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:

SEC. _____. PROHIBITING GOVERNMENTAL DISCRIMINA-
TION AGAINST PROVIDERS OF HEALTH SERV-
ICES THAT ARE NOT INVOLVED IN ABORTION.

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

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

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

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

“(2) provide or sponsor abortion coverage; or
“(3) facilitate or make arrangements for any of the activities specified in this subsection.

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

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

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

“(3) to prevent an accrediting agency, the Federal Government, or a State or local government from establishing standards of medical competency applicable only to those who have knowingly, voluntarily, and specifically elected to perform abortions, or from enforcing contractual obligations applicable only to those who, as part of such contract, knowingly, voluntarily, and specifically elect to provide abortions;

“(4) to affect, or be affected by, section 1867 of the Social Security Act (42 U.S.C. 1395dd, commonly referred to as the ‘Emergency Medical Treatment and Active Labor Act’); or
“(5) to supersede any law enacted by any State for the purpose of regulating insurance, except as specified in subsection (a).

“(c) Administration.—The Secretary shall designate the Director of the Office for Civil Rights of the Department of Health and Human Services—

“(1) to receive complaints alleging a violation of this section, section 245 of this Act, or any of subsections (b) through (e) of section 401 of the Health Programs Extension Act of 1973; and

“(2) to pursue the investigation of such complaints in coordination with the Attorney General.

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

“(1) Federal financial assistance.—The term ‘Federal financial assistance’ means Federal payments to cover the cost of health care services or benefits, or other Federal payments, grants, or loans to promote or otherwise facilitate health-related activities.

“(2) Health care provider.—The term ‘health care provider’ means—

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

“(B) a hospital, health system, or other health care facility or organization (including a
party to a proposed merger or other collaborative arrangement relating to health services, and an entity resulting therefrom);

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

“(D) a social services provider that provides or authorizes referrals for health care services;

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

“(F) an issuer of health insurance coverage; or

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

“(3) STATE OR LOCAL GOVERNMENT THAT RECEIVES FEDERAL FINANCIAL ASSISTANCE.—The term ‘State or local government that receives Federal financial assistance’ includes every agency and other governmental unit and subdivision of a State or local government, if such State or local government, or any agency or governmental unit or subdivision thereof, receives Federal financial assistance.
"SEC. 245B. CIVIL ACTION FOR CERTAIN VIOLATIONS.

(a) IN GENERAL.—A qualified party may, in a civil action, obtain appropriate relief with regard to a designated violation.

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

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

(A) the Attorney General of the United States; or

(B) any person or entity adversely affected by the designated violation.

(2) DESIGNATED VIOLATION.—The term ‘designated violation’ means an actual or threatened violation of—

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

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

(c) ADMINISTRATIVE REMEDIES NOT REQUIRED.—An action under this section may be commenced, and relief may be granted, without regard to whether the party commencing the action has sought or exhausted available administrative remedies.

(d) DEFENDANTS IN ACTIONS UNDER THIS SECTION MAY INCLUDE GOVERNMENTAL ENTITIES AS WELL AS OTHERS.—
“(1) In General.—An action under this section may be maintained against, among others, a party that is a Federal or State governmental entity. Relief in an action under this section may include money damages even if the defendant is such a governmental entity.

“(2) Definition.—For the purposes of this subsection, the term ‘State governmental entity’ means a State, a local government within a State, and any agency or other governmental unit or subdivision of a State or of such a local government.

“(e) Nature of Relief.—In an action under this section, the court shall grant—

“(1) all necessary equitable and legal relief, including, where appropriate, declaratory relief and compensatory damages, to prevent the occurrence, continuance, or repetition of the designated violation and to compensate for losses resulting from the designated violation; and

“(2) to a prevailing plaintiff, reasonable attorneys’ fees and litigation expenses as part of the costs.”.