

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 657
96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 12, 2012, with recommendation that the Senate Committee Substitute do pass.

5256S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 191, RSMo, by adding thereto seven new sections relating to the conscience rights of all individuals who provide medical services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto seven new sections, to be known as sections 191.1150, 191.1153, 191.1156, 191.1159, 191.1162, 191.1165, and 191.1168, to read as follows:

191.1150. As used in sections 191.1150 to 191.1168, the following terms mean:

(1) "Conscience", the religious, moral, or ethical principles held by a medical professional or a health care institution. For purposes of sections 191.1150 to 191.1168, a medical professional's conscience means a sincere and meaningful belief in God or in relation to a supreme being, or a belief which, though not so derived, occupies in the life of its possessor a place parallel to that filled by God among adherents to religious faiths. A health care institution's conscience shall be determined by reference to its existing or proposed religious, moral, or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other relevant documents;

(2) "Health care institution", any public or private organization, corporation, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is involved in providing medical services, including but not limited to, hospitals, clinics, medical centers, ambulatory surgical centers, private physician's offices, university medical schools and nursing schools, medical training facilities, or other institutions or locations wherein specified

20 medical procedures or research are performed or provided to any
21 person;

22 (3) "Medical professional", any individual who may be asked to
23 participate in any way in specified medical procedures or research,
24 including, but not limited to, the following: a physician, physician's
25 assistant, nurse, nurses' aide, medical assistant, hospital employee,
26 clinic employee, counselor, social worker, medical researcher, medical
27 or nursing school faculty or employee, student or applicant for studies
28 or training in any program in the health care professions, or any
29 professional, paraprofessional, or any other person who furnishes, or
30 assists in the furnishing of, specified medical procedures or research;

31 (4) "Participate in specified medical procedures or research", to
32 counsel, advise, provide, perform, assist in, refer for, admit for
33 purposes of providing, or participate in providing specified medical
34 procedures or research; and

35 (5) "Specified medical procedures or research", abortion,
36 abortion-inducing drugs, contraception, sterilization, assisted
37 reproduction, human cloning, human embryonic stem-cell research,
38 human somatic cell nuclear transfer, fetal tissue research, and fetal
39 experimentation, including any phase of patient medical care,
40 treatment, procedure, patient referral, counseling, therapy, testing,
41 diagnosis, prognosis, surgery, research, instruction, or the prescribing
42 or administering of any device, drug, or medication related to the
43 enumerated medical procedures or research.

191.1153. 1. A medical professional has the right not to
2 participate, and no medical professional shall be required to
3 participate in specified medical procedures or research that violate his
4 or her conscience.

5 2. No medical professional shall be civilly, criminally, or
6 administratively liable for declining to participate in specified medical
7 procedures or research that violate his or her conscience.

8 3. It shall be unlawful for any person, medical professional,
9 health care institution, the state of Missouri, political subdivision,
10 public or private institution, public official, or any board which
11 certifies competency in medical specialties to discriminate against any
12 medical professional in any manner based on his or her declining to
13 participate in specified medical procedures or research including, but

14 not limited to, declining to counsel, advise, pay for, provide, perform,
15 assist, or participate in providing or performing specified medical
16 procedures or research that violate his or her conscience.

17 4. For purposes of this section, discrimination includes, but is
18 not limited to, the following: termination, suspension, refusal of staff
19 privileges, refusal of board certification, demotion, loss of career
20 specialty, reduction of wages or benefits, refusal to award any grant,
21 contract, or other program, refusal to provide residency training
22 opportunities, or any other penalty, disciplinary, or retaliatory action.

191.1156. 1. A health care institution has the right not to
2 participate, and no health care institution shall be required to
3 participate in specified medical procedures or research that violate its
4 conscience.

5 2. A health care institution that declines to provide or
6 participate in specified medical procedures or research that violate its
7 conscience shall not be civilly, criminally, or administratively liable if
8 the institution provides a consent form to be signed by a patient before
9 admission to the institution stating that it reserves the right to decline
10 to provide or participate in specified medical procedures or research
11 that violate its conscience.

