

SB 814

Senate Bill No. 814

As Amended

SENATE BILL NO. 814 - By: LEFTWICH of the Senate and MILLER (Ray) of the House.

[professions and occupations - Protection of Required Reporting for Health Care Professionals Act - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 732.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Protection of Required Reporting for Health Care Professionals Act".

B. As used in the Protection of Required Reporting for Health Care Professionals Act:

1. "Health care professional" means any person who performs services for wages or other remuneration under the control and direction of any public or private employer;

2. "Employer" means a hospital, a nursing facility, or a licensed health care provider including, but not limited to, a home health agency or a hospice;

3. "Improper quality of patient care" means any practice, procedure, action or failure to act of an employee or employer that

1 violates any provision of the Oklahoma Nursing Practice Act, an
2 employer's policies, or any other established standard of care
3 related to public or patient health or safety;

4 4. "Public body" means:

- 5 a. the United States Congress, any state legislature or
6 any popularly elected local government body, or any
7 member or employee thereof,
- 8 b. any federal, state or local judiciary, or any member
9 or employee thereof, or any jury,
- 10 c. any federal, state or local regulatory,
11 administrative, or public agency or authority, or
12 instrumentality thereof,
- 13 d. any federal, state, or local law enforcement agency,
14 prosecutorial office, or police or peace officer, or
- 15 e. any division, board, bureau, office, committee, or
16 commission of any of the public bodies described in
17 this subdivision;

18 5. "Retaliatory action" means discharge, threat, suspension,
19 demotion, denial of promotion, discrimination, or any other adverse
20 employment action regarding the employee's compensation, terms,
21 conditions, location, or privileges of employment as a result of
22 required reporting; and

1 6. "Supervisor" means any person who has the authority to
2 direct and control the work performance of an employee.

3 C. No employer shall take retaliatory action against any
4 employee because the employee does any of the following:

5 1. Discloses or threatens to disclose to any person or entity
6 any activity, policy, practice, procedure, action, or failure to act
7 of the employer or agent of the employer that the employee
8 reasonably believes is a violation of any law or that the employee
9 reasonably believes constitutes improper quality of patient care.

10 2. Provides information to, or testifies before, any public
11 body conducting an investigation, a hearing, or an inquiry that
12 involves allegations that the employer has violated any law or has
13 engaged in behavior constituting improper quality of patient care.

14 3. Objects to or refuses to participate in any activity,
15 policy, or practice of the employer or agent that the employee
16 reasonably believes is in violation of a law or constitutes improper
17 quality of patient care.

18 D. Paragraphs 1 and 3 of subsection C of this section shall not
19 apply unless an employee first reports the alleged violation of law
20 or improper quality of patient care to the employer, supervisor, or
21 other person designated by the employer to address reports by
22 employees of improper quality of patient care, and the employer has
23 had a reasonable opportunity to address the violation. The employer

1 shall address the violation under its compliance plan, if one
2 exists.

3 E. Nothing in this act shall be deemed to diminish the rights,
4 privileges or remedies of any employee under any law or employment
5 contract.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 732.2 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 A. An employee aggrieved by a violation of this section may:

10 1. Utilize any available internal process, grievance procedure
11 or similar process available to the employee to maintain or restore
12 any loss of employment rights with the employer; or

13 2. Thereafter, bring an action in the district court of the
14 county in which the violation is alleged to have occurred.

15 B. The completion of an internal process, grievance procedure
16 or similar process under the provisions of paragraph 1 of subsection
17 A of this section shall be a condition precedent to bringing an
18 action in district court pursuant to the provisions of paragraph 2
19 of subsection A of this section.

20 C. If the court finds that the employer has violated the
21 provisions of paragraph 2 of subsection C of Section 1 of this act,
22 the court shall order, as appropriate:

1 1. Reinstatement of the employee, including employment
2 benefits, seniority and the same or an equivalent position, shift
3 schedule, or work hours as the employee had before the retaliatory
4 action;

5 2. Payment of back pay, lost wages, benefits and other
6 remuneration;

7 3. Any appropriate injunctive relief;

8 4. Compensatory damages;

9 5. Punitive damages;

10 6. Attorney fees; or

11 7. Any other appropriate relief.

12 D. An employee named as a defendant in a civil action in
13 retaliation for filing a report required, authorized, or reasonably
14 believed to be required or authorized under this act may file a
15 counterclaim in the pending action or prove a cause of action in a
16 subsequent suit to recover defense costs, including reasonable
17 attorney fees and actual and punitive damages, if the suit is
18 determined to be frivolous, unreasonable or taken in bad faith.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 732.3 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 A. No later than December 1, 2005, the Commissioner of Labor
23 shall develop and distribute to each employer a standard notice as

1 provided in this section. Each notice shall be in clear and
2 understandable language and shall include:

3 1. A summary of this act;

4 2. That an employee, in order to receive the protections of
5 this act, must report, pursuant to the provisions of subsection D of
6 Section 1 of this act, to the employer, to the supervisor, or to the
7 person designated to receive notifications; and

8 3. A space for the name, title and contact information of the
9 person to whom the employee must make a report under the provisions
10 of subsection D of Section 1 of this act.

11 B. No later than January 1, 2006, each employer shall post the
12 notice in the employer's place of business to inform the employees
13 of their protections and obligations under this act. The employer
14 shall post the notice in a prominent and accessible location in the
15 workplace. The employer shall indicate on the notice the name or
16 title of the individual the employer has designated to receive
17 notifications pursuant to the provisions of subsection D of Section
18 1 of this act.

19 C. An employer who violates this section by not posting the
20 notice required by subsection B of this section shall be liable for
21 a civil fine of One Hundred Dollars (\$100.00) for each day of
22 willful violation.

1 SECTION 4. This act shall become effective November 1, 2005.
2 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
3 2-17-05 - DO PASS, As Amended and Coauthored.