

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 697  
PROPOSED COMMITTEE SUBSTITUTE S697-PCS15181-SQ-48

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.**



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1 (a) An employee allegedly aggrieved by a violation of G.S. 95-241 or G.S. 90-171.47A  
2 may file a written complaint with the Commissioner of Labor alleging the violation. The  
3 complaint shall be filed within 180 days of the alleged violation. Within 20 days following  
4 receipt of the complaint, the Commissioner shall forward a copy of the complaint to the person  
5 alleged to have committed the violation and shall initiate an investigation. If the Commissioner  
6 determines after the investigation that there is not reasonable cause to believe that the allegation  
7 is true, the Commissioner shall dismiss the complaint, promptly notify the employee and the  
8 respondent, and issue a right-to-sue letter to the employee that will enable the employee to  
9 bring a civil action pursuant to G.S. 95-243. If the Commissioner determines after investigation  
10 that there is reasonable cause to believe that the allegation is true, the Commissioner shall  
11 attempt to eliminate the alleged violation by informal methods which may consist of  
12 conference, conciliation, and persuasion. The Commissioner shall make a determination as  
13 soon as possible and, in any event, not later than 90 days after the filing of the complaint."

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