

SSB 5998 - H COMM AMD  
By Committee on Judiciary

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 43.70.075 and 2006 c 8 s 109 are each amended to  
4 read as follows:

5 (1)(a) The identity of a whistleblower (~~who~~) must remain  
6 confidential if that whistleblower:

7 (i) Complains, in good faith, to the department of health about  
8 the improper quality of care by a health care provider, or in a  
9 health care facility(~~, as defined in RCW 43.72.010, or who~~);

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

13 (iii) Submits a notification or report of an adverse event or an  
14 incident, in good faith, to the department of health under RCW  
15 70.56.020 or to the independent entity under RCW 70.56.040(~~, shall~~  
16 remain confidential)).

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

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

29 (d) A whistleblower who is not an employee and who as a result of  
30 being a whistleblower has been subjected to reprisal or retaliatory  
31 action may initiate a civil action in a court of competent  
32 jurisdiction to either enjoin further violations, recover actual

1 damages sustained by the whistleblower, or both, and recover the cost  
2 of the suit including reasonable attorneys' fees. The court shall  
3 award reasonable attorneys' fees in favor of the respondent if the  
4 civil action was initiated by a whistleblower who is not an employee  
5 and the court finds that the respondent has not engaged in the  
6 alleged reprisal or retaliatory action and that the complaint was  
7 frivolous, unreasonable, or groundless.

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

10 (3) In this section:

11 (a) "Health care facility" means hospices licensed under chapter  
12 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health  
13 care facilities as defined in RCW 70.175.020, psychiatric hospitals  
14 licensed under chapter 71.12 RCW, nursing homes licensed under  
15 chapter 18.51 RCW, community mental health centers licensed under  
16 chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed  
17 under chapter 70.41 RCW, ambulatory diagnostic, treatment, or  
18 surgical facilities licensed under chapter 70.41 RCW, ambulatory  
19 surgical facilities licensed under chapter 70.230 RCW, substance use  
20 disorder treatment facilities licensed under chapter 71.24 RCW, and  
21 home health agencies licensed under chapter 70.127 RCW, and includes  
22 such facilities if owned and operated by a political subdivision or  
23 instrumentality of the state and such other facilities as required by  
24 federal law and implementing regulations.

25 (b) "Improper quality of care" means any practice, procedure,  
26 action, or failure to act that violates any state law or rule of the  
27 applicable state health licensing authority under Title 18 or  
28 chapters 70.41, ((70.96A)) 71.24, 70.127, 70.175, 71.05, 71.12, and  
29 71.24 RCW, and enforced by the department of health. Each health  
30 disciplinary authority as defined in RCW 18.130.040 may, with  
31 consultation and interdisciplinary coordination provided by the state  
32 department of health, adopt rules defining accepted standards of  
33 practice for their profession that shall further define improper  
34 quality of care. Improper quality of care shall not include good  
35 faith personnel actions related to employee performance or actions  
36 taken according to established terms and conditions of employment.

37 ((+b)) (c) "Reprisal or retaliatory action" means but is not  
38 limited to: Denial of adequate staff to perform duties; frequent  
39 staff changes; frequent and undesirable office changes; refusal to  
40 assign meaningful work; unwarranted and unsubstantiated report of

1 misconduct pursuant to Title 18 RCW; letters of reprimand or  
2 unsatisfactory performance evaluations; demotion; reduction in pay;  
3 denial of promotion; suspension; dismissal; denial of employment;  
4 ~~((and))~~ a supervisor or superior encouraging coworkers to behave in a  
5 hostile manner toward the whistleblower; and the revocation,  
6 suspension, or reduction of medical staff membership or privileges  
7 without following a medical staff sanction process that is consistent  
8 with section 2 of this act.

9 ~~((e))~~ (d) "Whistleblower" means a consumer, employee, or health  
10 care professional including a health care provider as defined in RCW  
11 7.70.020(1) or member of a medical staff at a health care facility,  
12 who in good faith reports alleged quality of care concerns to the  
13 department of health or initiates, participates, or cooperates in any  
14 investigation or administrative proceeding under this section.

15 ~~((3))~~ (4) Nothing in this section prohibits a health care  
16 facility from making any decision exercising its authority to  
17 terminate, suspend, or discipline an employee who engages in  
18 workplace reprisal or retaliatory action against a whistleblower.

19 ~~((4))~~ (5) The department shall adopt rules to implement  
20 procedures for filing, investigation, and resolution of whistleblower  
21 complaints that are integrated with complaint procedures under Title  
22 18 RCW for health professionals or health care facilities.

23 NEW SECTION. Sec. 2. A new section is added to chapter 7.71 RCW  
24 to read as follows:

25 (1) A medical staff privilege sanction process that results in a  
26 revocation, suspension, or reduction of medical staff privileges or  
27 membership at a health care facility must meet the requirements of  
28 RCW 70.41.200(1)(b).

29 (2) A professional peer review action taken by a health care  
30 facility that imposes a revocation, suspension, or reduction of  
31 medical staff privileges or membership must meet the requirements of  
32 and is subject to 42 U.S.C. Sec. 11112.

33 (3) In this section, "health care facility" has the same meaning  
34 as in RCW 43.70.075."

35 Correct the title.

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