

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

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.

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
2 sections, to be known as sections 191.1150, 191.1153, 191.1156, 191.1159,
3 191.1162, 191.1165, and 191.1168, to read as follows:

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

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

13 (2) "Health care institution", any public or private organization,
14 corporation, partnership, sole proprietorship, association, agency,
15 network, joint venture, or other entity that provides medical services,
16 including but not limited to, hospitals, clinics, medical centers,
17 ambulatory surgical centers, private physician's offices, university
18 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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