

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 59th Legislature (2024)

4   HOUSE BILL 3214

By: West (Kevin) and **McCall** of  
the House

5  
6   and

**Bullard** and **Jett** of the  
Senate

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10                                 AS INTRODUCED

11           An Act relating to freedom of conscience; creating  
12           the Medical Ethics Defense Act; providing short  
13           title; defining terms; granting certain rights to  
                  certain medical practitioners, health care  
14           institutions, or health care payers; limiting  
                  exercise of certain rights; granting certain  
15           immunities; prohibiting certain discrimination;  
                  requiring opt-in for abortion; providing certain  
16           construction; prohibiting and requiring certain  
                  actions by licensing board under certain conditions;  
17           authorizing and prohibiting certain civil actions;  
                  prohibiting certain defense; providing for recovery  
18           of damages and other relief; providing severability;  
                  providing for codification; and providing an  
                  effective date.

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

21           SECTION 1.           NEW LAW           A new section of law to be codified  
22           in the Oklahoma Statutes as Section 1-728g of Title 63, unless there  
23           is created a duplication in numbering, reads as follows:  
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1 This act may be known and cited as the "Medical Ethics Defense  
2 Act".

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

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

15 2. "Disclosure" means a formal or informal communication or  
16 transmission, but does not include a communication or transmission  
17 concerning policy decisions that lawfully exercise discretionary  
18 authority unless the medical practitioner providing the disclosure  
19 or transmission reasonably believes that the disclosure or  
20 transmission evinces:

- 21 a. any violation of any law, rule, or regulation,
- 22 b. any violation of any ethical guidelines for the  
23 provision of any medical procedure or service, or

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1 c. gross mismanagement, a gross waste of funds, an abuse  
2 of authority, practices or methods of treatment that  
3 may put patient health at risk, or a substantial and  
4 specific danger to public health or safety;

5 3. "Discrimination" means any adverse action taken against, or  
6 any threat of adverse action communicated to, any medical  
7 practitioner, healthcare institution, or healthcare payer as a  
8 result of his, her, or its decision to decline to participate in a  
9 medical procedure or service on the basis of conscience.

10 Discrimination includes, but is not limited to, termination of  
11 employment; transfer from current position; demotion from current  
12 position; adverse administrative action; reassignment to a different  
13 shift or job title; increased administrative duties; refusal of  
14 staff privileges; refusal of board certification; loss of career  
15 specialty; reduction of wages, benefits, or privileges; refusal to  
16 award a grant, contract, or other program; refusal to provide  
17 residency training opportunities; denial, deprivation, or  
18 disqualification of licensure; withholding or disqualifying from  
19 financial aid and other assistance; impediments to creating any  
20 healthcare institution or payer or expanding or improving such  
21 healthcare institution or payer; impediments to acquiring,  
22 associating with, or merging with any other healthcare institution  
23 or payer; the threat thereof with regard to any of the preceding; or  
24 any other penalty, disciplinary, or retaliatory action, whether

1 executed or threatened. However, discrimination excludes the  
2 negotiation or purchase of insurance by a non-government entity;

3 4. "Medical procedure or service" means medical care provided  
4 to any patient at any time over the entire course of treatment, or  
5 medical research. This includes, but is not limited to, testing;  
6 diagnosis; referral; dispensing and/or administering any drug,  
7 medication, or device; psychological therapy or counseling;  
8 research; prognosis; therapy; record making procedures; notes  
9 related to treatment; set up or performance of a surgery or  
10 procedure; or any other care or service performed or provided by any  
11 medical practitioner including, but not limited to, physicians,  
12 nurses, allied health professionals, paraprofessionals, contractors,  
13 or employees of healthcare institutions;

14 5. "Healthcare institution" means any organization,  
15 corporation, partnership, association, agency, network, sole  
16 proprietorship, joint venture, or other entity that provides medical  
17 procedures or services. The term includes, but is not limited to,  
18 any public or private hospital, clinic, medical center, physician  
19 organization, professional association, ambulatory surgical center,  
20 private physician's office, pharmacy, nursing home, medical school,  
21 nursing school, medical training facility, or any other entity or  
22 location in which medical procedures or services are performed;

