

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1883

By: Rosino

AS INTRODUCED

An Act relating to health care; defining terms; granting certain protections to health care institutions and health care payors; providing certain immunity from civil actions; providing certain construction; providing exception; conferring certain right on medical practitioners; authorizing certain requirement by health care institution; excluding certain refusal from staff privilege consideration; granting certain immunities to health care institutions and medical practitioners; granting additional protections; prohibiting discrimination against health care institution or medical practitioner on certain grounds; providing certain construction; 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 2. A health care payor shall list any health care service that
17 it may refuse to pay for on the basis of conscience in the
18 applicable policy.

19 B. Except as provided in subsection D of this section, refusal
20 to participate in or pay for a health care service under this
21 section may not give rise to liability of the health care
22 institution or health care payor for damages allegedly arising from
23 the refusal or be the basis for any discrimination, discipline, or
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1 other recriminatory action against the health care institution,
2 health care payor, or any personnel, agent, or governing board.

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

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

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

13 A. A medical practitioner has the right not to participate in a
14 health care service that violates the medical practitioner's
15 conscience. A health care institution may not be held liable for
16 the exercise of conscience not to participate in a health care
17 service by a medical practitioner employed, contracted, or granted
18 admitting privileges by the health care institution.

19 B. A health care institution may require the exercise of
20 conscience as a basis for not participating in a health care service
21 to be made in writing and signed by the medical practitioner
22 objecting. A writing made under this subsection may refer only
23 generally to the grounds of "conscience".
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1 C. A medical practitioner's refusal to participate in a health
2 care service based on an exercise of conscience may not be a
3 consideration with respect to staff privileges of a health care
4 institution or a basis for discrimination, discipline, or other
5 recriminatory action against the medical practitioner.

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

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

12 The exercise of conscience not to participate in a health care
13 service by a medical practitioner, health care institution, or
14 health care payor may not be grounds for loss of any privileges or
15 immunities or for the loss of any public benefits.

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

19 A. A medical practitioner or health care institution may not be
20 discriminated against because the medical practitioner or health
21 care institution:

22 1. Provides, causes to be provided, or intends to provide or
23 cause to be provided information relating to a suspected violation
24 of this act to the medical practitioner or health care institution's

1 employer, the Attorney General, the United States Department of
2 Health and Human Services, or any state or federal agency charged
3 with protecting health care rights of conscience; or

4 2. Testifies, assists, participates, or intends to testify,
5 assist, or participate in a proceeding concerning a violation of
6 this act.

7 B. Except as provided in subsection C of this section, it is
8 unlawful to discriminate against a medical practitioner because the
9 medical practitioner discloses information that the medical
10 practitioner reasonably believes evidences:

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

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

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

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

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

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

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

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

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

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

- 10 1. Injunctive relief, when appropriate, including but not
11 limited to reinstatement of a medical practitioner to the medical
12 practitioner's previous position, reinstatement of board
13 certification, and relicensure of a health care institution or
14 health care payor;
- 15 2. Monetary damages for injuries suffered; and
- 16 3. Reasonable costs and attorney fees.

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

20 The Insurance Commissioner shall promulgate reasonable and
21 necessary rules concerning the implementation of this act relating
22 to those insurers under its jurisdiction.

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

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

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

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