HOUSE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO EMPLOYMENT; PROVIDING NURSES WHO INVOKE SAFE HARBOR ADDITIONAL PROTECTIONS.

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

SECTION 1. Section 61-3A-3 NMSA 1978 (being Laws 2019, Chapter 52, Section 3) is amended to read:

"61-3A-3. SAFE HARBOR--HEALTH CARE FACILITY RESPONSIBILITY.--

A. A nurse may invoke safe harbor when:

(1) in the nurse's good faith judgment, the nurse lacks the basic knowledge, skills or abilities necessary to deliver nursing care that is safe and that meets the minimum standards of care to such an extent that accepting the assignment would expose one or more patients to an unjustifiable risk of harm or would constitute a violation of

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the Nursing Practice Act or board of nursing rules; or

(2) the nurse questions the medical reasonableness of another health care provider's order that the nurse is required to execute.

B. A nurse who intends to invoke safe harbor shall invoke it before the nurse engages in conduct or an assignment giving rise to the nurse's request for safe harbor. A nurse may also invoke safe harbor at any time during the work period, when an initial assignment changes and, in the nurse's good faith judgment, the change creates a situation that comports with the requirements for invoking safe harbor pursuant to Subsection A of this section. A health care facility shall develop a process by which a nurse employed or contracted by that facility may invoke safe harbor.

C. A safe harbor process shall include:

(1) notification to all nurses on staff as to how safe harbor may be invoked;

(2) notification by the nurse to the nurse's supervisor that the nurse is invoking safe harbor;

(3) written documentation with the date, time and location of the invocation of safe harbor and the reason for invocation, signed by the supervisor and the nurse;

(4) a post-occurrence review of the situation that:

(a) includes at least one other staff

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nurse and nurse manager, as the health care facility defines those roles; [~~and~~]

(b) is used to determine whether additional action is required to minimize the likelihood of similar situations in the future; and

(c) inquires about any perceived retaliation that occurred as a result of invoking safe harbor; and

(5) documentation of the resolution and review of the matter in which safe harbor was invoked.

D. A health care facility or a health care facility's personnel shall not bully, retaliate against, demote, suspend, terminate, discipline, discriminate against or report any action to the board of nursing when a nurse makes a good faith request for safe harbor."

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