

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3214

By: West (Kevin)

AS INTRODUCED

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

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

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

This act may be known and cited as the "Medical Ethics Defense Act".

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

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

10 2. "Disclosure" means a formal or informal communication or
11 transmission, but does not include a communication or transmission
12 concerning policy decisions that lawfully exercise discretionary
13 authority unless the medical practitioner providing the disclosure
14 or transmission reasonably believes that the disclosure or
15 transmission evinces:

- 16 a. any violation of any law, rule, or regulation,
- 17 b. any violation of any ethical guidelines for the
18 provision of any medical procedure or service, or
- 19 c. gross mismanagement, a gross waste of funds, an abuse
20 of authority, practices or methods of treatment that
21 may put patient health at risk, or a substantial and
22 specific danger to public health or safety;

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

4 Discrimination includes, but is not limited to, termination of
5 employment; transfer from current position; demotion from current
6 position; adverse administrative action; reassignment to a different
7 shift or job title; increased administrative duties; refusal of
8 staff privileges; refusal of board certification; loss of career
9 specialty; reduction of wages, benefits, or privileges; refusal to
10 award a grant, contract, or other program; refusal to provide
11 residency training opportunities; denial, deprivation, or
12 disqualification of licensure; withholding or disqualifying from
13 financial aid and other assistance; impediments to creating any
14 healthcare institution or payer or expanding or improving such
15 healthcare institution or payer; impediments to acquiring,
16 associating with, or merging with any other healthcare institution
17 or payer; the threat thereof with regard to any of the preceding; or
18 any other penalty, disciplinary, or retaliatory action, whether
19 executed or threatened. However, discrimination excludes the
20 negotiation or purchase of insurance by a non-government entity;

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

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

17 6. "Healthcare payer" means any employer, health plan, health
18 maintenance organization, insurance company, management services
19 organization, or any other entity that pays for, or arranges for the
20 payment of, any medical procedure or service provided to any
21 patient, whether that payment is made in whole or in part;

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

11 8. "Participate" in a medical procedure or service means to
12 provide, perform, assist with, facilitate, refer for, counsel for,
13 advise with regard to, admit for the purposes of providing, or take
14 part in any way in providing any medical procedure or service, or
15 any form of such service; and

16 9. "Pay" or "payment" means to pay for, contract for, arrange
17 for the payment of (whether in whole or in part), reimburse, or
18 remunerate.

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

22 A. A medical practitioner, healthcare institution, or
23 healthcare payer has the right not to participate in or pay for any
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1 medical procedure or service which violates his, her, or its
2 conscience.

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

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

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

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

7 F. A health care practitioner may not be scheduled for,
8 assigned, or requested to directly or indirectly perform,
9 facilitate, refer for, or participate in an abortion unless the
10 practitioner first affirmatively consents in writing to perform,
11 facilitate, refer for, or participate in the abortion. This
12 subsection does not establish a right to participate in an abortion
13 otherwise prohibited by law.

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

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

22 A. No medical practitioner shall be discriminated against in
23 any manner because the medical practitioner:
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1 1. Provided, caused to be provided, or is about to provide or
2 cause to be provided to his or her employer, the Attorney General,
3 any state agency charged with protecting health care rights of
4 conscience, the U.S. Department of Health and Human Services, Office
5 of Civil Rights, or any other federal agency charged with protecting
6 health care rights of conscience information relating to any
7 violation of, or any act or omission the medical practitioner
8 reasonably believes to be a violation of, any provision of this act;

9 2. Testified or is about to testify in a proceeding concerning
10 such violation; or

11 3. Assisted or participated, or is about to assist or
12 participate, in such a proceeding.

13 B. Unless the disclosure is specifically prohibited by law, no
14 medical practitioner shall be discriminated against in any manner
15 because the medical practitioner disclosed any information that the
16 medical practitioner reasonably believes evinces:

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

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

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

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

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

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

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

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

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

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

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

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

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