

ASSEMBLY, No. 1071

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROMA and Assemblywoman VANDERVALK

1 AN ACT providing conscientious employee protections to health care
2 professionals and amending P.L.1986. c.105.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read as
8 follows:

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2. As used in this act:

10 a. "Employer" means any individual, partnership, association,
11 corporation or any person or group of persons acting directly or
12 indirectly on behalf of or in the interest of an employer with the
13 employer's consent and shall include all branches of State Government,
14 or the several counties and municipalities thereof, or any other
15 political subdivision of the State, or a school district, or any special
16 district, or any authority, commission, or board or any other agency or
17 instrumentality thereof.

18 b. "Employee" means any individual who performs services for and
19 under the control and direction of an employer for wages or other
20 remuneration.

21 c. "Public body" means:

22 (1) the United States Congress, and State legislature, or any
23 popularly-elected local governmental body, or any member or
24 employee thereof;

25 (2) any federal, State, or local judiciary, or any member or
26 employee thereof, or any grand or petit jury;

27 (3) any federal, State, or local regulatory, administrative, or public
28 agency or authority, or instrumentality thereof;

29 (4) any federal, State, or local law enforcement agency,
30 prosecutorial office, or police or peace officer;

31 (5) any federal, State or local department of an executive branch
32 of government; or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 (6) any division, board, bureau, office, committee or commission
2 of any of the public bodies described in the above paragraphs of this
3 subsection.

4 d. "Supervisor" means any individual with an employer's
5 organization who has the authority to direct and control the work
6 performance of the affected employee, who has authority to take
7 corrective action regarding the violation of the law, rule or regulation
8 of which the employee complains, or who has been designated by the
9 employer on the notice required under section 7 of this act.

10 e. "Retaliatory action" means the discharge, suspension or
11 demotion of an employee, or other adverse employment action taken
12 against an employee in the terms and conditions of employment.

13 f. "Improper quality of patient care" means, with respect to patient
14 care, any practice, procedure, action or failure to act of an employer
15 that is a health care provider which violates any law or any rule,
16 regulation or declaratory ruling adopted pursuant to law, or any
17 professional code of ethics.

18 (cf: P.L.1986, c.105, s.2)

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20 2. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read as
21 follows:

22 3. An employer shall not take any retaliatory action against an
23 employee because the employee does any of the following:

24 a. Discloses, or threatens to disclose to a supervisor or to a public
25 body an activity, policy or practice of the employer or another
26 employer, with whom there is a business relationship, that the
27 employee reasonably believes is in violation of a law, or a rule or
28 regulation promulgated pursuant to law, or, in the case of an employee
29 who is a licensed health care professional, reasonably believes
30 constitutes improper quality of patient care;

31 b. Provides information to, or testifies before, any public body
32 conducting an investigation, hearing or inquiry into any violation of
33 law, or a rule or regulation promulgated pursuant to law by the
34 employer or another employer, with whom there is a business
35 relationship, or, in the case of an employee who is a licensed health
36 care professional, provides information to, or testifies before, any
37 public body conducting an investigation, hearing or inquiry into the
38 quality of patient care; or

39 c. Objects to, or refuses to participate in any activity, policy or
40 practice which the employee reasonably believes:

41 (1) is in violation of a law, or a rule or regulation promulgated
42 pursuant to law or, if the employee is a licensed health care
43 professional, constitutes improper quality of patient care;

44 (2) is fraudulent or criminal; or

45 (3) is incompatible with a clear mandate of public policy

1 concerning the public health, safety or welfare or protection of the
2 environment.

3 (cf: P.L.1989, c.220, s.1)

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5 3. This act shall take effect immediately.

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STATEMENT

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10 This bill amends the "Conscientious Employee Protection Act" to
11 extend the protections of that act against employer retaliation to any
12 licensed health care professional who takes actions regarding an
13 instance of improper patient care which the professional reasonably
14 believes violates the professional's code of ethics or any law, rule,
15 regulation or declaratory ruling adopted pursuant to law. The bill
16 protects the professional from employer retaliation if the professional
17 discloses such instances to a supervisor or public body or objects to,
18 or refuses to participate in, any activity, policy or practice which
19 violates the code of ethics or any law, rule, regulation or declaratory
20 ruling adopted pursuant to law.

21 The "Conscientious Employee Protection Act" currently protects
22 from employer retaliation any employee who discloses, objects to, or
23 refuses to participate in, actions which the employee reasonably
24 believes to be illegal, fraudulent or incompatible with a clear mandate
25 of public policy. This bill provides that employer retaliation is also
26 prohibited in any case in which a health care professional reasonably
27 believes that an employer has committed an act which constitutes
28 improper quality of patient care.

29 In a growing number of cases, health care professionals are being
30 pressured to accept seriously inadequate staffing levels and delegate
31 their responsibilities to unqualified, non-professional staff. It is of the
32 utmost importance that health care professionals are able to speak out
33 against, and refuse to participate in, these and other practices by their
34 employers which endanger the well-being of patients.

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39 Provides protection for health care professionals under the
40 "Conscientious Employee Protection Act."