23 6. "Healthcare payer" means any employer, health plan, health  
24 maintenance organization, insurance company, management services

1 organization, or any other entity that pays for, or arranges for the  
2 payment of, any medical procedure or service provided to any  
3 patient, whether that payment is made in whole or in part;

4 7. "Medical practitioner" means any person or individual who  
5 may be or is asked to participate in any way in any medical  
6 procedure or service. This includes, but is not limited to,  
7 doctors, nurse practitioners, physician's assistants, nurses,  
8 nurses' aides, allied health professionals, medical assistants,  
9 hospital employees, clinic employees, nursing home employees,  
10 pharmacists, pharmacy technicians and employees, medical school  
11 faculty and students, nursing school faculty and students,  
12 psychology and counseling faculty and students, medical researchers,  
13 laboratory technicians, psychologists, psychiatrists, counselors,  
14 mental health professionals, social workers, or any other person who  
15 facilitates or participates in the provision of a medical procedure  
16 or service;

17 8. "Participate" in a medical procedure or service means to  
18 provide, perform, assist with, facilitate, refer for, counsel for,  
19 advise with regard to, admit for the purposes of providing, or take  
20 part in any way in providing any medical procedure or service, or  
21 any form of such service; and

22 9. "Pay" or "payment" means to pay for, contract for, arrange  
23 for the payment of (whether in whole or in part), reimburse, or  
24 remunerate.

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

4 A. A medical practitioner, healthcare institution, or  
5 healthcare payer has the right not to participate in or pay for any  
6 medical procedure or service which violates his, her, or its  
7 conscience.

8 B. The exercise of the right of conscience is limited to  
9 conscience-based objections to a particular medical procedure or  
10 service. This section may not be construed to waive or modify any  
11 duty a health care practitioner, health care institution, or health  
12 care payer may have to provide other medical procedures or services  
13 that do not violate the practitioner's, institution's, or payer's  
14 conscience.

15 C. No medical practitioner, health care institution, or health  
16 care payer shall be civilly, criminally, or administratively liable  
17 for exercising his, her, or its right of conscience not to  
18 participate in or pay for a medical procedure or service. No health  
19 care institution shall be civilly, criminally, or administratively  
20 liable for the exercise of conscience rights not to participate in a  
21 medical procedure or service by a medical practitioner employed,  
22 contracted, or granted admitting privileges by the health care  
23 institution.

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1 D. No medical practitioner, health care institution, or health  
2 care payer shall be discriminated against in any manner as a result  
3 of his, her, or its decision to decline to participate in or pay for  
4 a medical procedure or service on the basis of conscience.

5 E. Notwithstanding any other provision of this act to the  
6 contrary, a religious medical practitioner, health care institution,  
7 or health care payer that holds itself out to the public as  
8 religious, states in its governing documents that it has a religious  
9 purpose or mission, and has internal operating policies or  
10 procedures that implement its religious beliefs, shall have the  
11 right to make employment, staffing, contracting, and admitting  
12 privilege decisions consistent with its religious beliefs.

13 F. A health care practitioner may not be scheduled for,  
14 assigned, or requested to directly or indirectly perform,  
15 facilitate, refer for, or participate in an abortion unless the  
16 practitioner first affirmatively consents in writing to perform,  
17 facilitate, refer for, or participate in the abortion. This  
18 subsection does not establish a right to participate in an abortion  
19 otherwise prohibited by law.

20 G. Nothing herein shall be construed to override the  
21 requirement to provide emergency medical treatment to all patients  
22 set forth in 42 U.S.C. Section 1395dd. Medical emergencies shall be  
23 subject to the definitions and requirements of Section 1-731.4 of  
24 Title 63 of the Oklahoma Statutes.

