

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4321

By: Stearman

AS INTRODUCED

An Act relating to vaccination incentives; defining terms; prohibiting the offering of incentives for COVID-19 vaccinations for children; creating penalties and punishments; creating monetary fines; amending 59 O.S. 2021, Section 509, which relates to unprofessional conduct; adding category; 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 175.18 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Child" means any person under eighteen (18) years of age;
and

2. "Incentive" means any physical gift, monetary promise, scholarship, physical money, gift card, digital currency, event tickets, privilege, tax incentive, or any item of monetary value given.

B. No state agency, medical facility, pharmacy, or any other public or private entity shall offer or propose to offer any form of

1 incentive to any child, parent, or guardian in an attempt to coerce,
2 persuade, or encourage the administration of the COVID-19 vaccine to
3 any child within the State of Oklahoma.

4 C. Any person who purposefully violates any provision of this
5 act shall, upon conviction, be guilty of a felony punishable by a
6 fine of not less than Fifty Thousand Dollars (\$50,000.00), or by
7 imprisonment in the county jail for a term of not less than one (1)
8 year, or by both such fine and imprisonment.

9 D. Any public or private entity whose employees violate any
10 provision of this law shall be fined no less than Two Hundred
11 Thousand Dollars (\$200,000.00).

12 E. Any public or private entity which violates any provision of
13 this section shall be fined no less than Five Hundred Thousand
14 Dollars (\$500,000.00).

15 SECTION 2. AMENDATORY 59 O.S. 2021, Section 509, is
16 amended to read as follows:

17 Section 509. The words "unprofessional conduct" as used in
18 Sections 481 through 518.1 of this title are hereby declared to
19 include, but shall not be limited to, the following:

- 20 1. Procuring, aiding or abetting a criminal operation;
- 21 2. The obtaining of any fee or offering to accept any fee,
22 present or other form of remuneration whatsoever, on the assurance
23 or promise that a manifestly incurable disease can or will be cured;

1 3. Willfully betraying a professional secret to the detriment
2 of the patient;

3 4. Habitual intemperance or the habitual use of habit-forming
4 drugs;

5 5. Conviction or confession of, or plea of guilty, nolo
6 contendere, no contest or Alford plea to a felony or any offense
7 involving moral turpitude;

8 6. All advertising of medical business in which statements are
9 made which are grossly untrue or improbable and calculated to
10 mislead the public;

11 7. Conviction or confession of, or plea of guilty, nolo
12 contendere, no contest or Alford plea to a crime involving violation
13 of:

14 a. the antinarcotic or prohibition laws and regulations
15 of the federal government,

16 b. the laws of this state,

17 c. State Commissioner of Health rules, or

18 d. a determination by a judge or jury;

19 8. Dishonorable or immoral conduct which is likely to deceive,
20 defraud, or harm the public;

21 9. The commission of any act which is a violation of the
22 criminal laws of any state when such act is connected with the
23 physician's practice of medicine. A complaint, indictment or
24 confession of a criminal violation shall not be necessary for the

1 enforcement of this provision. Proof of the commission of the act
2 while in the practice of medicine or under the guise of the practice
3 of medicine shall be unprofessional conduct;

4 10. Failure to keep complete and accurate records of purchase
5 and disposal of controlled drugs or of narcotic drugs;

6 11. The writing of false or fictitious prescriptions for any
7 drugs or narcotics declared by the laws of this state to be
8 controlled or narcotic drugs;

9 12. Prescribing or administering a drug or treatment without
10 sufficient examination and the establishment of a valid physician-
11 patient relationship and not prescribing in a safe, medically
12 accepted manner;

13 13. The violation, or attempted violation, direct or indirect,
14 of any of the provisions of the Oklahoma Allopathic Medical and
15 Surgical Licensure and Supervision Act, either as a principal,
16 accessory or accomplice;

17 14. Aiding or abetting, directly or indirectly, the practice of
18 medicine by any person not duly authorized under the laws of this
19 state;

20 15. The inability to practice medicine with reasonable skill
21 and safety to patients by reason of age, illness, drunkenness,
22 excessive use of drugs, narcotics, chemicals, or any other type of
23 material or as a result of any mental or physical condition. In
24 enforcing this section the State Board of Medical Licensure and

1 Supervision may, upon probable cause, request a physician to submit
2 to a mental or physical examination by physicians designated by it.
3 If the physician refuses to submit to the examination, the Board
4 shall issue an order requiring the physician to show cause why the
5 physician will not submit to the examination and shall schedule a
6 hearing on the order within thirty (30) days after notice is served
7 on the physician, exclusive of the day of service. The physician
8 shall be notified by either personal service or by certified mail
9 with return receipt requested. At the hearing, the physician and
10 the physician's attorney are entitled to present any testimony and
11 other evidence to show why the physician should not be required to
12 submit to the examination. After a complete hearing, the Board
13 shall issue an order either requiring the physician to submit to the
14 examination or withdrawing the request for examination. The medical
15 license of a physician ordered to submit for examination may be
16 suspended until the results of the examination are received and
17 reviewed by the Board;

18 16. a. Prescribing, dispensing or administering of controlled
19 substances or narcotic drugs in excess of the amount
20 considered good medical practice,

21 b. Prescribing, dispensing or administering controlled
22 substances or narcotic drugs without medical need in
23 accordance with pertinent licensing board standards,
24 or

1 c. Prescribing, dispensing or administering opioid drugs
2 in excess of the maximum limits authorized in Section
3 2-309I of Title 63 of the Oklahoma Statutes;

4 17. Engaging in physical conduct with a patient which is sexual
5 in nature, or in any verbal behavior which is seductive or sexually
6 demeaning to a patient;

7 18. Failure to maintain an office record for each patient which
8 accurately reflects the evaluation, treatment, and medical necessity
9 of treatment of the patient;

10 19. Failure to provide necessary ongoing medical treatment when
11 a doctor-patient relationship has been established, which
12 relationship can be severed by either party providing a reasonable
13 period of time is granted;

14 20. Performance of an abortion as defined by Section 1-730 of
15 Title 63 of the Oklahoma Statutes, except for an abortion necessary
16 to prevent the death of the mother or to prevent substantial or
17 irreversible physical impairment of the mother that substantially
18 increases the risk of death. The performance of an abortion on the
19 basis of the mental or emotional health of the mother shall be a
20 violation of this paragraph, notwithstanding a claim or diagnosis
21 that the woman may engage in conduct which she intends to result in
22 her death. The Board shall impose a penalty as provided in Section
23 509.1 of this title on a licensee who violates this paragraph. The
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1 penalty shall include, but not be limited to, suspension of the
2 license for a period of not less than one (1) year; ~~or~~

3 21. Failure to provide a proper and safe medical facility
4 setting and qualified assistive personnel for a recognized medical
5 act, including but not limited to an initial in-person patient
6 examination, office surgery, diagnostic service or any other medical
7 procedure or treatment. Adequate medical records to support
8 diagnosis, procedure, treatment, or prescribed medications must be
9 produced and maintained; or

10 22. Offering, or proposing to offer, any form of incentive to
11 any child, parent, or guardian in an attempt to coerce, persuade, or
12 encourage the administration of the COVID-19 vaccine.

13 SECTION 3. This act shall become effective November 1, 2022.

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