

HCS SS SB 749 -- PROTECTION OF RELIGIOUS BELIEFS AND MORAL  
CONVICTIONS

SPONSOR: Lamping (Crawford)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health  
Insurance by a vote of 5 to 3.

This substitute changes the laws regarding the protection of the  
religious beliefs and moral convictions of certain persons and  
entities.

IMPOSITION OF HEALTH CARE SERVICES (Sections 191.724 and  
376.1199, RSMo)

An employee or any other person, employer, health plan provider  
or sponsor, health care provider or other entity cannot be  
compelled to obtain coverage for or be discriminated against or  
penalized for declining or refusing coverage for abortion,  
contraception, or sterilization in a health plan if the items or  
procedures are contrary to the religious beliefs or moral  
convictions of the employee, employer, health plan provider or  
sponsor, health care provider, or any other entity or person. No  
health plan, plan sponsor, health care provider, employer,  
employee, or other entity or person can be discriminated against  
by any governmental entity, public official, or entity acting in  
a governmental capacity for its or his or her unwillingness,  
based on religious beliefs or moral convictions to obtain or  
provide coverage for, participate in, or refer for abortion,  
contraception, or sterilization in a health plan.

Currently, a health carrier may issue a health benefit plan that  
excludes coverage for contraceptives based on a moral, ethical,  
or religious objection. The substitute requires a health carrier  
to offer and issue a plan to any person or entity. A health  
carrier must offer the plan on its health benefit plan  
application that specifies the terms of coverage in a clear and  
conspicuous written notice.

CONSCIENCE RIGHTS OF MEDICAL SERVICE PROVIDERS (Sections 191.1150  
- 191.1168)

The substitute specifies that any medical professional or health  
care institution where medical services are provided, has the  
right not to participate in and cannot be required to participate  
in specified medical procedures or research that violates his or  
her conscience including his or her religious, moral, or ethical  
principles that are adherent to a sincere and meaningful belief  
in God or in relation to a supreme being.

No medical professional or health care institution can be civilly, criminally, or administratively liable for declining to participate or provide any specified medical procedure or research that violates his or her conscience. No medical professional or health care institution can be discriminated against for declining to participate or provide any specified medical procedure or research. An employee must provide reasonable notice of his or her intent not to participate.

It will be unlawful for any person, medical professional, health care institution, the state, political subdivision, public or private institution, public official, or board to discriminate against any medical professional institution or any person, association, corporation, or other entity attempting to establish a new institution or operating an existing health care institution in any manner because it declines to participate in specified medical procedures or research which violate the institution's conscience. It will be unlawful for any public official, agency, institution, or entity to deny any form of aid, assistance, grants, or benefits or in any other manner to coerce, disqualify, or discriminate against a person, association, corporation, or other entity attempting to establish a new institution or operating an existing health care institution because it declines to participate in specified medical procedures or research contrary to its conscience.

These provisions cannot be construed to authorize any medical professional or health care institution to withhold lifesaving emergency medical treatment or services or to relieve a medical professional from any duty to inform a patient of his or her condition, risks, and prognosis and the available options and resources.

A cause of action for damages or injunctive relief, or both, can be brought for a violation of these provisions. It cannot be a defense to any claim that the violation was necessary to prevent additional burden or expense on any other medical professional, health care institution, individual, or patient. It must be an affirmative defense for an employer that the specified medical procedure or research was so integral to the duties of an employee's position and to the central business purpose that a reasonable person would understand that the participation at issue was a requirement of the employee's position.

A cause of action for damages or injunctive relief, or both, can be a discriminatory violation of a medical professional or health care institution's conscience rights. A defense to any discrimination claim that the violation was necessary to prevent additional burden or expense on any other medical professional, health care institution, individual, or patient is prohibited.

The aggrieved party must be entitled to recover threefold the actual damages, including pain and suffering, the costs of the action, and reasonable attorney fees. Recovery cannot be less than \$5,000 for each violation in addition to the costs of the action and reasonable attorney fees.

The General Assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this legislation in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

These provisions contain a severability clause and if any part of these provisions is declared invalid, it is the intent of the General Assembly that the remaining provisions will remain in force and effect.

#### PHARMACY INVENTORY REQUIREMENTS (Section 338.255)

A licensed pharmacy is prohibited from being required to carry or maintain in inventory any specific prescription or nonprescription drug or device.

FISCAL NOTE: No impact on General Revenue Fund in FY 2013, FY 2014, and FY 2015. Estimated Net Income on Other State Funds of Up to \$5,000 in FY 2013, \$0 in FY 2014, and \$0 in FY 2015.

PROPOSERS: Supporters say that as of January 20 of this year employers are now required to offer coverage for contraception. The bill reaffirms the rights of employers and employees and their health plan options. This is just a function of not mandating actions that could violate a person's conscience. The Affordable Care Act could force certain employers to stop offering health insurance coverage which could cause a civil action on behalf of the employees that have lost coverage. It will ensure the right to obtain and write health plans that exclude coverage for abortion coverage services and allow insurers to provide less coverage, not more. The current law addresses the enforcement mechanism and a way to address those who have been aggrieved by the current law's inadequacies. The bill provides remedies for these problems.

Testifying for the bill were Senator Lamping; Bishop John Gaydos; Peggy Forrest, Our Lady's Inn; CNS Corporation; Campaign Life Missouri; Missouri Baptist Convention, Christian Life Commission; Missouri Family Network; Americans United for Life; Alliance for Life; Concerned Women for America; Missouri Catholic Conference; Missouri Right to Life; and Joanne Schrader.

OPPOSERS: Those who oppose the bill say that it is a collision

course with federal rules. A more reasonable way to address this issue is to include religious rights in Chapter 376. Current law has worked flawlessly since 1992 when it went into effect. There is no further need for the cause of action in the bill. The bill places health carriers in an unwanted position of having to choose which law to comply with, federal or state, and it is a massive financial burden on insurers because it is a dramatic change from how the market currently works. Violating federal law has a greater impact than breaking state law, so many insurers will not comply with the state law if this goes into affect. Based on the Institute of Medicine's recommendations, preventive services should include contraceptives. The Obama administration didn't just make it up, the institute's recommendations were based on science and research. Abortion is not covered, it only covers Federal Drug Agency-approved contraceptives. The institute recommended coverage at no cost sharing because contraceptives are directly linked to reduced infant mortality, improved health of the women, reduced maternal risks, and are not always used to prevent pregnancy. The bill causes problems accessing birth control because of the cost of co-pays. If a person has insurance, contraceptives would be covered, it would increase access, and it would reduce the number of abortions. A woman deserves access to birth control no matter where she works.

Testifying against the bill were America's Health Insurance Plans; Missouri Insurance Coalition; Anthem Blue Cross Blue Shield of Missouri; Coventry Health Care; Planned Parenthood Affiliates in Missouri; and American Civil Liberties Union of Eastern Missouri.