

**AMENDMENT TO DIVISION A OF
RULES COMMITTEE PRINT 116-17
OFFERED BY MRS. HARTZLER OF MISSOURI**

At end of the division (before the short title) insert the following:

1 **SEC. ____ . PROHIBITING GOVERNMENTAL DISCRIMINA-**
2 **TION AGAINST PROVIDERS OF HEALTH SERV-**
3 **ICES THAT ARE NOT INVOLVED IN ABORTION.**

4 Title II of the Public Health Service Act (42 U.S.C.
5 202 et seq.) is amended by inserting after section 245 the
6 following:

7 **“SEC. 245A. PROHIBITING GOVERNMENTAL DISCRIMINA-**
8 **TION AGAINST PROVIDERS OF HEALTH SERV-**
9 **ICES THAT ARE NOT INVOLVED IN ABORTION.**

10 “(a) IN GENERAL.—Notwithstanding any other law,
11 the Federal Government, and any State or local govern-
12 ment that receives Federal financial assistance, may not
13 penalize, retaliate against, or otherwise discriminate
14 against a health care provider on the basis that the pro-
15 vider does not—

16 “(1) perform, refer for, pay for, or otherwise
17 participate in abortion;

18 “(2) provide or sponsor abortion coverage; or

1 “(3) facilitate or make arrangements for any of
2 the activities specified in this subsection.

3 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed—

5 “(1) to prevent any health care provider from
6 voluntarily electing to participate in abortions or
7 abortion referrals;

8 “(2) to prevent any health care provider from
9 voluntarily electing to provide or sponsor abortion
10 coverage or health benefits coverage that includes
11 abortion;

12 “(3) to prevent an accrediting agency, the Fed-
13 eral Government, or a State or local government
14 from establishing standards of medical competency
15 applicable only to those who have knowingly, volun-
16 tarily, and specifically elected to perform abortions,
17 or from enforcing contractual obligations applicable
18 only to those who, as part of such contract, know-
19 ingly, voluntarily, and specifically elect to provide
20 abortions;

21 “(4) to affect, or be affected by, section 1867
22 of the Social Security Act (42 U.S.C. 1395dd, com-
23 monly referred to as the ‘Emergency Medical Treat-
24 ment and Active Labor Act’); or

1 “(5) to supersede any law enacted by any State
2 for the purpose of regulating insurance, except as
3 specified in subsection (a).

4 “(c) ADMINISTRATION.—The Secretary shall des-
5 ignate the Director of the Office for Civil Rights of the
6 Department of Health and Human Services—

7 “(1) to receive complaints alleging a violation of
8 this section, section 245 of this Act, or any of sub-
9 sections (b) through (e) of section 401 of the Health
10 Programs Extension Act of 1973; and

11 “(2) to pursue the investigation of such com-
12 plaints in coordination with the Attorney General.

13 “(d) DEFINITIONS.—For purposes of this section:

14 “(1) FEDERAL FINANCIAL ASSISTANCE.—The
15 term ‘Federal financial assistance’ means Federal
16 payments to cover the cost of health care services or
17 benefits, or other Federal payments, grants, or loans
18 to promote or otherwise facilitate health-related ac-
19 tivities.

20 “(2) HEALTH CARE PROVIDER.—The term
21 ‘health care provider’ means—

22 “(A) an individual physician, nurse, or
23 other health care professional;

24 “(B) a hospital, health system, or other
25 health care facility or organization (including a

1 party to a proposed merger or other collabo-
2 rative arrangement relating to health services,
3 and an entity resulting therefrom);

4 “(C) a provider-sponsored organization, an
5 accountable care organization, or a health
6 maintenance organization;

7 “(D) a social services provider that pro-
8 vides or authorizes referrals for health care
9 services;

10 “(E) a program of training in the health
11 professions or an applicant to or participant in
12 such a program;

13 “(F) an issuer of health insurance cov-
14 erage; or

15 “(G) a group health plan or student health
16 plan, or a sponsor or administrator thereof.

17 “(3) STATE OR LOCAL GOVERNMENT THAT RE-
18 CEIVES FEDERAL FINANCIAL ASSISTANCE.—The
19 term ‘State or local government that receives Fed-
20 eral financial assistance’ includes every agency and
21 other governmental unit and subdivision of a State
22 or local government, if such State or local govern-
23 ment, or any agency or governmental unit or sub-
24 division thereof, receives Federal financial assist-
25 ance.

1 **“SEC. 245B. CIVIL ACTION FOR CERTAIN VIOLATIONS.**

2 “(a) IN GENERAL.—A qualified party may, in a civil
3 action, obtain appropriate relief with regard to a des-
4 ignated violation.

5 “(b) DEFINITIONS.—For purposes of this section:

6 “(1) QUALIFIED PARTY.—The term ‘qualified
7 party’ means—

8 “(A) the Attorney General of the United
9 States; or

10 “(B) any person or entity adversely af-
11 fected by the designated violation.

12 “(2) DESIGNATED VIOLATION.—The term ‘des-
13 ignated violation’ means an actual or threatened vio-
14 lation of—

15 “(A) section 245 or 245A of this Act; or

16 “(B) any of subsections (b) through (e) of
17 section 401 of the Health Programs Extension
18 Act of 1973 regarding an objection to abortion.

19 “(c) ADMINISTRATIVE REMEDIES NOT REQUIRED.—
20 An action under this section may be commenced, and relief
21 may be granted, without regard to whether the party com-
22 mencing the action has sought or exhausted available ad-
23 ministrative remedies.

24 “(d) DEFENDANTS IN ACTIONS UNDER THIS SEC-
25 TION MAY INCLUDE GOVERNMENTAL ENTITIES AS WELL
26 AS OTHERS.—

1 “(1) IN GENERAL.—An action under this sec-
2 tion may be maintained against, among others, a
3 party that is a Federal or State governmental entity.
4 Relief in an action under this section may include
5 money damages even if the defendant is such a gov-
6 ernmental entity.

7 “(2) DEFINITION.—For the purposes of this
8 subsection, the term ‘State governmental entity’
9 means a State, a local government within a State,
10 and any agency or other governmental unit or sub-
11 division of a State or of such a local government.

12 “(e) NATURE OF RELIEF.—In an action under this
13 section, the court shall grant—

14 “(1) all necessary equitable and legal relief, in-
15 cluding, where appropriate, declaratory relief and
16 compensatory damages, to prevent the occurrence,
17 continuance, or repetition of the designated violation
18 and to compensate for losses resulting from the des-
19 ignated violation; and

20 “(2) to a prevailing plaintiff, reasonable attor-
21 neys’ fees and litigation expenses as part of the
22 costs.”.

