying the
25 definitions set forth in chapter 100 of title 23 ("healthcare provider shield"):

26 (1) The health care provider offers reproductive health care services or gender-affirming
27 health care services that are unlawful in another state;

28 (2) Another state's laws create potential or actual liability for those services; or

29 (3) Hostile litigation against a healthcare provider concerning reproductive health care
30 services or gender-affirming health care services resulted in a judgment against the healthcare
31 provider, if such health care services would be lawful and consistent with the applicable
32 professional standard of care as provided if they occurred entirely in this state.

33 **5-37.8-3. Employment Protections for providers of legally protected health care**
34 **activity.**

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

10
11 SECTION 6. Section 23-17-53 of the General Laws in Chapter 23-17 entitled "Licensing
12 of Healthcare Facilities" is hereby amended to read as follows:

13 **23-17-53. Physician contracts.**

14 (a) A hospital, by contract or otherwise, may not refuse or fail to grant or renew medical
15 staff membership or staff privileges, or condition or otherwise limit or restrict medical staff
16 membership or staff privileges, based in whole or in part on the fact that the physician or a partner,
17 associate, or employee of the physician is providing medical or healthcare services at a different
18 hospital, hospital system, or on behalf of a health plan. Notwithstanding the previous sentence, a
19 hospital may condition or otherwise limit or restrict staff privileges for reasons related to the
20 availability of limited resources as determined in advance by the hospital's governing body. Nor
21 shall a hospital by contract, or otherwise, limit a physician's participation or staff privileges or the
22 participation or staff privileges of a partner, associate, or employee of the physician at a different
23 hospital, hospital system or health plan.

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

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

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

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

5 (f) A hospital may not take any adverse action, including, but not limited to, refusing or
6 failing to grant or renew medical staff membership or staff privileges, or condition or otherwise
7 limit or restrict medical staff membership or staff privileges, based on a result of an adverse action
8 against a healthcare provider's license or clinical privileges or other disciplinary action by another
9 state or healthcare institution that resulted from the healthcare provider's engagement in legally
10 protected healthcare activity, as defined in § 23-100-2, or aiding and assisting with legally protected
11 healthcare activity, as defined § 23-100-2, if the adverse action was based solely on a violation of
12 the other state's law prohibiting such legally protected healthcare activity and related services, if
13 that legally protected healthcare activity is consistent with the applicable professional standard of
14 care and/or did not violate Rhode Island law.

15 SECTION 7. Section 5-37-9.2 of the General Laws in Chapter 5-37 entitled "Board of
16 Medical Licensure and Discipline" is hereby amended to read as follows:

17 **5-37-9.2. Physician profiles — Public access to data.**

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

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

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

28 (ii) Graduate medical education;

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

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

33 (v) A description of any criminal convictions for felonies within the most recent ten (10)
34 years. For the purposes of this subsection, a person is deemed to be convicted of a crime if he or

1 she pleaded guilty or if he or she was found or adjudged guilty by a court of competent jurisdiction,
2 or was convicted of a felony by the entry of a plea of nolo contendere;

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

8 (vii) All medical malpractice court judgments and all medical malpractice arbitration
9 awards in which a payment is awarded to a complaining party since September 1, 1988, or during
10 the most recent ten (10) years, and all settlements of medical malpractice claims in which a payment
11 is made to a complaining party since September 1, 1988, or within the most recent ten (10) years.
12 Dispositions of paid claims shall be reported in a minimum of three (3) graduated categories
13 indicating the level of significance of the award or settlement. Information concerning paid medical
14 malpractice claims shall be put in context by comparing an individual physician's medical
15 malpractice judgments, awards, and settlements to the experience of other physicians licensed in
16 Rhode Island who perform procedures and treat patients with a similar degree of risk. All judgment,
17 award, and settlement information reported shall be limited to amounts actually paid by or on behalf
18 of the physician.

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

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

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

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

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

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

32 (4) Information concerning all settlements shall be accompanied by the following
33 statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect
34 negatively on the professional competence or conduct of the physician. A payment in settlement of

1 a medical malpractice action or claim should not be construed as creating a presumption that
2 medical malpractice has occurred.” Nothing in this section shall be construed to limit or prevent
3 the board from providing further explanatory information regarding the significance of categories
4 in which settlements are reported.

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

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

12 (i) Specialty board certification;

13 (ii) Number of years in practice;

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

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

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

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

20 (vii) The location of the physician’s primary practice setting; and

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

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

31 (c) [A physician profile shall not include the personal residence address, personal telephone
32 number, personal email address, or other personal contact information of the physician.](#)

33 (d)(1) The board shall provide individual physicians with a copy of their profiles prior to
34 initial release to the public and each time a physician’s profile is modified or amended based on

1 information not personally supplied to the board by the physician or not generated by the board
2 itself.

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

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

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

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

16 (6) Within ten (10) calendar days after the board's receipt of notice of a dispute, the
17 physician and the board or its authorized representative shall in good faith enter into discussions,
18 which may continue for up to thirty (30) days, to resolve the dispute. If the dispute is not resolved
19 within thirty (30) days, the disputed information shall be included in the profile with a statement
20 that this information is disputed by the physician.

21 ~~(d)~~(e) Each profile shall contain a statement specifying the date of its last modification,
22 amendment, or update. If a physician has reviewed and approved or been deemed to have approved
23 his or her profile in accordance with this subsection, the physician is responsible for the accuracy
24 of the information contained in it. If a profile is released to the public without physician review as
25 required by this subsection, then notwithstanding any immunity from liability granted by § 5-37-
26 1.5 or § 23-1-32, the board or any state agency supplying physician information to the board is
27 solely responsible for the accuracy of the information it generates or supplies and that is contained
28 in physician profiles released to the public.

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

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

1 SECTION 8. Chapter 23-1 of the General Laws entitled "Department of Health" is hereby
2 amended by adding thereto the following section:

3 **23-1-42.2. Professions and occupations licenses, certifications, and registration –**
4 **Confidentiality of personal information.**

5 Notwithstanding the licensure, certification, or registration requirements specified in
6 statutes governing professions and occupations administered by the department of health, the
7 director of health shall not include the personal residence address, personal telephone number,
8 personal email address, or other personal contact information of licensed professionals on any and
9 all public provider profiles, registries, and any other lists of professionals and occupations
10 developed and maintained by the department.

11 SECTION 9. Severability. If any provision of this act or the application thereof to any
12 person or circumstances is held invalid, such invalidity shall not affect other provisions or
13 applications of this act, which can be given effect without the invalid provision or application, and
14 to this end the provisions of this act are declared to be severable.

15 SECTION 10. This act shall take effect upon passage.

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LC004704/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTHCARE PROVIDER SHIELD BILL

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 gender-affirming health care services and reproductive healthcare services provided in
4 this state.

5 This act would take effect upon passage.

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LC004704/SUB A
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