

SENATE, No. 878

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1996

By Senators SINGER and CODEY

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:

9 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

33 (6) any division, board, bureau, office, committee or commission
34 of any of the public bodies described in the above paragraphs of this

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 subsection.

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

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

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

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

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

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

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

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

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

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

42 (2) is fraudulent or criminal; or

43 (3) is incompatible with a clear mandate of public policy
44 concerning the public health, safety or welfare or protection of the
45 environment.

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

1 3. This act shall take effect immediately.

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STATEMENT

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

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

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

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