

FIRST REGULAR SESSION

# SENATE BILL NO. 84

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 17, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

0610S.011

## 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 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

21 person;

22 (3) "Medical professional", a physician, physician's assistant,  
23 registered nurse, licensed practical nurse, certified nurse practitioner,  
24 medical assistant, medical researcher, medical or nursing school  
25 faculty, student or applicant for studies or training in any program in  
26 the health care professions;

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

30 (5) "Specified medical procedures or research", abortion,  
31 abortion-inducing drugs, contraception, sterilization which is not  
32 medically necessary, assisted reproduction, human cloning, human  
33 embryonic stem-cell research, human somatic cell nuclear transfer,  
34 fetal tissue research, and non-therapeutic 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.

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

24           **5. An employee asserting a right not to participate in specified**  
25 **medical procedures or research shall provide reasonable notice under**  
26 **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) Any aid, assistance, benefit, or privilege, including staff**  
21 **privileges; or**

22           **(3) Any authorization, including authorization to create, expand,**  
23 **improve, acquire, or affiliate or merge with any health care institution,**  
24 **because such health care institution, or person, association, or**  
25 **corporation planning, proposing, or operating a health care institution**  
26 **declines to participate in specified medical procedures or research**  
27 **which violate the health care institution's conscience.**

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

35 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.

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 under this section that  
8 the specified medical procedure or research was so integral to the  
9 duties of the employee's position and to the central business purpose  
10 of the business or enterprise that a person of ordinary intelligence  
11 understood that participating in the specified medical procedure or  
12 research at issue was a requirement of the employee's position.

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

26           **3. The court in such civil action may award injunctive relief,**  
27 **including, but not limited to, ordering reinstatement of a medical**  
28 **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 **sections 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.**

BM  
✓  
Copy