

FIRST REGULAR SESSION

# HOUSE BILL NO. 434

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor) AND SANDER (Co-sponsor).

Read 1st time January 17, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0154L.01I

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### AN ACT

To amend chapter 191, RSMo, by adding thereto six new sections relating to the health care rights of conscience act.

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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 six new sections, to be  
2 known as sections 191.1050, 191.1053, 191.1056, 191.1059, 191.1062, and 1, to read as follows:

**191.1050. 1. Sections 191.1050 to 191.1062 shall be known and may be cited as the**  
2 **"Health Care Rights of Conscience Act".**

3 **2. As used in sections 191.1050 to 191.1062, the following terms mean:**

4 **(1) "Conscience", the religious, moral, or ethical principles held by a health care**  
5 **provider, the health care institution, or health care payer. For purposes of sections**  
6 **191.1050 to 191.1062, a health care institution or health care payer's conscience shall be**  
7 **determined by reference to its existing or proposed religious, moral, or ethical guidelines,**  
8 **mission statement, constitution, bylaws, articles of incorporation, regulations, or other**  
9 **relevant documents;**

10 **(2) "Employer", any individual or entity that pays for or provides health benefits**  
11 **or health insurance coverage as a benefit to its employees, whether through a third party,**  
12 **health maintenance organization, a program of self-insurance, or some other means;**

13 **(3) "Health care institution", any public or private organization, corporation,**  
14 **partnership, sole proprietorship, association, agency, network, joint venture, or other**  
15 **entity that is involved in providing health care services, including but not limited to**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 hospitals; clinics; medical centers; ambulatory surgical centers; private physician's offices;  
17 pharmacies; nursing homes; university medical schools and nursing schools; medical  
18 training facilities; or other institutions or locations wherein health care services are  
19 provided to any person;

20 (4) "Health care payer", any entity or employer that contracts for, pays for, or  
21 arranges for the payment of, in whole or in part, any health care service or product,  
22 including but not limited to health maintenance organizations, health plans, insurance  
23 companies, or management services corporations;

24 (5) "Health care provider", any individual who may be asked to participate in any  
25 way in a health care service, including but not limited to a physician; physicians' assistant;  
26 nurse; nurses' aide; medical assistant; hospital employee; clinic employee; nursing home  
27 employee; pharmacist; pharmacy employee; researcher; medical or nursing school facility,  
28 student, or employee; counselor; social worker; or any professional paraprofessional; or  
29 any other person who furnishes or assists in the furnishing of health care services;

30 (6) "Health care service", any phase of patient medical care, treatment, or  
31 procedure, including but not limited to patient referral; counseling; therapy; testing;  
32 diagnosis or prognosis; research; instruction; prescribing, dispensing, administering or  
33 referring for any device, drug, or medication; surgery; or any other care or treatment  
34 rendered by health care providers or health care institutions;

35 (7) "Participate", as such term relates to a health care service, to counsel, advise,  
36 provide, perform, assist in, refer for, admit for purposes of providing, or participate in  
37 providing any health care service or any form of such service;

38 (8) "Pay" or "payment", pay, contract for, or otherwise arrange for the payment  
39 of, in whole or in part.

191.1053. 1. A health care provider shall have the right not to participate, and no  
2 health care provider shall be required to participate, in a health care service that violates  
3 such provider's conscience.

4 2. No health care provider shall be held civilly, criminally, or administratively  
5 liable for declining to participate in a health care service that violates such provider's  
6 conscience.

7 3. No person, employer, health care provider, health care institution, public or  
8 private institution, public official, or any board which certifies competency in medical  
9 specialties shall discriminate against any health care provider in any manner based on such  
10 provider declining to participate in a health care service that violates such provider's  
11 conscience. For purposes of sections 191.1050 to 191.1062, discrimination includes but is  
12 not limited to termination, transfer, refusal of staff privileges, refusal of board

13 certification, adverse administrative action, demotion, loss of career specialty, reassignment  
14 to a different shift, reduction of wages or benefits, refusal to award any grant, contract, or  
15 other program, refusal to provide residency training opportunities, or any other penalty,  
16 disciplinary, or retaliatory action.

191.1056. 1. A health care institution shall have the right not to participate, and  
2 no health care institution shall be required to participate, in a health care service that  
3 violates such institution's policy or policies.

