

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 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 may file an action in a court of competent jurisdiction for appropriate relief; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prohibits a medical facility or its agent or employee from
- 2 retaliating or discriminating unfairly against an employee who reports certain
- 3 conduct of a physician to the Board of Medical Examiners or the State Board of
- 4 Osteopathic Medicine or who cooperates or otherwise participates in an
- 5 investigation conducted by such boards. (NRS 449.205) An employee who believes
- 6 he has been retaliated or discriminated against may file an action in court for
- 7 appropriate relief. (NRS 449.207)
- 8 This bill prohibits a medical facility or an agent or employee of the facility
- 9 from retaliating or discriminating unfairly against a registered nurse, licensed
- 10 practical nurse or nursing assistant who refuses to provide nursing services to a
- 11 patient, if the nurse or nursing assistant, in accordance with certain established
- 12 policy, if any, reports to his immediate supervisor that, as documented in his
- 13 personnel file, he does not possess the knowledge, skill or experience to comply
- 14 with an assignment to provide such nursing services, unless the refusal constitutes
- 15 unprofessional conduct.



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16 This bill authorizes any such nursing professional who believes that he has
17 been retaliated or discriminated against to file an action in court for appropriate
18 relief.

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

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

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

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

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

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

10 449.001 As used in this chapter, unless the context otherwise
11 requires, the words and terms defined in NRS 449.0015 to 449.019,
12 inclusive, *and sections 2, 3 and 4 of this act* have the meanings
13 ascribed to them in those sections.

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

15 449.205 1. A medical facility or any agent or employee
16 thereof shall not retaliate or discriminate unfairly against ~~any~~ :

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

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

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

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

33 *(b) A registered nurse, licensed practical nurse or nursing*
34 *assistant who is employed by or contracts to provide nursing*
35 *services for the medical facility and who, in accordance with the*
36 *policy, if any, established by the medical facility:*



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

4 (2) Refuses to provide to a patient nursing services for
5 which, as verified by documentation in the personnel file of the
6 registered nurse, licensed practical nurse or nursing assistant
7 concerning his competence to provide various nursing services, he
8 does not possess the knowledge, skill or experience to comply with
9 the assignment to provide nursing services to the patient, unless
10 such refusal constitutes unprofessional conduct as set forth in
11 chapter 632 of NRS or any regulations adopted pursuant thereto.

12 2. A medical facility or any agent or employee thereof shall not
13 retaliate or discriminate unfairly against an employee of the medical
14 facility *or a registered nurse, licensed practical nurse or nursing*
15 *assistant who is employed by or contracts to provide nursing*
16 *services for the medical facility* because the employee, *registered*
17 *nurse, licensed practical nurse or nursing assistant* has taken an
18 action described in subsection 1.

19 3. A medical facility or any agent or employee thereof shall not
20 prohibit, restrict or attempt to prohibit or restrict by contract, policy,
21 procedure or any other manner the right of an employee of the
22 medical facility *or a registered nurse, licensed practical nurse or*
23 *nursing assistant who is employed by or contracts to provide*
24 *nursing services for the medical facility* to take an action described
25 in subsection 1.

26 4. As used in this section:

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

29 (b) "Retaliate or discriminate":

30 (1) Includes, without limitation, the following action if such
31 action is taken solely because the employee *or the registered nurse,*
32 *licensed practical nurse or nursing assistant* took an action
33 described in subsection 1:

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

36 (II) Frequent or undesirable transfers or reassignments;

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

39 (IV) A demotion;

40 (V) A reduction in pay;

41 (VI) The denial of a promotion;

42 (VII) A suspension;

43 (VIII) A dismissal;

44 (IX) A transfer; or



1 (X) Frequent changes in working hours or workdays.
2 (2) Does not include action described in ~~{subparagraphs}~~
3 *sub-subparagraphs* (I) to (X), inclusive, of ~~{paragraph}~~
4 *subparagraph* (1) if the action is taken in the normal course of
5 employment or as a form of discipline.

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

7 449.207 An employee of a medical facility *or a registered*
8 *nurse, licensed practical nurse or nursing assistant who is*
9 *employed by or contracts to provide nursing services for the*
10 *medical facility* who believes that he has been retaliated or
11 discriminated against in violation of NRS 449.205 may file an
12 action in a court of competent jurisdiction for such relief as may be
13 appropriate under the law.

