

SECOND REGULAR SESSION

SENATE BILL NO. 657

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time January 12, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5256S.011

AN ACT

To amend chapter 191, RSMo, by adding thereto five 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 five new sections, to be known as sections 191.1150, 191.1153, 191.1156, 191.1159, and 191.1162, to read as follows:

191.1150. As used in sections 191.1150 to 191.1162, 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 191.1162, 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, long-term care facilities, university medical schools and nursing schools, medical training facilities, or other institutions or locations wherein medical services are provided to any person;

(3) "Medical professional", any individual who may be asked to participate in any way in a medical service, including, but not limited to, the following: a physician, physician's assistant, nurse, nurses' aide, medical assistant, hospital employee, clinic employee, long-term care

21 facility employee, counselor, social worker, medical researcher, medical
22 or nursing school faculty or employee, student or applicant for studies
23 or training in any program in the health care professions, any
24 professional, paraprofessional, or any other person who furnishes, or
25 assists in the furnishing of, medical services;

26 (4) "Medical service", any phase of patient medical care,
27 treatment, or procedure, including, but not limited to, the following:
28 patient referral, counseling, therapy, testing, diagnosis or prognosis,
29 research, instruction, prescribing, or administering any device, drug,
30 or medication, surgery, or any other care or treatment rendered by
31 health care professionals or health care institutions. Such medical
32 services shall include but not be limited to, abortion, abortion-inducing
33 drugs, contraception, sterilization, artificial insemination, assisted
34 reproduction, human cloning, human embryonic stem-cell research,
35 human somatic cell nuclear transfer, fetal tissue research, fetal
36 experimentation, and the withdrawal of nutrition or hydration; and

37 (5) "Participate in a medical service", to counsel, advise, provide,
38 perform, assist in, refer for, admit for purposes of providing, or
39 participate in providing any medical service or any form of such
40 service.

191.1153. 1. A medical professional has the right not to
2 participate, and no medical professional shall be required to
3 participate in a medical service that violates his or her conscience.

4 2. No medical professional shall be civilly, criminally, or
5 administratively liable for declining to participate in a medical service
6 that violates his or her conscience.

7 3. It shall be unlawful for any person, medical professional,
8 health care institution, the state of Missouri, political subdivision,
9 public or private institution, public official, or any board which
10 certifies competency in medical specialties to discriminate against any
11 medical professional in any manner based on his or her declining to
12 participate in a medical service including but not limited to, declining
13 to counsel, advise, pay for, provide, perform, assist, or participate in
14 providing or performing medical services that violates his or her
15 conscience.

16 4. For purposes of this section, discrimination includes, but is
17 not limited to, the following: termination, suspension, refusal of staff
18 privileges, refusal of board certification, demotion, loss of career

19 specialty, reduction of wages or benefits, refusal to award any grant,
20 contract, or other program, refusal to provide residency training
21 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 a medical service that violates its conscience.

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

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

16 (1) Any denial, deprivation or disqualification with respect to
17 licensure;

18 (2) Any aid assistance, benefit, or privilege, including staff
19 privileges; or

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

26 4. It shall be unlawful for any public official, agency, institution,
27 or entity to deny any form of aid, assistance, grants, or benefits, or in
28 any other manner to coerce, disqualify, or discriminate against any
29 person, association, corporation, or other entity attempting to establish
30 a new health care institution or operating an existing health care
31 institution because the existing or proposed health care institution
32 declines to participate in a medical service contrary to the health care
33 institution's conscience.

191.1159. 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 191.1162. It shall not be a defense to any claim arising out
4 of the violation of sections 191.1150 to 191.1162 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 191.1162 may commence a civil action. Upon
11 finding a violation of sections 191.1150 to 191.1162, 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.

191.1162. 1. It is the intent of the general assembly that sections
2 191.1150 to 191.1162 be severable as noted in section 1.140. In the event
3 that any section, subsection, subdivision, paragraph, sentence, or clause
4 of sections 191.1150 to 191.1162 be declared invalid under the
5 Constitution of the United States or the Constitution of the State of
6 Missouri, it is the intent of the general assembly that the remaining
7 provisions of sections 191.1150 to 191.1162 remain in force and effect as
8 far as capable of being carried into execution as intended by the
9 general assembly.

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

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