

SECOND REGULAR SESSION

HOUSE BILL NO. 1541

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (89) (Sponsor), SCHOELLER, LICHTENEGGER, HOUGH, LONG, TORPEY, SCHAD, FRANZ, LOEHNER, SCHARNHORST, BURLISON, FUNDERBURK, CURTMAN, THOMSON, ZERR, RIDDLE, DIEHL, HOSKINS, KORMAN, SMITH (150), LEARA, SILVEY, FLANIGAN, ALLEN, BAHR, HINSON, SOMMER, STREAM, GATSCHENBERGER, COX, DUGGER, HAMPTON, FISHER, FUHR, WHITE, LANT, HIGDON, WIELAND, McCAHERTY, SOLON, CRAWFORD, BLACK, JOHNSON, KEENEY AND WELLS (Co-sponsors).

5077L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 191, RSMo, by adding thereto five 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 five new sections, to be known as sections 191.1150, 191.1153, 191.1156, 191.1159, and 191.1162, to read as follows:

191.1150. As used in sections 191.1150 to 191.1162, 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 191.1162, 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 is involved in providing medical services, including but not limited to, hospitals, clinics, medical centers, ambulatory surgical centers, private physician's offices, long-term care facilities, university medical schools and nursing schools, medical training facilities, or other institutions or locations wherein medical services are provided to any person;

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.

13 (3) "Medical professional", any individual who may be asked to participate in any
14 way in a medical service, including, but not limited to, the following: a physician,
15 physician's assistant, nurse, nurses' aide, medical assistant, hospital employee, clinic
16 employee, long-term care facility employee, counselor, social worker, medical researcher,
17 medical or nursing school faculty or employee, student or applicant for studies or training
18 in any program in the health care professions, any professional, paraprofessional, or any
19 other person who furnishes, or assists in the furnishing of, medical services;

20 (4) "Medical service", any phase of patient medical care, treatment, or procedure,
21 including, but not limited to, the following: patient referral, counseling, therapy, testing,
22 diagnosis or prognosis, research, instruction, prescribing, or administering any device,
23 drug, or medication, surgery, or any other care or treatment rendered by health care
24 professionals or health care institutions. Such medical services shall include but not be
25 limited to, abortion, abortion-inducing drugs, contraception, sterilization, artificial
26 insemination, assisted reproduction, human cloning, human embryonic stem-cell research,
27 human somatic cell nuclear transfer, fetal tissue research, fetal experimentation, and the
28 withdrawal of nutrition or hydration; and

29 (5) "Participate in a medical service", to counsel, advise, provide, perform, assist
30 in, refer for, admit for purposes of providing, or participate in providing any medical
31 service or any form of such service.

 191.1153. 1. A medical professional has the right not to participate, and no medical
2 professional shall be required to participate in a medical service that violates his or her
3 conscience.

4 2. No medical professional shall be civilly, criminally, or administratively liable for
5 declining to participate in a medical service that violates his or her conscience.

6 3. It shall be unlawful for any person, medical professional, health care institution,
7 the state of Missouri, political subdivision, public or private institution, public official, or
8 any board which certifies competency in medical specialties to discriminate against any
9 medical professional in any manner based on his or her declining to participate in a
10 medical service including but not limited to, declining to counsel, advise, pay for, provide,
11 perform, assist, or participate in providing or performing medical services that violates his
12 or her conscience.

13 4. For purposes of this section, discrimination includes, but is not limited to, the
14 following: termination, suspension, refusal of staff privileges, refusal of board certification,
15 demotion, loss of career specialty, reduction of wages or benefits, refusal to award any
16 grant, contract, or other program, refusal to provide residency training opportunities, or
17 any other penalty, disciplinary, or retaliatory action.

191.1156. 1. A health care institution has the right not to participate, and no health care institution shall be required to participate in a medical service that violates its conscience.

2. A health care institution that declines to provide or participate in a medical service that violates its conscience shall not be civilly, criminally, or administratively liable if the institution provides a consent form to be signed by a patient before admission to the institution stating that it reserves the right to decline to provide or participate in medical services that violate its conscience.

3. It shall be unlawful for any person, the state of Missouri, political subdivision, public or private institution, or public official to discriminate against any medical institution, or any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution, in any manner, including but not limited to the following:

(1) Any denial, deprivation or disqualification with respect to licensure;

(2) Any aid assistance, benefit, or privilege, including staff privileges; or

(3) Any authorization, including authorization to create, expand, improve, acquire, or affiliate or merge with any health care institution,

because such health care institution, or person, association, or corporation planning, proposing, or operating a health care institution declines to participate in a medical service which violates the health care institution's conscience.

4. It shall 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 any person, association, corporation, or other entity attempting to establish a new health care institution or operating an existing health care institution because the existing or proposed health care institution declines to participate in a medical service contrary to the health care institution's conscience.

191.1159. 1. A cause of action for damages or injunctive relief, or both, may be brought for the violation of any provision of sections 191.1150 to 191.1162. It shall not be a defense to any claim arising out of the violation of sections 191.1150 to 191.1162 that such violation was necessary to prevent additional burden or expense on any other medical professional, health care institution, individual, or patient.

2. Any individual, association, corporation, entity, or health care institution injured by any public or private individual, association, agency, entity, or corporation by reason of any conduct prohibited by sections 191.1150 to 191.1162 may commence a civil action. Upon finding a violation of sections 191.1150 to 191.1162, 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. In no case shall recovery be less than five
13 thousand dollars for each violation in addition to costs of the action and reasonable
14 attorney's fees. These 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 medical professional to his or her prior employment
18 position.

19 191.1162. 1. It is the intent of the general assembly that sections 191.1150 to
2 191.1162 be severable as noted in section 1.140. In the event that any section, subsection,
3 subdivision, paragraph, sentence, or clause of sections 191.1150 to 191.1162 be declared
4 invalid under the Constitution of the United States or the Constitution of the State of
5 Missouri, it is the intent of the general assembly that the remaining provisions of sections
6 191.1150 to 191.1162 remain in force and effect as far as capable of being carried into
7 execution as intended by the general assembly.

8 2. The general assembly may, by concurrent resolution, appoint one or more of its
9 members who sponsored or co-sponsored this act in his or her official capacity, to intervene
10 as a matter of right in any case in which the constitutionality of this law is challenged.

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