

Section 101.

Patient Rights to Medically Accurate Information.

- (1)** It is the policy of the state to enshrine, promote, and recognize:
 - (a)** The right of a patient to receive medically accurate information from a physician providing medical care including, but not limited to, investigation, examination, diagnosis, stabilization, consultation, treatment, procedure, and referral.
 - (b)** The right and obligation of a physician, duly licensed pursuant to s. 448.03 of this state to practice medicine therein, to provide medically accurate information to patients to whom the physician provides medical care, and to make referrals for patients to other duly licensed physicians and health care providers.
- (2)** Neither the state, nor any political subdivision or instrumentality of the state, nor any entity shall interfere with or otherwise diminish the rights and obligations specified in s. [101 (1)].
- (3)** Employment retribution by any entity against a physician on account of the physician's exercise of the rights and obligations specified in subs (1) and (2), or the physician's provision of medical care to a patient based on such rights and obligations, is prohibited.
- (4)** Neither the state, nor any political subdivision or instrumentality of the state, shall
 - (a)** Require the inclusion of any content in a procedure or treatment form that is not medically accurate, or promote or support, in any manner, an entity that provides, distributes, or otherwise shares with an individual seeking medical advice from the entity, information that is not medically accurate.
 - (b)** Prohibit a physician from adding medically accurate information, or deleting information in a procedure or treatment form that, in the physician's medical judgment is either not medically accurate or that does not align with a patient's specific request for medical care, concerning diagnosis, reservations relevant to the diagnosis, the nature and purpose of the proposed procedure or treatment, risks and consequences of the proposed procedure or treatment, reasonable alternatives to the procedure or treatment appropriate for the patient's situation, patient counseling, or prognosis if a patient elects not to proceed with a proposed procedure or treatment.
- (5)** Advancements in medical knowledge and care. (a) It is the policy of the state to foster, promote, and recognize the right of:
 - 1.** Patients generally, to have access to continually improving, medically accurate, high quality, safe patient care.

2. Patients particularly, to have access to continually improving, medically accurate, high quality, safe patient care from obstetricians, gynecologists, pediatricians, emergency room physicians, and family medicine physicians who attended medical residency programs that provided training in evidence-based, clinically sound and current, comprehensive reproductive health care with reliance on up-to-date, medically accurate, didactic materials.
 3. To further and assess the status of the policies set forth in s. 101 (5) (a) the Department of Health Services shall establish and maintain an Office of Advancement in Medical Knowledge and Care that will investigate developments affecting these policies, issue an annual report of its findings, and distribute the report to the members of the health committees of the Assembly and Senate, the Governor, the deans of all schools of medicine in the state, and the directors of all medical residency programs in the state.
- (6) Remedies. (a) Actions by the Attorney General. 1. If the Attorney General has reasonable cause to believe that any party, including the state, a political subdivision, an instrumentality of the state, or an entity, is, has been, or may be violating s. (101), the Attorney General, to vindicate the public interest and to protect the rights of citizens of this state, has standing to bring and may commence a civil action against any such party in the name of the state in any court with appropriate jurisdiction.
- a. For each violation of the sections specified in sub. (a), the court may award appropriate relief, including temporary, preliminary, or permanent injunctive relief, and compensatory damages to persons aggrieved. The court, to vindicate the public interest, may assess against a party other than the state, a political subdivision, or any instrumentality thereof –
 - i. An amount not exceeding \$20,000 for the first violation, and
 - ii. An amount not exceeding \$40,000 for any subsequent violation.
- (b.) Private Right of Action. 1. A patient or physician claiming a violation of the rights and obligations specified in s. 101 (1), and any associated common law claims, may commence a civil action for relief as set forth in par. 2.
2. In any action under par. (1), the court may award appropriate relief, including temporary, preliminary, or permanent injunctive relief, and compensatory and punitive damages. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.
 3. A person claiming a violation of s. 101 (2) or (4), or a physician claiming a violation of s. 101 (3), may commence a civil action for relief set forth in par. 4.
 4. In any action under par. 3, the court may award appropriate relief, including temporary, preliminary, or permanent injunctive relief, including but not limited to back pay, reinstatement of staff or other privileges, and compensatory and punitive damages. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$20,000 per violation.

DEFINITIONS FOR THIS SECTION:

+ **“Biomedical and behavioral research”** includes studies designed primarily to increase the scientific base of information about normal or abnormal physiology and development; studies primarily intended to evaluate the safety, effectiveness, or usefulness of a medical product, procedure, or intervention; and studies on the behavior of individuals and populations to establish a body of demonstrable, replicable facts and theories that contribute to knowledge and amelioration of human problems.

- + **“Employment retribution”** means a retaliatory action taken on account of the exercise of a health care provider’s rights specifically created or recognized in s. 102 or otherwise in law, without regard to whether such action is entirely encompassed by termination of employment, employment suspensions or probationary periods, written or oral warnings, failure to promote, diminishment in employment responsibilities, adverse changes in compensation, removal from or adverse changes in titled positions, denial, revocation or suspension of medical staff or other privileges, or unwanted work schedule changes.
- + **“Entity”** means any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.
- + **“Licensed physician”** means a health care professional who has completed a program of medical education, has received the doctor of medicine (M.D.), doctor of osteopathic medicine (D.O.), or equivalent degree, has been granted a registration certificate from the state to practice medicine, and who diagnoses, treats, operates, or prescribes any human disease, pain, injury, deformity, or physical condition.
- + **“Medically accurate”** means information relevant to informed decision making based on the weight of current scientific evidence, derived from research using accepted scientific methods, consistent with generally recognized scientific theory, and if available, published in peer-reviewed journals; and recognized as accurate, objective, and complete by professional medical organizations such as the American Medical Association, the American Congress of Obstetricians and Gynecologists, the American Public Health Association, and American Academy of Pediatrics; government agencies such as the Center for Disease Control, the Food and Drug Administration, the National Cancer Institute, the American Psychological Association, and the National Institute of Health; and scientific advisory groups such as the Institute of Medicine and the Advisory Committee on Immunization Practices.
- + **“Patient”** means any individual who presents himself or herself at or before a health care provider for the purpose of obtaining medical investigation, examination, diagnosis, stabilization, consultation, treatment, procedure, or referral.
- + **“Physician”** has the meaning given in s. [x].¹
- + **“Procedure or treatment form”** means any information a patient receives relating to giving consent to a procedure or treatment the patient may elect to proceed with, whether in a brochure, a notice, a posting, an agreement or other document, provided in writing, electronically, or by video, without regard to whether or not the communication requires a signature.
- + **“Professional medical organization”** means an entity widely regarded as the leading organization or association within its field that serves a single profession, or a specialty within a single profession, that possesses a primary standing in that profession or specialty that requires of its members a significant amount of education, training, or experience or a license or certificate from a state or duly-authorized private authority to practice the profession or specialty.
- + **“Referral”** means providing names and contact information of health care providers, securing or assisting a patient in scheduling appointments with health care providers, and communicating with referred health care providers about medical care that may be in the patient’s best interest in the judgment of the health care provider.
- + **“Scientific advisory group”** means a group that is recognized as an authoritative scientific source by the medical profession, and is comprised of knowledgeable, prominent, and credible members in their field of expertise and that offers scientific opinions on health matters.

¹ Insert state physician definition.