

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 05-0838.01 Kristen Forrester

SENATE BILL 05-216

SENATE SPONSORSHIP

Hagedorn,

HOUSE SPONSORSHIP

Carroll M.,

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTION FOR HEALTH CARE WORKERS ALLEGING**
102 **VIOLATION OF STANDARDS OF HEALTH CARE PRACTICE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Enacts the "Health Care Worker Protection Act" (act). Creates a procedure for a health care worker to report a violation of standards of health care practice to the office of the attorney general of the state of Colorado.

Gives immunity to a health care worker from criminal liability and from any suit in a civil action brought by any person as a result of information disclosed by a health care worker when the worker made a good faith report of a violation of standards of health care practice.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Prohibits a health care provider from taking disciplinary action against a health care worker if the worker submits a report or complaint, in good faith, to the attorney general's office. Provides that a health care worker may seek restitution through a civil action if disciplinary action is taken against such worker.

Defines the terms used in this act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 8, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 83**

5 **Health Care Worker Protection Act**

6 **8-83-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "HEALTH CARE WORKER PROTECTION ACT".

8 **8-83-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
11 PUBLIC HEALTH AND ENVIRONMENT.

12 (2) "DISCIPLINARY ACTION" MEANS FREQUENT OR UNDESIRABLE
13 TRANSFERS OR REASSIGNMENTS, CHANGES IN THE LOCATION WHERE A
14 HEALTH CARE WORKER IS EMPLOYED, OR CHANGES IN WORKING HOURS;
15 THE ISSUANCE OF LETTERS OF REPRIMAND, LETTERS OF ADMONITION, OR
16 EVALUATIONS OF POOR PERFORMANCE; A DEMOTION; A REDUCTION IN PAY;
17 THE DENIAL OF A PROMOTION; OR A SUSPENSION, DISMISSAL, OR TRANSFER.

18 (3) "GOOD FAITH REPORT" MEANS A REPORT OF VIOLATIONS OF
19 STANDARDS OF HEALTH CARE PRACTICE THAT IS MADE WITHOUT MALICE
20 OR CONSIDERATION OF PERSONAL BENEFIT AND THAT THE PERSON MAKING
21 THE REPORT HAS REASONABLE CAUSE TO BELIEVE IS TRUE.

22 (4) "HEALTHCARE PROVIDER" MEANS ANY HEALTHCARE FACILITY

1 LICENSED UNDER SECTION 25-3-101, C.R.S., OR ANY INDIVIDUAL WHO IS
2 AUTHORIZED TO PRACTICE SOME COMPONENT OF THE HEALING ARTS BY A
3 LICENSE, CERTIFICATE, OR REGISTRATION.

4 (5) "HEALTH CARE WORKER" MEANS ANY PERSON CERTIFIED,
5 REGISTERED, OR LICENSED PURSUANT TO ARTICLES 22, 29.5, 32, 33, 35, 36,
6 37, 38, 38.1, 39, 40, 41, 41.5, 42, AND 43 OF TITLE 12, C.R.S.

7 (6) "OFFICE" MEANS THE OFFICE OF THE ATTORNEY GENERAL OF
8 THE STATE OF COLORADO.

9 (7) "SUPERVISOR" MEANS ANY INDIVIDUAL WITHIN AN EMPLOYER'S
10 ORGANIZATION WHO HAS THE AUTHORITY TO DIRECT AND CONTROL THE
11 WORK PERFORMANCE OF AN EMPLOYEE, OR WHO HAS MANAGERIAL
12 AUTHORITY TO TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF
13 STANDARDS OF HEALTH CARE PRACTICE.

14 **8-83-103. Procedure for reporting a violation of standards of**
15 **health care practice - confidentiality.** (1) A HEALTH CARE WORKER
16 MAY REPORT A VIOLATION OF STANDARDS OF HEALTH CARE PRACTICE, IN
17 WRITING, TO A SUPERVISOR OR OTHER PERSON IN A POSITION OF
18 AUTHORITY, AND THE EMPLOYER SHALL BE PROVIDED A REASONABLE
19 OPPORTUNITY TO CORRECT THE VIOLATION BEFORE FURTHER ACTION IS
20 TAKEN UNDER THE PROVISIONS OF THIS ARTICLE.

21 (2) (a) IF THE EMPLOYER DOES NOT CORRECT THE VIOLATION AND
22 THE HEALTH CARE EMPLOYEE, IN GOOD FAITH, BELIEVES THAT A
23 CONTINUING VIOLATION WILL ADVERSELY AFFECT THE QUALITY OF
24 PATIENT CARE OR THE SAFETY OF THE PATIENTS OF THE HEALTH CARE
25 PROVIDER, THE HEALTH CARE WORKER MAY FILE A COMPLAINT, IN
26 WRITING, WITH THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF
27 COLORADO.

