

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 514

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO EMPLOYMENT; PROHIBITING EMPLOYER RETALIATORY ACTION
IN CERTAIN CIRCUMSTANCES; PROVIDING FOR CIVIL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the
"Conscientious Health Care Employee Protection Act".

SECTION 2. DEFINITIONS.--As used in the Conscientious
Health Care Employee Protection Act:

A. "employee" means a health care professional
licensed pursuant to Chapter 61 NMSA 1978 or other employee who
performs services for and under the control and direction of an
employer that is a health care facility for wages or other
remuneration;

B. "employer" means a person who has four or more
employees and includes an agent of an employer and a public

1 employer, but "employer" does not include health plans or other
2 entities that do not provide direct medical care services to
3 patients;

4 C. "health care facility" means a hospital,
5 outpatient facility, diagnostic and treatment center,
6 rehabilitation center, freestanding hospice or other similar
7 facility at which medical care is provided;

8 D. "improper quality of patient care" means a
9 practice, procedure, action or failure to act on the part of an
10 employer that violates any law, act or rule or the standard of
11 care;

12 E. "public body" means a state government
13 department, agency or political subdivision; and

14 F. "retaliatory action" means the discharge,
15 suspension, demotion, disciplining or discriminatory or adverse
16 employment action against an employee in the terms and
17 conditions of employment.

18 SECTION 3. RETALIATION PROHIBITED--CIVIL ACTION.--

19 A. If an employee is in compliance with the federal
20 Health Insurance Portability and Accountability Act of 1996, an
21 employer shall not take retaliatory action against the employee
22 for the following:

23 (1) disclosing or threatening to disclose to
24 an employer or to a public body an activity, policy or practice
25 of the employer that constitutes improper quality of patient

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1 care;

2 (2) providing information to or testifying
3 before a public body as part of an investigation, hearing or
4 inquiry into improper quality of patient care, a violation of
5 law or a rule promulgated pursuant to law; or

6 (3) objecting to or refusing to participate in
7 an activity, policy or practice that:

8 (a) is in violation of a law or rule;
9 (b) constitutes improper quality of
10 patient care; or

11 (c) is fraudulent or criminal.

12 B. An employee may bring a civil action for damages
13 against an employer that violates the provisions of this
14 section, and if the employee prevails, the employee shall be
15 entitled to reasonable attorney fees and costs.

16 **SECTION 4. APPLICATION OF OTHER LAW.**--Nothing in the
17 Conscientious Health Care Employee Protection Act shall
18 preclude an employee from pursuing other remedies available at
19 law.

20 **SECTION 5. EFFECTIVE DATE.**--The effective date of the
21 provisions of this act is July 1, 2011.