

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

MARCH 9, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits employers and certain other persons from retaliating or discriminating unfairly against certain nurses and nursing assistants for refusing to provide nursing services under certain circumstances. (BDR 54-927)

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 employers and certain other persons 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 may 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 person who employs or retains as an independent contractor a registered nurse, licensed practical nurse or nursing assistant, or an agent or employee of either of them, from retaliating or discriminating against the nurse or nursing assistant for refusing to provide services to a patient if the nurse or nursing assistant, in accordance with certain established policy, if any, 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 registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services to a patient, if the nurse or nursing assistant, in accordance with certain established policy, if any, reports to his immediate supervisor that, as documented in his personnel file, 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 authorizes any such nursing professional who 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 may receive as damages payment for any hours that he was unable to work as a result of the retaliation or unfair discrimination and any other amount of damages deemed appropriate by the court.

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

Section 1. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *An employer of a licensee or nursing assistant or a person who retains a licensee or nursing assistant as an independent contractor, or any agent or employee of the employer or person, shall not retaliate or discriminate unfairly against:*

(a) The licensee or nursing assistant if the licensee or nursing assistant, in accordance with the policy, if any, established by the employer or person who retains the licensee or nursing assistant:

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

(2) Refuses to provide the nursing services to the patient, unless such refusal constitutes unprofessional conduct as set forth in this chapter or any regulations adopted pursuant thereto.

(b) The licensee or nursing assistant if the licensee or nursing assistant, in accordance with the policy, if any, established by the employer or person who retains the licensee or nursing assistant:

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

(2) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the licensee or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless such refusal constitutes unprofessional conduct as set forth in this chapter or any regulations adopted pursuant thereto.

2. *An employer of a licensee or nursing assistant or a person who retains a licensee or nursing assistant as an independent*



1 contractor, or any agent or employee of the employer or person,
2 shall not retaliate or discriminate unfairly against the licensee or
3 nursing assistant because the licensee or nursing assistant has
4 taken an action described in subsection 1.

5 3. An employer of a licensee or nursing assistant or a person
6 who retains a licensee or nursing assistant as an independent
7 contractor, or any agent or employee of the employer or person,
8 shall not prohibit, restrict or attempt to prohibit or restrict by
9 contract, policy, procedure or any other manner the right of the
10 licensee or nursing assistant to take an action described in
11 subsection 1.

12 4. As used in this section, "retaliate or discriminate":

13 (a) Includes, without limitation, the following action if such
14 action is taken solely because the licensee or nursing assistant
15 took an action described in subsection 1:

16 (1) Frequent or undesirable changes in the location where
17 the licensee or nursing assistant works;

18 (2) Frequent or undesirable transfers or reassignments;

19 (3) The issuance of letters of reprimand, letters of
20 admonition or evaluations of poor performance;

21 (4) A demotion;

22 (5) A reduction in pay;

23 (6) The denial of a promotion;

24 (7) A suspension;

25 (8) A dismissal;

26 (9) A transfer; or

27 (10) Frequent changes in working hours or workdays.

28 (b) Does not include action described in subparagraphs (1) to
29 (10), inclusive, of paragraph (a) if the action is taken in the
30 normal course of employment or as a form of discipline.

31 **Sec. 3. 1.** A licensee or nursing assistant who has been
32 retaliated or discriminated against in violation of subsection 2 or 3
33 of section 2 of this act may file an action in a court of competent
34 jurisdiction for such relief as may be appropriate under the law.

35 2. If the licensee or nursing assistant prevails in such an
36 action, he may be awarded as damages:

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

40 (b) Any other amount deemed appropriate by the court.



