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SENATE BILL 82

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Gay G. Kernan and Elizabeth "Liz" Stefanics

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH CARE; ENACTING THE SAFE HARBOR FOR NURSES
ACT; ESTABLISHING SAFE HARBOR FOR REGISTERED NURSES AND
LICENSED PRACTICAL NURSES; REQUIRING EMPLOYERS TO OFFER SAFE
HARBOR TO NURSES WHO ARE REQUESTED TO ENGAGE IN PRACTICES THAT
NURSES BELIEVE TO BE IN VIOLATION OF THEIR LEGAL DUTIES;
REQUIRING EMPLOYERS TO DEVELOP A PROCESS FOR INVOKING SAFE
HARBOR; PREVENTING EMPLOYERS FROM DISCIPLINING NURSES FOR
INVOKING SAFE HARBOR.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Safe Harbor for Nurses Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Safe Harbor for Nurses Act:

A. "assignment" means the designated responsibility

underscored material = new
[bracketed material] = delete

1 for the provision or supervision of nursing care for a defined
2 period of time in a defined work setting, including the
3 specified functions, duties, practitioner orders, supervisory
4 directives and amount of work designated as an individual
5 nurse's responsibility; provided that changes in a nurse's
6 assignment may occur at any time during the work period;

7 B. "good faith" means taking action supported by a
8 sincere belief with a reasonable factual or legal basis;

9 C. "health care facility" means an entity licensed
10 by the department of health that provides health care on its
11 premises; and

12 D. "nurse" means a nurse licensed pursuant to the
13 Nursing Practice Act as a registered nurse or a licensed
14 practical nurse.

15 SECTION 3. [NEW MATERIAL] SAFE HARBOR--HEALTH CARE
16 FACILITY RESPONSIBILITY.--

17 A. A nurse may invoke safe harbor when:

18 (1) in the nurse's own judgment, the nurse
19 lacks the basic knowledge, skills or abilities necessary to
20 deliver nursing care that is safe and that meets the minimum
21 standards of care to such an extent that accepting the
22 assignment would expose one or more patients to an
23 unjustifiable risk of harm or would constitute a violation of
24 the Nursing Practice Act or board of nursing rules; or

25 (2) the nurse questions the medical

.211620.1

1 reasonableness of another health care provider's order that the
2 nurse is required to execute.

3 B. A health care facility shall develop a process
4 by which a nurse employed or contracted by that facility may
5 invoke safe harbor.

6 C. A safe harbor process shall include:

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

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

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

14 (4) documentation of the resolution of the
15 matter in which safe harbor was invoked.

16 D. A health care facility shall not retaliate,
17 demote, suspend, terminate, discipline, discriminate against or
18 report any action to the board of nursing when a nurse makes a
19 good faith request for safe harbor.