

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

S

2

SENATE BILL 697
Health Care Committee Substitute Adopted 6/8/11

Short Title: Patient Advocacy & Protection Act.

(Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING RETALIATION AGAINST ANY NURSE WHO MAKES A GOOD
3 FAITH REPORT CONCERNING PATIENT MEDICAL CARE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 9A of Chapter 90 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 90-171.47A. Retaliatory employment actions prohibited.**

8 (a) An employer providing health care services may not discriminate or take retaliatory
9 action against a nurse licensed or registered under this Article because the nurse in good faith,
10 with a reasonable factual or legal basis, does any of the following:

11 (1) Discloses or threatens to disclose to a supervisor, an internal compliance
12 reporting system, or a regulatory board an activity, policy, or practice of the
13 employer that is in violation of a law or rule or that fails to meet appropriate
14 standards of medical care.

15 (2) Provides information to, or testifies before, a regulatory agency conducting
16 an investigation, hearing, or inquiry into a violation or a failure to meet the
17 appropriate standard of medical care.

18 (3) Advises another of his or her rights under this section.

19 (b) To establish eligibility for the protections provided by this section, all of the
20 following shall apply:

21 (1) The nurse must reasonably believe that the employer's activity poses a
22 significant danger to the health or welfare of patients.

23 (2) The nurse must have reported in writing the activity, policy, or practice to a
24 supervisor, administrator, or other appropriate person identified in the
25 employer's internal compliance plan, and the employer, after reasonable
26 opportunity, has not corrected the activity, policy, or practice.

27 (c) A nurse allegedly aggrieved by a violation of this section may file a written
28 complaint with the Commissioner of Labor alleging the violation, subject to the provisions of
29 Article 21 of Chapter 95 of the General Statutes. In any action brought under this subsection, it
30 is a defense that the employer's personnel action was based on grounds other than the nurse's
31 exercise of any rights protected under this section."

32 **SECTION 2.** G.S. 95-242(a) reads as rewritten:

33 "**§ 95-242. Complaint; investigation; conciliation.**

34 (a) An employee allegedly aggrieved by a violation of G.S. 95-241 or G.S. 90-171.47A
35 may file a written complaint with the Commissioner of Labor alleging the violation. The
36 complaint shall be filed within 180 days of the alleged violation. Within 20 days following
37 receipt of the complaint, the Commissioner shall forward a copy of the complaint to the person



1 alleged to have committed the violation and shall initiate an investigation. If the Commissioner
2 determines after the investigation that there is not reasonable cause to believe that the allegation
3 is true, the Commissioner shall dismiss the complaint, promptly notify the employee and the
4 respondent, and issue a right-to-sue letter to the employee that will enable the employee to
5 bring a civil action pursuant to G.S. 95-243. If the Commissioner determines after investigation
6 that there is reasonable cause to believe that the allegation is true, the Commissioner shall
7 attempt to eliminate the alleged violation by informal methods which may consist of
8 conference, conciliation, and persuasion. The Commissioner shall make a determination as
9 soon as possible and, in any event, not later than 90 days after the filing of the complaint."

10 **SECTION 3.** This act is effective when it becomes law and applies to reports made
11 on or after that date.