

HOUSE BILL REPORT

HB 2258

As Reported by House Committee On: Judiciary

Title: An act relating to health care provider and health care facility whistleblower protections.

Brief Description: Concerning health care provider and health care facility whistleblower protections.

Sponsors: Representatives Macri, Rodne, Tharinger, Stokesbary, Jinkins, Riccelli, Cody, Fey, McBride, Slatter, Valdez, Appleton, Pollet, Doglio, Stonier and Gregerson.

Brief History:

Committee Activity:

Judiciary: 1/18/18, 1/24/18 [DPS].

Brief Summary of Substitute Bill

- Expands the definition of "whistleblower" to include a health care provider or member of a medical care staff at a health care facility.
- Provides a civil remedy to nonemployee whistleblowers who have been subject to retaliatory action.
- Establishes standards for the sanction process against medical staff.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Ingrid Lewis (786-7289).

Background:

Whistleblower protections, which include confidentiality and freedom from workplace reprisals, extend to consumers, employees, and health care professionals who communicate

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allegations of improper quality of care by a health care facility or provider to the Department of Health in good faith. Only a whistleblower who is an employee of a health care facility or provider may have recourse against retaliatory action.

Hospitals maintain a quality improvement program that includes a medical staff privileges sanction procedure through which professional conduct is reviewed as part of an evaluation of staff privileges of health care providers.

Summary of Substitute Bill:

The definition of "whistleblower" for a person who is a health care professional is amended to include a health care provider or member of a medical care staff at a health care facility.

Whistleblower protection is expanded to include a whistleblower who initiates in good faith any investigation or administrative proceeding about a complaint made to the Department of Health.

A nonemployee whistleblower who is subjected to reprisal or retaliatory action by a health care provider or health care facility may file a civil cause of action within two years of the retaliatory action. The nonemployee may recover damages and reasonable attorney's fees and costs, as well as enjoin further violations. A respondent may be awarded attorney's fees for unfounded and frivolous claims by a nonemployee whistleblower.

Absent the adherence to a medical staff privileges sanction process, any reduction of medical staff membership or privileges qualifies as a "reprisal or retaliatory action."

A professional peer review action taken by a health care facility must meet the federal standards for professional review actions.

Substitute Bill Compared to Original Bill:

The substitute bill removes healthcare whistleblower confidentiality protection for persons who participate in or cooperate with an investigation or administrative proceeding.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Whistleblower protections should aim to acknowledge the daily changes to the health care industry. Under current law, healthcare employees receive whistleblower protection. Visiting providers are critical members of a care team and should be provided the same protection against retaliatory actions. Without these protections, providers have limited options which eventually impacts consumers of services.

(Opposed) None.

Persons Testifying: Representative Macri, prime sponsor; and Katie Kolan, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.