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

4 A. No medical practitioner shall be discriminated against in  
5 any manner because the medical practitioner:

6 1. Provided, caused to be provided, or is about to provide or  
7 cause to be provided to his or her employer, the Attorney General,  
8 any state agency charged with protecting health care rights of  
9 conscience, the U.S. Department of Health and Human Services, Office  
10 of Civil Rights, or any other federal agency charged with protecting  
11 health care rights of conscience information relating to any  
12 violation of, or any act or omission the medical practitioner  
13 reasonably believes to be a violation of, any provision of this act;

14 2. Testified or is about to testify in a proceeding concerning  
15 such violation; or

16 3. Assisted or participated, or is about to assist or  
17 participate, in such a proceeding.

18 B. Unless the disclosure is specifically prohibited by law, no  
19 medical practitioner shall be discriminated against in any manner  
20 because the medical practitioner disclosed any information that the  
21 medical practitioner reasonably believes evinces:

22 1. Any violation of any law, rule, or regulation;

23 2. Any violation of any ethical guidelines for the provision of  
24 any medical procedure or service; or



1           3. Gross mismanagement, a gross waste of funds, an abuse of  
2 authority, practices or methods of treatment that may put patient  
3 health at risk, or a substantial and specific danger to public  
4 health or safety.

5           C. A licensing board may not reprimand, sanction, or revoke or  
6 threaten to revoke a license, certificate, or registration of a  
7 health care practitioner for engaging in speech or expressive  
8 activity protected under the First Amendment to the United States  
9 Constitution, unless the licensing board demonstrates beyond a  
10 reasonable doubt that the practitioner's speech was the direct cause  
11 of physical harm to a person with whom the health care practitioner  
12 had a practitioner-patient relationship within the three (3) years  
13 immediately preceding the incident of physical harm.

14           1. The licensing board must provide a medical practitioner with  
15 any complaints it has received which may result in the revocation of  
16 the medical practitioner's license, certification, or registration,  
17 within seven (7) days after receipt of the complaint.

18           2. The licensing board must pay the medical practitioner an  
19 administrative penalty of Five Hundred Dollars (\$500.00) for each  
20 day the complaint is not provided to the medical practitioner after  
21 the specified seven (7) days.

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

1       A. A civil action for damages or injunctive relief, or both,  
2 may be brought by any medical practitioner, health care institution,  
3 or health care payer for any violation of any provision of this act.  
4 Any additional burden or expense on another medical practitioner,  
5 health care institution, or health care payer arising from the  
6 exercise of the right of conscience shall not be a defense to any  
7 violation of this act. However, no civil action may be brought  
8 against an individual who declines to use or purchase medical  
9 procedure or services from a specific medical practitioner, health  
10 care institution, or health care payer for exercising the rights  
11 granted in subsection A of Section 3 of this act.

12       B. Any party aggrieved by any violation of this act may  
13 commence a civil action and shall be entitled, upon the finding of a  
14 violation, to recover threefold his, her, or its actual damages  
15 sustained, along with the costs of the action and reasonable  
16 attorney fees. Such damages shall be cumulative and in no way  
17 limited by any other remedies which may be available under any other  
18 federal, state, or municipal law. A court considering such civil  
19 action may also award injunctive relief, which may include, but is  
20 not limited to, reinstatement of a medical practitioner to his or  
21 her previous position, reinstatement of board certification, and re-  
22 licensure of a health care institution or health care payer.

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

4 Any provision of this act held to be invalid or unenforceable by  
5 its terms, or as applied to any person or circumstance, shall be  
6 construed so as to give it the maximum effect permitted by law,  
7 unless such holding shall be one of utter invalidity or  
8 unenforceability, in which event such provision shall be deemed  
9 severable here from and shall not affect the remainder hereof or the  
10 application of such provision to other persons not similarly  
11 situated or to other, dissimilar circumstances.

12 SECTION 7. This act shall become effective November 1, 2024.

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14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/22/2024 -  
15 DO PASS, As Coauthored.

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