1 (b) UPON RECEIPT OF THE COMPLAINT, THE OFFICE SHALL GIVE
2 NOTICE TO THE AFFECTED HEALTH CARE PROVIDER THAT A COMPLAINT HAS
3 BEEN FILED. THE HEALTH CARE PROVIDER SHALL HAVE THIRTY DAYS IN
4 WHICH TO INVESTIGATE THE COMPLAINT AND AFTER THAT TIME SHALL FILE
5 THE RESULTS OF ITS INVESTIGATION WITH THE OFFICE. IF THE OFFICE IS
6 DISSATISFIED WITH THE ADEQUACY OF THE INVESTIGATION CONDUCTED BY
7 THE HEALTH CARE PROVIDER, THE OFFICE SHALL PERFORM ITS OWN
8 REVIEW AND, IF IT IS DETERMINED THAT FURTHER ACTION IS NEEDED,
9 SHALL REFER THE HEALTH CARE PROVIDER TO THE DEPARTMENT FOR
10 FURTHER ACTION.

11 (c) THE OFFICE SHALL MAINTAIN, EXCEPT TO THE EXTENT
12 NECESSARY TO VERIFY CREDENTIALS, THE CONFIDENTIALITY OF THE
13 HEALTH CARE WORKER AND ALL INFORMATION RESULTING FROM THE
14 COMPLAINT UNTIL AN INVESTIGATION HAS BEEN COMPLETED OR THE
15 VIOLATION HAS BEEN REMEDIED; EXCEPT THAT THE OFFICE SHALL PROVIDE
16 INFORMATION TO THE OFFICE OF THE STATE AUDITOR REGARDING A
17 FACILITY UNDER INVESTIGATION AND SHALL PROVIDE, UPON THE REQUEST
18 OF ANY APPROPRIATE DISCIPLINARY BOARD, INFORMATION RELATING TO
19 AN INDIVIDUAL UNDER INVESTIGATION.

20 **8-83-104. Health care workers - immunity from lawsuits -**
21 **disciplinary action against health care worker prohibited.** (1) A
22 HEALTH CARE WORKER, WHILE ACTING IN GOOD FAITH, SHALL BE IMMUNE
23 FROM CRIMINAL LIABILITY AND FROM ANY SUIT IN A CIVIL ACTION
24 BROUGHT BY ANY PERSON AS A RESULT OF:

25 (a) DISCLOSING INFORMATION THAT IS NOT OTHERWISE
26 PROHIBITED BY STATE OR FEDERAL LAW FROM DISCLOSURE RELATING TO
27 CARE OR SERVICES PROVIDED OR CONDITIONS TREATED BY A HEALTH CARE

1 ENTITY OR HEALTH CARE PROVIDER; OR

2 (b) DISCLOSING INFORMATION THROUGH INITIATING, COOPERATING
3 IN, OR PARTICIPATING IN AN INVESTIGATION OR PROCEEDING BY A PUBLIC
4 BODY, AN ACCREDITING ORGANIZATION, OR THE FEDERAL CENTERS FOR
5 MEDICARE AND MEDICAID SERVICES RELATING TO CARE OR SERVICES
6 PROVIDED OR CONDITIONS TREATED BY A HEALTH CARE PROVIDER.

7 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE
8 CONSTRUED TO GRANT IMMUNITY TO A HEALTH CARE WORKER FOR HIS OR
9 HER OWN ACTS OF MEDICAL NEGLIGENCE.

10 (3) A HEALTH CARE PROVIDER SHALL NOT TAKE DISCIPLINARY
11 ACTION AGAINST A HEALTH CARE WORKER IN RETALIATION FOR FILING A
12 COMPLAINT OR MAKING A REPORT IN GOOD FAITH PURSUANT TO SECTION
13 8-83-103.

14 (4) A HEALTH CARE WORKER WHO CLAIMS TO BE AGGRIEVED BY A
15 VIOLATION OF SUBSECTION (3) OF THIS SECTION MAY, WITHIN ONE YEAR
16 AFTER THE DATE OF THE ALLEGED VIOLATION, SEEK RESTITUTION THROUGH
17 CIVIL ACTION, INCLUDING, BUT NOT LIMITED TO, PAIN AND SUFFERING,
18 COST OF THE LITIGATION, LOST WAGES, AND ATTORNEY FEES.

19 (5) A CIVIL ACTION TAKEN PURSUANT TO SUBSECTION (4) OF THIS
20 SECTION SHALL BE DEEMED A WAIVER OF THE RIGHTS AND REMEDIES
21 AVAILABLE UNDER ANY OTHER CONTRACT, COLLECTIVE BARGAINING
22 AGREEMENT, LAW, OR RULE WITH RESPECT TO PROTECTION AGAINST
23 EMPLOYER DISCRIMINATION OR DISCIPLINARY ACTION FOR EMPLOYEE
24 DISCLOSURE OF A VIOLATION OF STANDARDS OF HEALTH CARE PRACTICE.

25 **SECTION 2.** Article 80 of title 13, Colorado Revised Statutes,
26 is amended BY THE ADDITION OF A NEW SECTION to read:

27 **13-80-102.7. Limitation of actions - health care workers.**

1 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO
2 ACTION BY A HEALTH CARE WORKER WHO CLAIMS TO BE AGGRIEVED BY A
3 VIOLATION OF ARTICLE 83 OF TITLE 8, C.R.S., SHALL BE MAINTAINED
4 UNLESS SUCH ACTION IS COMMENCED WITHIN ONE YEAR AFTER THE DATE
5 OF THE ALLEGED VIOLATION.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.