
ASSEMBLY BILL NO. 183—ASSEMBLYMEN LESLIE, SMITH,
MCCLAINE, GIUNCHIGLIANI, PIERCE, ATKINSON,
GERHARDT, MANENDO, OCEGUERA AND PARKS

MARCH 9, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits medical facilities from retaliating or discriminating unfairly against certain nurses for refusing to provide nursing services under certain circumstances. (BDR 40-927)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to nursing; prohibiting medical facilities from retaliating or discriminating unfairly against registered nurses, licensed practical nurses and nursing assistants for refusing to provide nursing services under certain circumstances; providing that nurses subjected to such retaliation or discrimination are entitled to recover certain damages; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility or its agent or employee from retaliating or discriminating unfairly against an employee who reports certain conduct of a physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine or who cooperates or otherwise participates in an investigation conducted by such boards. (NRS 449.205) An employee who believes he has been retaliated or discriminated against in such a case may file an action in court for appropriate relief. (NRS 449.207)

This bill prohibits a medical facility or an agent or employee of the facility from retaliating or discriminating against a registered nurse who refuses to provide services to a patient if the nurse in good faith reports to his immediate supervisor that the services may be harmful to the patient, unless the refusal constitutes unprofessional conduct. This bill further prohibits retaliation or unfair discrimination against a licensed practical nurse or nursing assistant who refuses to provide nursing services to a patient, if the nurse or nursing assistant in good faith reports to his immediate supervisor that he does not possess the knowledge, skill or



experience to comply with an assignment to provide such nursing services, unless the refusal constitutes unprofessional conduct.

This bill further authorizes any such nursing professional who believes that he has been retaliated or discriminated against to file an action in court for appropriate relief. If he prevails, this bill provides that the nursing professional is entitled to receive as damages payment for any hours that he was unable to work as a result of the retaliation or unfair discrimination and five times the amount of his annual salary.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“Licensed practical nurse” has the meaning ascribed to it in NRS 632.016.*

Sec. 3. *“Nursing assistant” has the meaning ascribed to it in NRS 632.0166.*

Sec. 4. *“Registered nurse” has the meaning ascribed to it in NRS 632.019.*

Sec. 5. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.019, inclusive, *and sections 2, 3 and 4 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~an~~ :

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ *(1)* Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ *(2)* Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

~~[(c)]~~ *(3)* Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in ~~[(paragraph (a) or (b))]~~ *subparagraph (1) or (2).*



1 (b) A registered nurse who is employed by or contracts to
2 provide nursing services for the medical facility and who in good
3 faith:

4 (1) Reports to his immediate supervisor, in writing, that, in
5 his professional judgment, an assignment to provide nursing
6 services to a patient would harm the patient; and

7 (2) Refuses to provide the nursing services to the patient,
8 unless such refusal constitutes unprofessional conduct as set forth
9 in chapter 632 of NRS or any regulations adopted pursuant
10 thereto.

11 (c) A licensed practical nurse or nursing assistant who is
12 employed by or contracts to provide nursing services for the
13 medical facility and who in good faith:

14 (1) Reports to his immediate supervisor, in writing, that he
15 does not possess the knowledge, skill or experience to comply with
16 an assignment to provide nursing services to a patient; and

17 (2) Refuses to provide nursing services to a patient based
18 on his belief that he does not have the knowledge, skill or
19 experience to comply with the assignment to provide nursing
20 services to the patient, unless such refusal constitutes
21 unprofessional conduct as set forth in chapter 632 of NRS or any
22 regulations adopted pursuant thereto.

23 2. A medical facility or any agent or employee thereof shall not
24 retaliate or discriminate unfairly against an employee of the medical
25 facility *or a registered nurse, licensed practical nurse or nursing*
26 *assistant who is employed by or contracts to provide nursing*
27 *services for the medical facility* because the employee, *registered*
28 *nurse, licensed practical nurse or nursing assistant* has taken an
29 action described in subsection 1.

30 3. A medical facility or any agent or employee thereof shall not
31 prohibit, restrict or attempt to prohibit or restrict by contract, policy,
32 procedure or any other manner the right of an employee of the
33 medical facility *or registered nurse, licensed practical nurse or*
34 *nursing assistant who is employed by or contracts to provide*
35 *nursing services for the medical facility* to take an action described
36 in subsection 1.

37 4. As used in this section:

38 (a) "Physician" means a person licensed to practice medicine
39 pursuant to chapter 630 or 633 of NRS.

40 (b) "Retaliate or discriminate":

41 (1) Includes, without limitation, the following action if such
42 action is taken solely because the employee *or the registered nurse,*
43 *licensed practical nurse or nursing assistant* took an action
44 described in subsection 1:



(I) Frequent or undesirable changes in the location where the employee works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include action described in ~~subparagraphs~~ *sub-subparagraphs* (I) to (X), inclusive, of ~~paragraph~~ *subparagraph* (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 7. NRS 449.207 is hereby amended to read as follows:

449.207 **1.** An employee of a medical facility who believes that he has been retaliated or discriminated against in violation of *paragraph (a) of subsection 1 or of subsection 2 of* NRS 449.205 may file an action in a court of competent jurisdiction for such relief as may be appropriate under the law.

2. *A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for a medical facility and who believes that he has been retaliated or discriminated against in violation of paragraph (b) or (c) of subsection 1 or of subsection 2 of NRS 449.205 may file an action in a court of competent jurisdiction for such relief as may be appropriate under the law. If the registered nurse, licensed practical nurse or nursing assistant prevails, he is entitled to recover as damages:*

(a) Payment for any hours which he was unable to work as a result of the retaliation or discrimination, based on his current hourly rate of pay; and

(b) Five times the amount of his annual salary.