12 3. It shall be unlawful for any person, the state of Missouri, a
13 political subdivision, a public or private institution, or a public official
14 to discriminate against any medical institution, or any person,
15 association, corporation, or other entity attempting to establish a new
16 health care institution or operating an existing health care institution,
17 in any manner, including but not limited to the following:

18 (1) Any denial, deprivation, or disqualification with respect to
19 licensure;

20 (2) Any aid assistance, benefit, or privilege, including staff
21 privileges; or

22 (3) Any authorization, including authorization to create, expand,
23 improve, acquire, or affiliate or merge with any health care institution,
24 because such health care institution, or person, association, or
25 corporation planning, proposing, or operating a health care institution
26 declines to participate in specified medical procedures or research
27 which violate the health care institution's conscience.

28 4. It shall be unlawful for any public official, agency, institution,

29 or entity to deny any form of aid, assistance, grants, or benefits, or in
30 any other manner to coerce, disqualify, or discriminate against any
31 person, association, corporation, or other entity attempting to establish
32 a new health care institution or operating an existing health care
33 institution because the existing or proposed health care institution
34 declines to participate in specified medical procedures or research
35 contrary to the health care institution's conscience.

191.1159. Nothing contained in sections 191.1150 to 191.1168 shall
2 be construed to authorize any medical professional or health care
3 institution to withhold emergency medical treatment or services
4 imminently necessary to save the life of a patient under such
5 professional's or institution's care.

191.1162. Nothing contained in sections 191.1150 to 191.1168 shall
2 be construed to relieve a medical professional from any duty which
3 may exist under the laws and regulations of the state to inform his or
4 her patient of the patient's health condition, risks, and prognosis, and
5 the medical options and health care resources available to the patient,
6 including compliance with the provisions of sections 188.010 to 188.085.

191.1165. 1. A cause of action for damages or injunctive relief,
2 or both, may be brought for the violation of any provision of sections
3 191.1150 to 191.1168. It shall not be a defense to any claim arising out
4 of the violation of sections 191.1150 to 191.1168 that such violation was
5 necessary to prevent additional burden or expense on any other
6 medical professional, health care institution, individual, or patient.

7 2. Any individual, association, corporation, entity, or health care
8 institution injured by any public or private individual, association,
9 agency, entity, or corporation by reason of any conduct prohibited by
10 sections 191.1150 to 191.1168 may commence a civil action. Upon
11 finding a violation of sections 191.1150 to 191.1168, the aggrieved party
12 shall be entitled to recover threefold the actual damages, including
13 pain and suffering, sustained by such individual, association,
14 corporation, entity, or health care institution, the costs of the action,
15 and reasonable attorney's fees. In no case shall recovery be less than
16 five thousand dollars for each violation in addition to costs of the
17 action and reasonable attorney's fees. These damage remedies shall be
18 cumulative, and not exclusive of other remedies afforded under any
19 other state or federal law.

20 **3. The court in such civil action may award injunctive relief,**
21 **including, but not limited to, ordering reinstatement of a medical**
22 **professional to his or her prior employment position.**

191.1168. 1. It is the intent of the general assembly that sections
2 **191.1150 to 191.1168, be severable as noted in section 1.140, except**
3 **sections 191.1159 and 191.1162, which shall not be severable from those**
4 **sections. In the event that any section, subsection, subdivision,**
5 **paragraph, sentence, or clause of sections 191.1150 to 191.1168, except**
6 **sections 191.1159 and 191.1162, be declared invalid under the**
7 **Constitution of the United States or the Constitution of the State of**
8 **Missouri, it is the intent of the general assembly that the remaining**
9 **provisions of sections 191.1150 to 191.1168 remain in force and effect as**
10 **far as capable of being carried into execution as intended by the**
11 **general assembly.**

12 **2. The general assembly may, by concurrent resolution, appoint**
13 **one or more of its members who sponsored or co-sponsored this act in**
14 **his or her official capacity, to intervene as a matter of right in any case**
15 **in which the constitutionality of this law is challenged.**

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