

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4765-01  
Bill No.: HB 1539  
Subject: Health Care; Health Care Professionals; Employees - Employers  
Type: Original  
Date: February 14, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Unemployment Compensation Trust	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>	<b>(Unknown less than \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Public Safety (DPS) - Director's Office, Missouri Consolidated Health Care Plan, Missouri Department of Conservation, Missouri Department of Transportation, and Office of Prosecution Services** assume the proposal will have no fiscal impact on their organizations.

Officials from the **DPS - Missouri State Highway Patrol** defer to the Missouri Department of Transportation for response regarding the potential fiscal impact of this proposal on their organization.

Officials from the **Department of Economic Development - Division of Professional Registration** state having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion the proposal, in its present form, has no fiscal impact on their organization.

Officials from the **Department of Social Services (DOS) - Division of Medical Services (DMS)** state in the provider participation section of the fee-for-service provider manuals, a Medicaid provider must comply with all laws, policies, and regulations of Missouri and the federal government. It further states that a provider must also comply with the standards and ethics of his or her business or profession to qualify as a participant in the program.

ASSUMPTION (continued)

The MC+ Managed Care contracts include language which prohibits the health plan from requiring a provider to perform a service contrary to the provider's conscience and allows the provider to make a referral to another health care provider licensed to provide the appropriate care. Therefore, the DMS assumes the proposal will have no fiscal impact on their organization.

Officials from the **Department of Insurance** state additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session that require policy form reviews, the INS will need to request additional staff to handle the increase in workload.

Officials from the **Office of Attorney General (AGO)** state the provisions of this proposal do not directly affect the AGO. However, the AGO assumes that because this proposal has the potential to be the subject of litigation, costs are unknown, but are likely to be less than \$100,000.

**Oversight** assumes, because the potential for litigation is speculative, that the AGO will not incur significant costs related to this proposal. If a fiscal impact were to result, the AGO may request additional funding through the appropriations process.

Officials from the **Department of Mental Health (DMH)** state the issues or services which arise regularly in facilities that might likely be target as services for which some employee might take religious, moral, ethical exception include: Prescription, dispensing, and/or administration of birth control medications; prescription, dispensing, and/or administration of "mind altering" medications; teaching, counseling, referring for information regarding birth control; use and/or participation in the use of physical or chemical restraints; support or participation in certain behavior modification programs which require the awarding or withholding of certain rewards or privileges; preparing and/or serving particular foods; and, limitations on a variety of personal freedoms to include such things as smoking, conjugal visitation, or use of dietary supplements.

In the event any one of the above services was required and the assigned staff person declined on the basis of personal religious, moral, or ethical grounds, the DMH would be required to employ another employee to perform those services. Depending on the number/degree of refusals, such accommodations could cost the DMH nothing (if another willing employee is available at that time to perform the service) to unknown costs if the DMH is required to hire additional personnel or work other employees overtime to cover the services.

The DMH anticipates that the fiscal impact of this proposal is unknown, but less than \$100,000 annually.

ASSUMPTION (continued)

**Oversight** assumes that some health care professionals will exercise their conscious rights and decline to participate in or provide certain services. How many might decline to provide a service is speculative and the DMH cannot know whether it will incur additional costs. Therefore, **Oversight** assumes the DMH will not incur significant costs related to this proposal. If a fiscal impact were to result, additional funds could be sought through the appropriations process.

Officials from the **Department of Health and Senior Services (DOH)** state the proposal could potentially increase complaints from consumers, resulting in a need for additional staff to investigate such complaints. However, due to the uncertainties, the DOH assumes this proposal would not be expected to fiscally impact the operations of the department. If a fiscal impact were to result, funds to support the provisions of this proposal would be sought through the appropriations process.

Officials from the **Department of Labor and Industrial Relations (DOL)** assume that staff issuing determinations regarding an individual's claim for benefits would fall within the definition of "public official" and as a result, the DOL would not have discretionary ability to disqualify a claimant for benefits when the claimant had exercised his/her conscience rights. It is assumed the number of individuals who would be separated from their employer due to these provisions would be small. However, the DOL has no way of determining the actual number of potential claimants who would receive benefits. Based on an average weekly benefit amount (\$205.57) and the average claim duration (15.5 weeks), each claim would potentially result in an additional \$3,186.34 in unemployment benefits being paid from the Unemployment Compensation Trust Fund.

