

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3214 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kevin West _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 FLOOR SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3214

By: West (Kevin) and McCall of
the House

6 and

7 Bullard and Jett of the
8 Senate

9
10 FLOOR SUBSTITUTE

11 An Act relating to health care; defining terms;
12 granting certain protections to health care
13 institutions and health care payors; requiring
14 certain disclosure; providing certain immunity from
15 civil actions; providing certain construction;
16 providing exception; conferring certain rights on
17 medical practitioners, health care institutions, and
18 health care payors; authorizing certain requirement
19 by health care institution; prohibiting certain
20 discrimination against medical practitioners and
21 health care institutions; granting certain immunities
22 to medical practitioners and health care
23 institutions; granting additional protections;
24 prohibiting certain disciplinary actions by
professional licensing board or state agency;
requiring certain provision of complaint; providing
remedy for failure to notify; making certain
interference unlawful; providing remedies for
unlawful interference; directing promulgation of
certain rules; providing certain construction;
providing for codification; and providing an
effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1-728g of Title 63, unless there
4 is created a duplication in numbering, reads as follows:

5 As used in this act, unless the context requires otherwise:

6 1. "Conscience" means the ethical, moral, or religious beliefs
7 or principles held by a medical practitioner, health care
8 institution, or health care payor. With respect to institutional or
9 corporate persons, as opposed to individual persons, the term is
10 determined by reference to that entity's or body's governing
11 documents, including but not limited to published ethical, moral, or
12 religious guidelines or directives, mission statements,
13 constitutions, articles of incorporation, bylaws, policies, or
14 regulations;

15 2. a. "Discrimination" means an adverse action taken
16 against, or a threat of adverse action communicated
17 to, a medical practitioner, health care institution,
18 or health care payor as a result of the medical
19 practitioner, health care institution, or health care
20 payor's refusal to participate in a health care
21 service on the basis of conscience, including but not
22 limited to termination of employment; transfer from
23 current position; demotion from current position;
24 adverse administrative action; reassignment to a

1 different shift or job title; increased administrative
2 duties; denial of staff privileges; denial of board
3 certification; loss of career specialty; reduction of
4 wages, benefits, or privileges; refusal to award a
5 grant, contract, or other program; refusal to provide
6 residency training opportunities; denial, deprivation,
7 or disqualification of licensure; withholding or
8 disqualifying from financial aid and other assistance;
9 impediment of the creation or improvement of a health
10 care institution or health care payor; impediment of
11 the acquisition or merger of a health care institution
12 or health care payor; the threat of any of the
13 preceding actions; or any other penalty, disciplinary,
14 or retaliatory action, whether executed or threatened.

15 b. The term does not include the negotiation or purchase
16 of insurance by a nongovernment entity;

17 3. "Health care institution" means a public or private
18 hospital, outpatient center for primary care, medical center,
19 physician organization, professional association, outpatient center
20 for surgical services, private physician's office, pharmacy, long-
21 term care facility, medical school, nursing school, medical training
22 facility, or any other entity or location in which health care
23 services are performed. The term includes but is not limited to
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1 organizations, corporations, partnerships, associations, agencies,
2 networks, sole proprietorships, or joint ventures;

3 4. "Health care payor" means an employer, health plan, health
4 maintenance organization, insurance company, management services
5 organization, or another entity that pays for or arranges for
6 payment for a health care service, in whole or in part;

7 5. "Health care service" means medical research or medical care
8 provided to a patient or client at any time during the patient's or
9 client's course of treatment, including but not limited to initial
10 examination; testing; diagnosis; referral; dispensing or
11 administration of a drug, medication, or device; psychological
12 therapy or counseling; research; prognosis; therapy; record-making
13 procedures; notes related to treatment, set up, or performance of a
14 surgery or procedure; or any other care or service performed or
15 provided by a medical practitioner;

16 6. "Medical practitioner" means a person who is or may be asked
17 to participate in a health care service. The term includes but is
18 not limited to physicians; physician assistants; nurses including
19 but not limited to Advanced Practice Registered Nurses; nurse aides;
20 allied health professionals; medical assistants; hospital employees;
21 employees of an outpatient center for primary care, outpatient
22 center for surgical services, or long-term care facility;
23 pharmacists; pharmacy technicians; pharmacy employees; medical
24 school faculty and students; nursing school faculty and students;

1 psychology and counseling faculty and students; medical researchers;
2 laboratory technicians; counselors; social workers; or any other
3 person who facilitates or participates in a health care service;

4 7. "Participate in a health care service" means to provide,
5 perform, assist with, facilitate, refer for, counsel for, advise
6 with regard to, admit for the purposes of providing, or take part in
7 any way in providing a health care service; and

8 8. "Person" means one or more individuals, partnerships,
9 associations, or corporations.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-728h of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 A. 1. A health care institution or health care payor may not
14 be required to participate in or pay for a health care service that
15 violates the health care institution's or health care payor's
16 conscience, including by permitting the use of its facilities.

17 2. A health care payor, other than an employer or other entity
18 whose health plan is not subject to the jurisdiction of the
19 Insurance Commissioner, shall list any health care service that it
20 may refuse to pay for on the basis of conscience in the applicable
21 policy.

22 B. Except as provided in subsection D of this section, refusal
23 to participate in or pay for a health care service under this
24 section may not give rise to liability of the health care

1 institution or health care payor for damages allegedly arising from
2 the refusal or be the basis for any discrimination, discipline, or
3 other recriminatory action against the health care institution,
4 health care payor, or any personnel, agent, or governing board.

