New Mexico’s Expanded Employment Protections: The Safe Harbor for Nurses Act

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In recent months, the New Mexico legislature enacted legislation expanding employment protections for nurses. The Safe Harbor for Nurses Act allows registered and licensed practical nurses to refuse assignments under certain conditions without fear of retaliation or other adverse action by their employers.

In January 2019, the New Mexico legislature passed bipartisan Senate Bill (SB) 82, titled the Safe Harbor for Nurses Act. New Mexico Governor Michelle Lujan Grisham signed SB 82 into law on March 14, 2019. It requires healthcare facilities (e.g., “an entity licensed by the department of health that provides health care on its premises”) to implement procedures that allow licensed nurses (e.g., registered nurses or licensed practical nurses employed or contracted by the healthcare facility) to reject assignments under certain circumstances without fear of reprisal from their healthcare facility employers.

Specifically, under SB 82, a registered and licensed practical nurse may reject an assignment when he or she has a good faith belief that he or she “lacks the basic knowledge, skills or abilities necessary to deliver [safe and effective nursing 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 New Mexico Nursing Practice Act or board of nursing rules.” Nurses may also reject assignments when the nurse “questions the medical reasonableness of another health care provider’s order that the nurse is required to execute.”

All healthcare facilities are required to create, implement, and educate nurses about the safe harbor process. The process must include: “(1) notification to all nurses on staff as to how the safe harbor may be invoked; (2) notification by the nurse to the nurse’s supervisor that the nurse is invoking the safe harbor; (3) written documentation with the date, time and location of the invocation of the safe harbor and the reason for the invocation, signed by supervisor and the nurse; and (4) documentation of the resolution of the matter in which safe harbor was invoked.”

Healthcare facilities are prohibited from retaliating against, demoting, suspending, terminating, disciplining, or discriminating against any nurse who “makes a good faith request for safe harbor.”

In light of SB 82, New Mexico healthcare facilities may want to carefully review the law and evaluate any steps necessary to implement the required safe harbor procedures for nurses, including training nurses and their supervisors on the safe harbor process. Additionally, healthcare facilities may want to train supervisors and managers of nurses on the anti-retaliation provisions of the Safe Harbor for Nurses Act.
