LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature Second Regular Session - 2026

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 828

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE MERIT-BASED HEALTH CARE ACT; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 25, TITLE 56, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND INTENT, TO DEFINE TERMS, TO ESTABLISH PROVISIONS REGARDING PROHIBITED ACTS, TO ESTABLISH PROVISIONS REGARDING MEDICAID CONTRACTUAL COMPLIANCE, TO ESTABLISH PROVISIONS REGARDING ENFORCEMENT AND PENALTIES, TO ESTABLISH PROVISIONS REGARDING A LIMITED PRIVATE RIGHT OF ACTION, AND TO ESTABLISH PROVISIONS REGARDING FEDERAL PREEMPTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 25, Title 56, Idaho Code, and to read as follows:

CHAPTER 25
MERIT-BASED HEALTH CARE ACT

56-2501. SHORT TITLE. This chapter shall be known and may be cited as the "Merit-Based Health Care Act."

56-2502. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that:

(a) Medicaid participation is voluntary and subject to reasonable conditions imposed by the state as a steward of public funds;

(b) Employment decisions based on merit and professional qualifications promote patient trust and high-quality care; and

(c) Employment practices unrelated to job-related qualifications or business necessity undermine program integrity, workforce competency, and the efficient use of public funds.

(2) It is the intent of the legislature to:

(a) Ensure that health care employment and contracting decisions funded by medicaid are based on individual merit, qualifications, and clinical competency;

(b) Prohibit the use of state medicaid funds to support ideological or discriminatory employment practices; and

(c) Preserve compliance with all applicable federal civil rights and medicaid requirements.

(3) Nothing in this chapter is intended to authorize discrimination prohibited by federal law or to interfere with patient-specific medical decision-making.

56-2503. DEFINITIONS. As used in this chapter:

(1) "Discriminatory hiring" means granting a preference or imposing a disadvantage in employment or contracting based on race, sex, sexual orientation, gender identity, or national origin, except as expressly required by federal law.

(2) "Diversity, equity, and inclusion" or "DEI" means the policies commonly known and practiced as DEI, critical race theory, or anti-racism, any form of race or sex stereotyping or scapegoating, or the concepts that:

(a) One race or sex is inherently superior to another race or sex;

(b) The United States is fundamentally racist or sexist;

(c) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(d) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex;

(e) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

(f) An individual's moral character is necessarily determined by the individual's race or sex;

(g) An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(h) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;

(i) Meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular race to oppress another race; or

(j) All people should be compelled to believe in and speak in a manner consistent with the concept that an individual can change the individual's sex or gender.

(3) "Health care provider" means any individual or entity that voluntarily participates in the Idaho medicaid program or receives medicaid reimbursements in whole or in part through a state-contracted managed care network.

(4) "Prohibited DEI conduct" means any policy, practice, training, or requirement that includes:

(a) Consideration of DEI in hiring, promotion, compensation, discipline, termination, or contracting decisions;

(b) Race-based or sex-based preferences, targets, benchmarks, quotas, or equity goals;

(c) Mandatory bias, implicit bias, systemic bias, or similar training that assigns responsibility, disadvantage, or professional outcomes based on protected characteristics rather than individual merit or performance; or

(d) Required statements, pledges, attestations, or affirmations endorsing diversity, equity, and inclusion principles or related ideological frameworks as a condition of employment or contracting.

(5) "Public-facing communication" means any communication made available to the public, including marketing materials, websites, mission or value statements, publicly presented staff trainings, facility signage, or social media.

56-2504. PROHIBITED ACTS. (1) With respect to employment, policies, training, or communications, a health care provider shall not:

(a) Engage in discriminatory hiring or prohibited DEI conduct;

(b) Adopt or implement internal policies or trainings that constitute prohibited DEI conduct; or

(c) Use state funds, including medicaid reimbursements, for any public-facing communication that promotes prohibited DEI conduct.

(2) Nothing in this section shall be construed to prohibit:

(a) Compliance with title VI of the civil rights act of 1964 or other applicable federal civil rights laws;

(b) Collection of demographic data for legitimate clinical care, quality reporting, or public health purposes;

(c) Patient-specific medical discussions related to biological, genetic, or epidemiological risk factors;

(d) Non-ideological training required for clinical competency, licensure, accreditation, or federal program compliance; or

(e) Workforce training, quality improvement initiatives, or disparity-reduction programs required or encouraged by federal law, centers for medicare and medicaid services guidance, or accreditation bodies.

56-2505. MEDICAID CONTRACTUAL COMPLIANCE. (1) Compliance with this chapter shall be a material condition of all Idaho medicaid provider agreements as applied to medicaid-funded activities.

(2) The department of health and welfare shall ensure that all managed care contracts require network-wide compliance with the provisions of this chapter for medicaid-funded activities.

(3) This section shall be implemented in a manner consistent with federal medicaid requirements and centers for medicare and medicaid services guidance.

56-2506. ENFORCEMENT AND PENALTIES. (1) The attorney general may investigate alleged violations of this chapter upon receipt of a formal complaint.

(2) Prior to the imposition of civil penalties, the department shall provide written notice and an opportunity for corrective action.

(3) The attorney general may seek civil penalties for violations of this chapter as follows:

(a) For a health care provider with fifty (50) or more employees:

(i) A penalty not to exceed ten thousand dollars ($10,000) for a first violation;

(ii) A penalty not to exceed fifty thousand dollars ($50,000) for a second violation; and

(iii) A penalty not to exceed one hundred thousand dollars ($100,000) for a third or subsequent violation; and

(b) For a health care provider with fewer than fifty (50) employees:

(i) A penalty not to exceed five thousand dollars ($5,000) for a first violation;

(ii) A penalty not to exceed twenty-five thousand dollars ($25,000) for a second violation; and

(iii) A penalty not to exceed fifty thousand dollars ($50,000) for a third or subsequent violation.

56-2507. LIMITED PRIVATE RIGHT OF ACTION. A health care professional may bring an action solely for retaliation arising from refusing to participate in prohibited DEI conduct. Remedies may include reinstatement, injunctive relief, compensatory damages, and reasonable attorney's fees.

56-2508. SAVINGS CLAUSE AND FEDERAL PREEMPTION. Nothing in this chapter shall be construed to restrict conduct required or encouraged by federal civil rights law, centers for medicare and medicaid services guidance, or federal conditions of participation. If any provision of this chapter is preempted by federal law, such provision shall be severed while the remainder remains in full force and effect.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2026.