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

10 3. No person, public or private institution, or public official shall discriminate  
11 against any health care institution or any person, association, corporation, or other entity  
12 attempting to establish a new health care institution or operating an existing health care  
13 institution in any manner, including but not limited to any denial, deprivation, or  
14 disqualification with respect to licensure; any aid, assistance, benefit, or privilege,  
15 including staff privileges; or any authorization, including authorization to create, expand,  
16 improve, acquire, or affiliate or merge with any health care institution because such  
17 institution, or person, association, or corporation planning, proposing, or operating a  
18 health care institution declines to participate in a health care service which violates the  
19 health care institution's policy or policies.

20 4. No public official, agency, institution, or entity shall deny any form of aid,  
21 assistance, grants, or benefits, or in any other manner coerce, disqualify, or discriminate  
22 against any person, association, corporation, or other entity attempting to establish a new  
23 health care institution or operating an existing health care institution because the existing  
24 or proposed health care institution declines to participate in a health care service contrary  
25 to the health care institution's policy or policies.

191.1059. 1. A health care payer shall have the right to decline to pay, and no  
2 health care payer shall be required to pay for or arrange for the payment of any health  
3 care service or product that violates such payer's policy or policies.

4 2. No health care payer and no person, association, corporation, or other entity that  
5 owns, operates, supervises, or manages a health care payer shall be held civilly, criminally,  
6 or administratively liable by reason of the health care payer's declining to pay for or  
7 arrange for payment of any health care service that violates such payer's policy or policies.

8           **3. No person, public or private institution, or public official shall discriminate**  
9 **against any health care payer or any person, association, corporation, or other entity**  
10 **attempting to establish a new health care payer or operating an existing health care payer**  
11 **in any manner, including but not limited to any denial, deprivation, or disqualification**  
12 **with respect to licensure; any aid, assistance, benefit, privilege, or any authorization,**  
13 **including any authorization to create, expand, improve, acquire, or affiliate or merge with**  
14 **any health care payer because such payer, or person, association, corporation, or other**  
15 **entity planning, proposing, or operating a health care payer declines to pay for or arrange**  
16 **for the payment of any health care service which violates the health care payer's policy or**  
17 **policies.**

18           **4. No public official, agency, institution, or entity shall deny any form of aid,**  
19 **assistance, grants, or benefits, or in any other manner coerce, disqualify, or discriminate**  
20 **against any health care payer, or person, association, corporation, or other entity**  
21 **attempting to establish a new health care payer or operating an existing health care payer**  
22 **because the existing or proposed health care payer declines to pay for or arrange for the**  
23 **payment of any health care service contrary to the health care payer's policy or policies.**

**191.1062. 1. A civil action for damages or injunctive relief, or both, may be brought**  
2 **for a violation of any provision of sections 191.1050 to 191.1062. It shall not be a defense**  
3 **to any claim arising out of a violation of sections 191.1050 to 191.1062 that such violation**  
4 **was necessary to prevent additional burden or expense on any other health care provider,**  
5 **health care institution, individual, or patient.**

6           **2. Any individual, association, corporation, entity, or health care institution injured**  
7 **by any public or private individual, association, agency, entity, or corporation by reason**  
8 **of any conduct prohibited by sections 191.1050 to 191.1062 may commence a civil action.**  
9 **Upon finding a violation of sections 191.1050 to 191.1062, the aggrieved party shall be**  
10 **entitled to recover threefold the actual damages, including pain and suffering, sustained**  
11 **by such individual, association, corporation, entity, or health care institution, the costs of**  
12 **the action and reasonable attorney's fees; except that, in no case shall recovery be less than**  
13 **five thousand dollars for each violation in addition to costs of the action and reasonable**  
14 **attorney's fees. Such damage remedies shall be cumulative, and not exclusive of other**  
15 **remedies afforded under any other state or federal law.**

16           **3. The court in such civil action may award injunctive relief, including but not**  
17 **limited to ordering reinstatement of a health care provider to such provider's prior job**  
18 **position.**

**Section 1. 1. No enrollee of a health benefit plan providing pharmaceutical**  
2 **insurance benefits shall be denied coverage for any valid lawful prescription for any reason**

3 other than a lapse in coverage based on a failure to pay the premium. In addition, any  
4 entity that manages pharmaceutical insurance benefits shall not deny or otherwise restrict  
5 coverage to an enrollee for any valid lawful prescription for any reason other than a lapse  
6 in coverage due to failure to pay the premium. Nothing in this section shall be construed  
7 as prohibiting a health benefit plan from imposing a higher copayment for nonformulary  
8 prescription drugs.

9       2. No health benefit plan or entity that manages pharmaceutical insurance benefits  
10 shall prohibit or otherwise instruct a pharmacy or pharmacist to refuse to fill a valid  
11 lawful prescription for any reason other than a lapse in coverage based on a failure to pay  
12 the insurance premium.

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