

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 457**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 18, 2013, with recommendation that the Senate Committee Substitute do pass.

0871S.06C

TERRY L. SPIELER, Secretary.

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**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.

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*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 provides 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

19 other institutions or locations wherein specified medical procedures or  
20 research are performed or provided to any person;

21 (3) "Medical professional", a physician, physician's assistant,  
22 registered nurse, licensed practical nurse, advanced practice registered  
23 nurse, certified nurse practitioner or medical assistant, or medical or  
24 nursing school faculty, or student or applicant for studies or training  
25 in any program in these health care professions, or a medical  
26 researcher who is employed by a health care institution or medical  
27 research corporation;

28 (4) "Participate in specified medical procedures or research", to  
29 provide, perform, assist in or refer for specified medical procedures or  
30 research; and

31 (5) "Specified medical procedures or research", abortion,  
32 abortion-inducing drugs, contraception, sterilization which is not  
33 medically necessary, assisted reproduction, human cloning, human  
34 embryonic stem-cell research, human somatic cell nuclear transfer,  
35 fetal tissue research, and nontherapeutic fetal experimentation.

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 based on his or her declining to participate in  
13 specified medical procedures or research that violate his or her  
14 conscience.

15 4. For purposes of this section, "discriminate" includes, but is not  
16 limited to, the following: termination, suspension, refusal of staff  
17 privileges, refusal of board certification, demotion, loss of career  
18 specialty, reduction of wages or benefits, refusal to provide training  
19 opportunities, refusal by a government entity to award any grant,  
20 contract, or other program, or any other penalty, disciplinary, or

21 retaliatory action. Retaliatory action shall not include reassignment  
22 to a position in which participation in a specified medical procedure  
23 or research is not required, so long as said reassignment does not  
24 result in a demotion nor involve a reduction in remuneration or  
25 benefits.

26 5. A medical professional asserting a right not to participate in  
27 specified medical procedures or research shall provide reasonable  
28 notice under the circumstances of his or her intent not to participate.

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) The withholding of any aid, assistance, benefit, or privilege,  
21 including staff privileges; or

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

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

30 or entity to deny any form of aid, assistance, grants, or benefits, or in  
31 any other manner to coerce, disqualify, or discriminate against any  
32 person, association, corporation, or other entity attempting to establish  
33 a new health care institution or operating an existing health care  
34 institution because the existing or proposed health care institution  
35 declines to participate in specified medical procedures or research  
36 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 necessary to save the life of a patient under such professional's or  
5 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 this 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,  
7 provided that no medical professional shall be obligated to participate  
8 in, refer for, or promote specified medical procedures or research.

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. It  
7 shall be an affirmative defense for an employer or contractor under  
8 this section that the specified medical procedure or research was so  
9 integral to the duties of the employee's position or obligations of the  
10 employment contract and to the central business purpose of the  
11 business or enterprise that a reasonable person would understand that  
12 participating in the specified medical procedure or research at issue  
13 was a requirement of the employee's position or employment contract.

2. Any individual, association, corporation, entity, or health care  
15 institution injured by any public or private individual, association,  
16 agency, entity, or corporation by reason of any conduct prohibited by  
17 sections 191.1150 to 191.1168 may commence a civil action. Upon

18 finding a violation of sections 191.1150 to 191.1168, the aggrieved party  
19 shall be entitled to recover threefold the actual damages, including  
20 pain and suffering, sustained by such individual, association,  
21 corporation, entity, or health care institution, the costs of the action,  
22 and reasonable attorney's fees. In no case shall recovery be less than  
23 five thousand dollars for each violation in addition to costs of the  
24 action and reasonable attorney's fees. These damage remedies shall be  
25 cumulative, and not exclusive of other remedies afforded under any  
26 other state or federal law.

27 3. The court in such civil action may award injunctive relief,  
28 including, but not limited to, ordering reinstatement of a medical  
29 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 section 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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