5 C. Nothing in this section may be construed to relieve a health
6 care institution of the requirement to provide emergency medical
7 treatment to all patients set forth in the federal Emergency Medical
8 Treatment and Labor Act, 42 U.S.C., Section 1395dd.

9 D. The immunity provisions of this section do not apply to a
10 health care institution or health care payor owned or operated by
11 this state or a political subdivision of the state.

12 E. Notwithstanding any other provision of this act to the
13 contrary, a religious medical practitioner, health care institution,
14 or health care payor that holds itself out to the public as
15 religious, states in its governing documents that it has a religious
16 purpose or mission, and has internal operating policies or
17 procedures that implement its religious beliefs, shall have the
18 right to make employment, staffing, contracting, and admitting
19 privilege decisions consistent with its religious beliefs.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-728i of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A medical practitioner has the right not to participate in a
24 health care service that violates the medical practitioner's

1 conscience. A health care institution may not be held liable for
2 the exercise of conscience not to participate in a health care
3 service by a medical practitioner employed, contracted, or granted
4 admitting privileges by the health care institution.

5 B. A health care institution may require the exercise of
6 conscience as a basis for not participating in a health care service
7 to be made in writing and signed by the medical practitioner
8 objecting. A writing made under this subsection may refer only
9 generally to the grounds of conscience.

10 C. A medical practitioner's refusal to participate in a health
11 care service based on an exercise of conscience may not be a basis
12 for discrimination, discipline, or other recriminatory action
13 against the medical practitioner.

14 D. A medical practitioner may not be held liable for damages
15 allegedly arising from the exercise of conscience not to participate
16 in a health care service.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-728j of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 The exercise of conscience not to participate in a health care
21 service by a medical practitioner, health care institution, or
22 health care payor may not be grounds for loss of any privileges or
23 immunities or for the loss of any public benefits.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-728k of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A medical practitioner or health care institution may not be
5 discriminated against because the medical practitioner or health
6 care institution:

7 1. Provides, causes to be provided, or intends to provide or
8 cause to be provided information relating to a suspected violation
9 of this act to the medical practitioner or health care institution's
10 employer, the Attorney General, the United States Department of
11 Health and Human Services, or any state or federal agency charged
12 with protecting health care rights of conscience; or

13 2. Testifies, assists, participates, or intends to testify,
14 assist, or participate in a proceeding concerning a violation of
15 this act.

16 B. Except as provided in subsection C of this section, it is
17 unlawful to discriminate against a medical practitioner because the
18 medical practitioner discloses information that the medical
19 practitioner reasonably believes evidences:

20 1. A violation of any law, rule, or regulation;

21 2. A violation of any standard of care or ethical guidelines
22 for the provision of any health care service; or

23 3. Gross mismanagement, a gross waste of funds, an abuse of
24 authority, practices or methods of treatment that may put patient

1 health at risk, or a substantial and specific danger to public
2 health or safety.

3 C. Nothing in this section may be construed to exempt a person
4 from any applicable state or federal confidentiality and patient
5 privacy requirements including but not limited to the federal Health
6 Insurance Portability and Accountability Act of 1996, 42 U.S.C.,
7 Section 1320d et seq.

8 SECTION 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-7281 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A professional licensing board or other state agency that
12 grants licensure or certification may not reprimand, sanction, or
13 revoke or threaten to revoke a license, certificate, or registration
14 of a medical practitioner who is licensed or certified by the board
15 or agency for engaging in speech or expressive activity protected
16 under the First Amendment to the United States Constitution, unless
17 the board or agency demonstrates by clear and convincing evidence
18 that the medical practitioner's speech was the direct cause of
19 physical harm to a person with whom the medical practitioner had a
20 practitioner-patient relationship within the two (2) years
21 immediately preceding the incident of physical harm.

22 B. 1. Within fourteen (14) calendar days of receiving a
23 complaint that may result in revocation of a medical practitioner's
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1 license, certificate, or registration, the board or agency shall
2 provide the medical practitioner with a copy of the complaint.

3 2. If the board or agency fails to provide the complaint within
4 fourteen (14) calendar days of receipt, the board or agency shall
5 pay the medical practitioner an administrative penalty of Five
6 Hundred Dollars (\$500.00) for each week of noncompliance.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-728m of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 A. It is unlawful to interfere or attempt to interfere with the
11 right not to participate in a health care service or the
12 whistleblower and free speech rights and protections authorized by
13 this act, whether by duress, coercion, or any other means.

14 B. A medical practitioner, health care institution, or health
15 care payor injured by unlawful interference is entitled to:

16 1. Injunctive relief, when appropriate, including but not
17 limited to reinstatement of a medical practitioner to the medical
18 practitioner's previous position, reinstatement of board
19 certification, and relicensure of a health care institution or
20 health care payor;

21 2. Monetary damages for injuries suffered; and

22 3. Reasonable costs and attorney fees.

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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-728n of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 The Insurance Commissioner shall promulgate reasonable and
5 necessary rules concerning the implementation of this act relating
6 to those insurers under its jurisdiction.

7 SECTION 9. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-728o of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 This act is supplemental to and may not be construed as
11 modifying or limiting the rights and remedies provided in the
12 Freedom of Conscience Act, Section 1-728a et seq. of Title 63 of the
13 Oklahoma Statutes.

14 SECTION 10. This act shall become effective November 1, 2024.

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