Based on DOL's assumptions that the number of individuals separated from their employer due to the provisions of this proposal would be small, **Oversight** assumes the impact would be unknown, but less than \$100,000 annually.

Officials from **Cedar County Memorial Hospital** state that their hospital is small with one pharmacy and five rotating emergency room physicians. As they do not know what would happen when an employee would claim the provision of a service would violate his/her conscious rights, officials for the hospital believe they might no longer be able to provide the expected standard of care and the result would have an unknown cost impact on their facility.

**Oversight** assumes since Cedar County Memorial Hospital can not know that an employee (s) would exercise their conscious rights that the fiscal impact is speculative and the hospital can not know if there would be a significant fiscal impact. **Oversight** assumes there would be no significant fiscal impact.

ASSUMPTION (continued)

Officials from the **Office of State Public Defender, Barton County Memorial Hospital, Bates County Memorial Hospital, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, Washington County Memorial Hospital**, and **UM** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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**UNEMPLOYMENT  
 COMPENSATION TRUST FUND**

Costs - Department of Labor and  
 Industrial Relations

Increase in unemployment claims	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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**ESTIMATED NET EFFECT ON  
 UNEMPLOYMENT  
 COMPENSATION TRUST FUND**

<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

The proposal may impact small business health care providers by requiring them to hire additional personnel to perform health care services that other employees refuse to perform because it violates their conscience.

DESCRIPTION

This proposal establishes the Health Care Rights of Conscience Act to protect the religious, moral, or ethical principles held by a health care provider, health care institution, or health care payer. The proposal: (1) Specifies a health care provider is not required to participate in a health care service that violates his or her conscience. Any individual declining to participate in a service will not be civilly, criminally, or administratively liable and will not be discriminated against in any manner for refusing to participate; (2) Specifies that a health care institution is not

DESCRIPTION (continued)

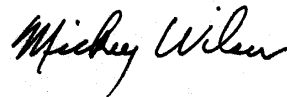
required to participate in a health care service that violates its conscience. Any health care institution that declines to provide or participate in a service will not be held civilly, criminally, or administratively liable if the patient signs a consent form before admission that he or she has been notified of the institution's right; (3) Specifies that any person, health care institution, association, corporation, or other entity attempting to establish a new health care institution or operating an existing institution will not be discriminated against for declining to participate in a service which violates the institution's conscience; (4) Specifies that no public official, agency, institution, or entity will deny aid or assistance because the institution has declined to participate in a health care service contrary to its conscience; (5) Specifies that a health care payer will not be required to pay for or arrange for the payment of any health care service or product that violates the payer's conscience; (6) Specifies that no person, association, corporation, health care payer, or other entity that owns, operates, supervises, or manages a health care payer will be held civilly, criminally, or administratively liable for declining to pay for or arrange for the payment of any health care service that violates the payer's conscience; (7) Specifies that no person, public or private institution, or public official will discriminate against any health care payer or any person, association, corporation, or other entity attempting to establish a new health care payer or operating an existing health care payer in any manner for declining to pay for or arrange for the payment of any health care service that violates the payer's conscience; (8) Specifies that no public official, agency, institution, or entity will deny aid or assistance because the health care payer declines to pay for or arrange for the payment of any service that violates the payer's conscience; and (9) Allows any individual, association, corporation, entity, or health care institution to sue for damages and injunctive relief.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General  
Office of State Courts Administrator  
Department of Economic Development -  
    Division of Professional Registration  
Department of Mental Health  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Department of Social Services  
Missouri Department of Transportation  
Missouri Consolidated Health Care Plan  
Department of Insurance  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Missouri Department of Conservation  
Office of Prosecution Services  
Cedar County Memorial Hospital

**NOT RESPONDING: Office of State Public Defender, Barton County Memorial Hospital, Bates County Memorial Hospital, Cooper County Memorial Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, Washington County Memorial Hospital, and UM**



Mickey Wilson, CPA  
Director  
February 14, 2006