



Health Facility Whistleblower Protection Act (2002 PA 731) (MCL 333.20180)

The People of the State of Michigan enact:

Sec. 20180. (1) A person employed by or under contract to a health facility or agency or any other person acting in good faith who makes a report or complaint including, but not limited to, a report or complaint of a violation of this article or a rule promulgated under this article; who assists in originating, investigating, or preparing a report or complaint; or who assists the department in carrying out its duties under this article is immune from civil or criminal liability that might otherwise be incurred and is protected under the whistleblowers' protection act, 1980 PA 469, MCL15.361 to 15.369. A person described in this subsection who makes or assists in making a report or complaint, or who assists the department as described in this subsection, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article.

(2) Unless a person described in subsection (1) otherwise agrees in writing, the department shall keep the person's identity confidential until disciplinary proceedings under this article are initiated against the subject of the report or complaint and the person making or assisting in originating, investigating, or preparing the report or complaint is required to testify in the disciplinary proceedings. If disclosure of the person's identity is considered by the department to be essential to the disciplinary proceedings and if the person is the complainant, the department shall give the person an opportunity to withdraw the complaint before disclosure.

(3) Subject to subsection (4), a person employed by or under contract to a hospital is immune from civil or criminal liability that might otherwise be incurred and shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment if that person reports to the department, verbally or in writing, an issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. The protections afforded under this subsection do not limit, restrict, or diminish, in any way, the protections afforded under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) Except as otherwise provided in subsection (5), a person employed by or under contract to a hospital is eligible for the immunity and protection provided under subsection (3) only if the person meets all of the following conditions before reporting to the department the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article:

(a) The person gave the hospital 60 days' written notice of the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. A person who provides a hospital written notice as provided under this subdivision shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment. Within 60 days after receiving a written notice of an issue related to the hospital that is an unsafe practice or condition, the hospital shall provide a written response to the person who provided that written notice.

(b) The person had no reasonable expectation that the hospital had taken or would take timely action to address the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article.

(5) Subsection (4) does not apply if the person employed by or under contract to a hospital is required by law to report the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article before the expiration of the 60 days' notice required under subsection (4).

(6) A hospital shall post notices and use other appropriate means to keep a person employed by or under contract to the hospital informed of their protections and obligations under this section. The notices shall be in a form approved by the department. The notice shall be made available on the department's internet website and shall be posted in 1 or more conspicuous places where notices to persons employed by or under contract to a hospital are customarily posted.

(7) As used in this section, "hospital" means a hospital licensed under article 17.



Notice of Employee and Contractor “Whistleblower” Protections And Obligations



Violations of Hospital Licensing Laws or Rules

An employee, contractor or other person acting in good faith who makes or assists in making a report or complaint of a violation of hospital licensing standards, or who assists the Department in its licensing activities, is immune from civil or criminal liability that might otherwise be incurred and is protected under the Whistleblowers' Protection Act, 1980 PA 469, MCL15.361 to 15.369. Unless the person agrees in writing, the Department will keep the person's identity confidential until disciplinary proceedings under this article are initiated and the person is required to testify in the disciplinary proceedings. If disclosure of the person's identity is considered by the department to be essential to the disciplinary proceedings and if the person is the complainant, the Department shall give the person an opportunity to withdraw the complaint before disclosure.

Other Unsafe Hospital Practices Or Conditions

A hospital employee or contractor is immune from civil or criminal liability that might otherwise be incurred-- and shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment-- if that person reports to the Department, verbally or in writing, an issue related to the hospital that is an unsafe practice or condition that is not a violation of hospital licensing laws. These protections do not limit, restrict, or diminish, in any way, the protections afforded under the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 to 15.369.

Unless the person is required by law to report earlier, a hospital employee or contractor is eligible for this immunity and protection only if they meet both of the following conditions before reporting to the unsafe practice or condition that is not a violation of hospital licensing laws:

- (a) The person must give the hospital 60 days' written notice of the unsafe practice or condition. (Within 60 days after receiving a written notice, the hospital must provide a written response to the person who provided the notice); and
- (b) The person had no reasonable expectation that the hospital had taken or would take timely action to address the issue related to the hospital that is an unsafe practice or condition.

To Get More Information

A complete copy of Section 20180, the Whistleblower Protection Act and information about lodging a complaint may be obtained from the Department Web site at <http://www.michigan.gov/bhs> or by calling 517-241-4160.