

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 457

97TH GENERAL ASSEMBLY

0871H.03P

D. ADAM CRUMBLISS, Chief Clerk

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## 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.

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

**191.1150. As used in sections 191.1150 to 191.1168, 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 191.1168, a medical professional's conscience means a sincere and meaningful belief in God or in relation to a supreme being, or a belief which, though not so derived, occupies in the life of its possessor a place parallel to that filled by God among adherents to religious faiths. 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, university medical schools and nursing schools, medical training facilities, or other institutions or locations wherein specified medical procedures or research are performed or 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.

17           (3) "Medical professional", a physician, physician's assistant, registered nurse,  
18 licensed practical nurse, advanced practice registered nurse, certified nurse practitioner,  
19 medical assistant, medical researcher, medical or nursing school faculty, student or  
20 applicant for studies or training in any program in these health care professions;

21           (4) "Participate in specified medical procedures or research", to provide, perform,  
22 assist in or refer for specified medical procedures or research; and

23           (5) "Specified medical procedures or research", abortion, abortion-inducing drugs,  
24 contraception, sterilization which is not medically necessary, assisted reproduction, human  
25 cloning, human embryonic stem-cell research, human somatic cell nuclear transfer, fetal  
26 tissue research, and nontherapeutic fetal experimentation.

191.1153. 1. A medical professional has the right not to participate, and no medical  
2 professional shall be required to participate in specified medical procedures or research  
3 that violate his or her conscience.

4           2. No medical professional shall be civilly, criminally, or administratively liable for  
5 declining to participate in specified medical procedures or research that violate his or her  
6 conscience.

7           3. It shall be unlawful for any person, medical professional, health care institution,  
8 the state of Missouri, political subdivision, public or private institution, public official, or  
9 any board which certifies competency in medical specialties to discriminate against any  
10 medical professional based on his or her declining to participate in specified medical  
11 procedures or research that violate his or her conscience.

12           4. For purposes of this section, "discriminate" includes, but is not limited to, the  
13 following: termination, suspension, refusal of staff privileges, refusal of board  
14 certification, demotion, loss of career specialty, reduction of wages or benefits, refusal to  
15 award any grant, contract, or other program, refusal to provide training opportunities, or  
16 any other penalty, disciplinary, or retaliatory action. Retaliatory action shall not include  
17 reassignment to a position in which participation in a specified medical procedure or  
18 research is not required, so long as said reassignment does not result in a demotion nor  
19 involve a reduction in remuneration or benefits.

20           5. An employee asserting a right not to participate in specified medical procedures  
21 or research shall provide reasonable notice under the circumstances of his or her intent not  
22 to participate.

191.1156. 1. A health care institution has the right not to participate, and no health  
2 care institution shall be required to participate in specified medical procedures or research  
3 that violate its conscience.

4           **2. A health care institution that declines to provide or participate in specified**  
5 **medical procedures or research that violate its conscience shall not be civilly, criminally,**  
6 **or administratively liable if the institution provides a consent form to be signed by a**  
7 **patient before admission to the institution stating that it reserves the right to decline to**  
8 **provide or participate in specified medical procedures or research that violate its**  
9 **conscience.**

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

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

16           **(2) The withholding of any aid, assistance, benefit, or privilege, including staff**  
17 **privileges; or**

18           **(3) The withholding of any authorization, including authorization to create,**  
19 **expand, improve, acquire, or affiliate or merge with any health care institution,**

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21 **because such health care institution, person, association, or corporation planning,**  
22 **proposing, or operating a health care institution declines to participate in specified medical**  
23 **procedures or research which violate the health care institution's conscience.**

24           **4. It shall be unlawful for any public official, agency, institution, or entity to deny**  
25 **any form of aid, assistance, grants, or benefits, or in any other manner to coerce,**  
26 **disqualify, or discriminate against any person, association, corporation, or other entity**  
27 **attempting to establish a new health care institution or operating an existing health care**  
28 **institution because the existing or proposed health care institution declines to participate**  
29 **in specified medical procedures or research contrary to the health care institution's**  
30 **conscience.**

**191.1159. Nothing contained in sections 191.1150 to 191.1168 shall be construed to**  
2 **authorize any medical professional or health care institution to withhold emergency**  
3 **medical treatment or services necessary to save the life of a patient under such**  
4 **professional's or institution's care.**

**191.1162. Nothing contained in sections 191.1150 to 191.1168 shall be construed to**  
2 **relieve a medical professional from any duty which may exist under the laws and**  
3 **regulations of this state to inform his or her patient of the patient's health condition, risks,**  
4 **and prognosis and the medical options and health care resources available to the patient,**  
5 **including compliance with the provisions of sections 188.010 to 188.085, provided that no**

6 medical professional shall be obligated to participate in, refer for, or promote specified  
7 medical procedures or research.

191.1165. 1. A cause of action for damages or injunctive relief, or both, may be  
2 brought for the violation of any provision of sections 191.1150 to 191.1168. It shall not be  
3 a defense to any claim arising out of the violation of sections 191.1150 to 191.1168 that such  
4 violation was necessary to prevent additional burden or expense on any other medical  
5 professional, health care institution, individual, or patient. It shall be an affirmative  
6 defense for an employer under this section that the specified medical procedure or research  
7 was so integral to the duties of the employee's position and to the central business purpose  
8 of the business or enterprise that a reasonable person would understand that participating  
9 in the specified medical procedure or research at issue was a requirement of the employee's  
10 position.

11 2. Any individual, association, corporation, entity, or health care institution injured  
12 by any public or private individual, association, agency, entity, or corporation by reason  
13 of any conduct prohibited by sections 191.1150 to 191.1168 may commence a civil action.  
14 Upon finding a violation of sections 191.1150 to 191.1168, the aggrieved party shall be  
15 entitled to recover threefold the actual damages, including pain and suffering, sustained  
16 by such individual, association, corporation, entity, or health care institution, the costs of  
17 the action, and reasonable attorney's fees. In no case shall recovery be less than five  
18 thousand dollars for each violation in addition to costs of the action and reasonable  
19 attorney's fees. These damage remedies shall be cumulative, and not exclusive of other  
20 remedies afforded under any other state or federal law.

21 3. The court in such civil action may award injunctive relief, including, but not  
22 limited to, ordering reinstatement of a medical professional to his or her prior employment  
23 position.

191.1168. 1. It is the intent of the general assembly that sections 191.1150 to  
2 191.1168 be severable as noted in section 1.140, except sections 191.1159 and 191.1162,  
3 which shall not be severable from those sections. In the event that any section, subsection,  
4 subdivision, paragraph, sentence, or clause of sections 191.1150 to 191.1168, except section  
5 191.1159 and 191.1162, be declared invalid under the Constitution of the United States or  
6 the Constitution of the State of Missouri, it is the intent of the general assembly that the  
7 remaining provisions of sections 191.1150 to 191.1168 remain in force and effect as far as  
8 capable of being carried into execution as intended by the general assembly.

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

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