

110TH CONGRESS
1ST SESSION

H. R. 378

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, direct-care registered nurses, and other health care providers by establishing a safe patient handling standard.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2007

Mr. CONYERS introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, direct-care registered nurses, and other health care providers by establishing a safe patient handling standard.

1 (A) implementation of the safe patient
2 handling plan in accordance with this Act and
3 the standard established under section 2; and

4 (B) compliance with reporting and review-
5 ing findings for continual improvements to the
6 safe patient handling plan.

7 **SEC. 4. PROTECTION OF DIRECT-CARE REGISTERED**
8 **NURSES AND OTHER INDIVIDUALS.**

9 (a) REFUSAL OF ASSIGNMENT.—A direct-care reg-
10 istered nurse or other health care provider may refuse to
11 accept an assignment in a health care facility if—

12 (1) the assignment would violate the standard
13 establish under section 2; or

14 (2) the direct-care registered nurse or other
15 health care provider is not prepared by education,
16 training, or experience to fulfill the assignment with-
17 out compromising the safety of any patient or jeop-
18 ardizing the license of the nurse.

19 (b) RETALIATION FOR REFUSAL OF ASSIGNMENT
20 BARRED.—

21 (1) NO DISCHARGE, DISCRIMINATION, OR RE-
22 TALIATION.—No health care facility shall discharge,
23 discriminate, or retaliate in any manner with respect
24 to any aspect of employment, including discharge,
25 promotion, compensation, or terms, conditions, or

1 privileges of employment, against a direct-care reg-
2 istered nurse or other health care provider based on
3 his or her refusal of a work assignment under sub-
4 section (a).

5 (2) NO FILING OF COMPLAINT.—No health care
6 facility shall file a complaint or a report against a
7 direct-care registered nurse or other health care pro-
8 vider with the appropriate State professional discipli-
9 nary agency because of his or her refusal of a work
10 assignment under subsection (a).

11 (c) COMPLAINT TO SECRETARY.—A direct-care reg-
12 istered nurse, health care provider, or other individual
13 may file a complaint with the Secretary of Labor against
14 a health care facility that violates this Act or a standard
15 established under this Act. For any complaint filed, the
16 Secretary shall—

17 (1) receive and investigate the complaint;

18 (2) determine whether a violation of this Act as
19 alleged in the complaint has occurred; and

20 (3) if such a violation has occurred, issue an
21 order that the complaining direct-care registered
22 nurse, health care provider, or other individual shall
23 not suffer any retaliation under subsection (b) or
24 under subsection (d).

25 (d) WHISTLEBLOWER PROTECTION.—

1 (1) RETALIATION BARRED.—A health care fa-
2 cility shall not discriminate or retaliate in any man-
3 ner with respect to any aspect of employment, in-
4 cluding hiring, discharge, promotion, compensation,
5 or terms, conditions, or privileges of employment
6 against any individual who in good faith, individually
7 or in conjunction with another person or persons—

8 (A) reports a violation or a suspected viola-
9 tion of this Act or the standard established
10 under this Act to the Secretary of Labor, a
11 public regulatory agency, a private accreditation
12 body, or the management personnel of the
13 health care facility;

14 (B) initiates, cooperates, or otherwise par-
15 ticipates in an investigation or proceeding
16 brought by the Secretary, a public regulatory
17 agency, or a private accreditation body con-
18 cerning matters covered by this Act; or

19 (C) informs or discusses with other individ-
20 uals or with representatives of health care facil-
21 ity employees a violation or suspected violation
22 of this Act.

23 (2) GOOD FAITH DEFINED.—For purposes of
24 this subsection, an individual shall be deemed to be

1 acting in good faith if the individual reasonably be-
2 lieves—

3 (A) the information reported or disclosed is
4 true; and

5 (B) a violation of this Act or the standard
6 established under this Act has occurred or may
7 occur.

8 (e) CAUSE OF ACTION.—Any direct-care registered
9 nurse or other health care provider who has been dis-
10 charged, discriminated, or retaliated against in violation
11 of subsection (b)(1) or (d), or against whom a complaint
12 has been filed in violation of subsection (b)(2), may bring
13 a cause of action in a United States district court. A di-
14 rect-care registered nurse or other health care provider
15 who prevails on the cause of action shall be entitled to
16 one or more of the following:

17 (1) Reinstatement.

18 (2) Reimbursement of lost wages, compensa-
19 tion, and benefits.

20 (3) Attorneys' fees.

21 (4) Court costs.

22 (5) Other damages.

23 (f) NOTICE.—A health care facility shall include in
24 the notice required under section 3(b) an explanation of
25 the rights of direct-care registered nurses, health care pro-

1 viders, and other individuals under this section and a
2 statement that a direct-care registered nurse, health care
3 provider, or other individual may file a complaint with the
4 Secretary against a health care facility that violates the
5 standard issued under section 2, including instructions for
6 how to file such a complaint.

7 **SEC. 5. DEFINITIONS.**

8 For purposes of this Act:

9 (1) **DIRECT-CARE REGISTERED NURSE.**—The
10 term “direct care registered nurse” means an indi-
11 vidual who has been granted a license by at least 1
12 State to practice as a registered nurse and who pro-
13 vides bedside care or outpatient services for 1 or
14 more patients.

15 (2) **HEALTH CARE PROVIDER.**—The term
16 “health care provider” means any person required
17 by State or Federal laws or regulations to be li-
18 censed, registered, or certified to provide health care
19 services, and being either so licensed, registered, or
20 certified, or exempted from such requirement by
21 other statute or regulation.

22 (3) **EMPLOYMENT.**—The term “employment”
23 includes the provision of services under a contract or
24 other arrangement.

1 (3) HEALTH CARE FACILITY.—The term
2 “health care facility” means an outpatient health
3 care facility, hospital, nursing home, home health
4 care agency, hospice, federally qualified health cen-
5 ter, nurse managed health center, rural health clinic,
6 or any similar healthcare facility that employs di-
7 rect-care registered nurses.

8 (4) DECLARED STATE OF EMERGENCY.—The
9 term “declared state of emergency” means an offi-
10 cially designated state of emergency that has been
11 declared by the Federal Government or the head of
12 the appropriate State or local governmental agency
13 having authority to declare that the State, county,
14 municipality, or locality is in a state of emergency,
15 but does not include a state of emergency that re-
16 sults from a labor dispute in the health care indus-
17 try or consistent under staffing.

18 **SEC. 6. FINANCIAL ASSISTANCE TO NEEDY HEALTH CARE**
19 **FACILITIES IN THE PURCHASE OF SAFE PA-**
20 **TIENT HANDLING EQUIPMENT.**

21 (a) IN GENERAL.—The Secretary of Health and
22 Human Services shall establish a grant program that pro-
23 vides financial assistance to cover some or all of the costs
24 of purchasing safe patient handling equipment for health