

CHAPTER 61

Professional and Occupational Licenses

ARTICLE 3A

Safe Harbor for Nurses

61-3A-1. Short title.

This act [61-3A-1 through 61-3A-3 NMSA 1978] may be cited as the "Safe Harbor for Nurses Act".

History: Laws 2019, ch. 52, § 1.

ANNOTATIONS

Effective dates. — Laws 2019, ch. 52 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 14, 2019, 90 days after the adjournment of the legislature.

61-3 A-2. Definitions.

As used in the Safe Harbor for Nurses Act:

A. "assignment" means the designated responsibility for the provision or supervision of nursing care for a defined work period in a defined work setting, including the specified functions, duties, practitioner orders, supervisory directives and amount of work designated as an individual nurse's responsibility; provided that changes in a nurse's assignment may occur at any time during the work period;

B. "good faith" means taking action supported by a sincere belief with a reasonable factual or legal basis other than the nurse's moral, religious or personal beliefs;

C. "health care facility" means an entity licensed by the department of health that provides health care on its premises and has three or more nurses;

D. "nurse" means a nurse licensed pursuant to the Nursing Practice Act as a registered nurse or a licensed practical nurse; and

E. "safe harbor" means a process that:

(1) protects a registered nurse or a licensed practical nurse from adverse action by the health care facility where the nurse is working when the nurse makes a good faith request to be allowed to reject an assignment, which request is based on the nurse's:

(a) assessment of the nurse's own education, knowledge, competence or experience; and

(b) immediate assessment of the risk for patient safety or potential violation of the Nursing Practice Act or board of nursing rules; and

(2) provides for further assessment of the situation.

History: Laws 2019, ch. 52, § 2.

ANNOTATIONS

Effective dates. — Laws 2019, ch. 52 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 14, 2019, 90 days after the adjournment of the legislature.

61-3 A-3. Safe harbor; health care facility responsibility.

A. A nurse may invoke safe harbor when:

(1) in the nurse's good faith judgment, the nurse lacks the basic knowledge, skills or abilities necessary to deliver nursing care that is safe and that meets the minimum standards of care to such an extent that accepting the assignment would expose one or more patients to an unjustifiable risk of harm or would constitute a violation of the Nursing Practice Act or board of nursing rules; or

(2) the nurse questions the medical reasonableness of another health care provider's order that the nurse is required to execute.

B. A nurse who intends to invoke safe harbor shall invoke it before the nurse engages in conduct or an assignment giving rise to the nurse's request for safe harbor. A nurse may also invoke safe harbor at any time during the work period, when an initial assignment changes and, in the nurse's good faith judgment, the change creates a situation that comports with the requirements for invoking safe harbor pursuant to Subsection A of this section. A health care facility shall develop a process by which a nurse employed or contracted by that facility may invoke safe harbor.

C. A safe harbor process shall include:

(1) notification to all nurses on staff as to how safe harbor may be invoked;

(2) notification by the nurse to the nurse's supervisor that the nurse is invoking safe harbor;

(3) written documentation with the date, time and location of the invocation of

safe harbor and the reason for invocation, signed by the supervisor and the nurse;

(4) a post-occurrence review of the situation that:

(a) includes at least one other staff nurse and nurse manager, as the health care facility defines those roles; and

(b) is used to determine whether additional action is required to minimize the likelihood of similar situations in the future; and

(5) documentation of the resolution and review of the matter in which safe harbor was invoked.

D. A health care facility shall not retaliate against, demote, suspend, terminate, discipline, discriminate against or report any action to the board of nursing when a nurse makes a good faith request for safe harbor.

History: Laws 2019, ch. 52, § 3.

ANNOTATIONS

Effective dates. — Laws 2019, ch. 52 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 14, 2019, 90 days after the adjournment of the legislature.