

RCW 43.70.075 Identity of whistleblower protected—Remedy for retaliatory action—Definitions—Rules. (1)(a) The identity of a whistleblower must remain confidential if that whistleblower:

(i) Complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility;

(ii) Initiates in good faith any investigation or administrative proceeding about a complaint of improper quality of care made to the department under this section; or

(iii) Submits a notification or report of an adverse event or an incident, in good faith, to the department of health under RCW 70.56.020 or to the independent entity under RCW 70.56.040.

(b) The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints and notifications or reports of adverse events or incidents filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint, initiation, notification, or report was not made or done in good faith.

(c) An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(d) A whistleblower who is not an employee and who as a result of being a whistleblower has been subjected to reprisal or retaliatory action may initiate a civil action in a court of competent jurisdiction to either enjoin further violations, recover actual damages sustained by the whistleblower, or both, and recover the cost of the suit including reasonable attorneys' fees. The court shall award reasonable attorneys' fees in favor of the respondent if the civil action was initiated by a whistleblower who is not an employee and the court finds that the respondent has not engaged in the alleged reprisal or retaliatory action and that the complaint was frivolous, unreasonable, or groundless.

(2) A civil action under this section may not be brought more than two years after the date when the retaliation occurred.

(3) In this section:

(a) "Health care facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, ambulatory surgical facilities licensed under chapter 70.230 RCW, substance use disorder treatment facilities licensed under chapter 71.24 RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(b) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, 71.24, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary

authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(c) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; and the revocation, suspension, or reduction of medical staff membership or privileges without following a medical staff sanction process that is consistent with RCW 7.71.050.

(d) "Whistleblower" means a consumer, employee, or health care professional including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under this section.

(4) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities. [2019 c 62 § 1; 2006 c 8 § 109; 1995 c 265 § 19.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Captions not law—Effective dates—Savings—Severability—1995 c 265: See notes following RCW 70.47.015.