

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB379)

Received: 02/28/2000

Received By: malaigm

Wanted: Soon

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Kathy Soderbloom (Robson)

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Employ Priv - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Whistleblower protection for health care workers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 02/28/2000	jgeller 02/28/2000		_____			
/1			jfrantze 02/29/2000	_____	lrb_docadmin 02/29/2000	lrb_docadmin 02/29/2000	
/2	malaigm 03/06/2000	jgeller 03/06/2000	martykr 03/06/2000	_____	lrb_docadmin 03/06/2000	lrb_docadmin 03/06/2000	

FE Sent For:

<END>

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/1		<i>1/2 3/6 jg</i>	jfrantze 02/29/2000	_____	lrb_docadmin 02/29/2000	lrb_docadmin 02/29/2000	

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1?	malaigm	1	2/28 ja	2/29			

FE Sent For:

<END>

Malaise, Gordon

From: Soderbloom, Kathy
Sent: Monday, February 28, 2000 10:17 AM
To: Malaise, Gordon
Subject: FW: Whistle-blower bill

Gordon,

This should be drafted as a substitute to the original bill, AB 379. We would like to have it ready as soon as possible, because the nurses are having their day in the capitol on March 7! The only outstanding question is whether there should be a minimum number of employes placed on the posting requirement. We'll get that answer to you as soon as possible.

Thanks,

Kathy

-----Original Message-----

From: Sweet, Richard
Sent: Tuesday, February 22, 2000 3:04 PM
To: Lonergan, Sandra; Soderbloom, Kathy
Subject: Whistle-blower bill

Sandy/Kathy,

I believe this reflects the changes to AB379 (health care whistle-blower bill) that were agreed to this morning:

1. Page 5, lines 16 to 20: delete those line and substitute "information to any agency, as defined in s. 111.32(6)(a), of the state; to any professionally recognized accrediting or standard-setting body that has accredited, certified or otherwise approved the health care facility or health care provider; or to any employe in a supervisory capacity or in a position to take corrective action, officer or director of the health care facility or health care provider."
2. A new provision would be added to require employers covered by the bill to post a notice of the rights under the bill in a conspicuous place. You may want to model it after s. 103.10(14), Stats., which require employers to post notices regarding the family/medical leave law. (Query--Do you want the notice requirement to apply regardless of the size of the employer, e.g. a sole practice physician with a receptionist?)
3. Page 7, line 7: after that line insert (or wherever Gordon thinks is appropriate):
 "(c) An action by an employe under sub. (2) is not made in good faith if it is based on information that the employe knows or should have known to be false or misleading."
4. Throughout the bill, reference is made to "discharge or otherwise retaliate or discriminate against". These would be replaced by "take disciplinary action"; "disciplinary action" would be defined the same as it is in s. 230.80(2), Stats.

5. Page 6, line 18: delete "or may report". Page 6, lines 19 and 20: delete ",or may in good faith initiate, participate in or testify in,". Page 6, line 20 and 21, delete "or may provide". Same changes on page 7, lines 4 to 7.

6. Language would be added from the proposed Senate substitute amendment (LRBs0276/1, page 4, lines 15 to 24, with modifications to reflect changes under item 1 above) regarding providing information about the whistle-blower report to the health care facility or health care provider.

Let me know if you have any questions.

Dick Sweet

Richard Sweet, Senior Staff Attorney
Wisconsin Legislative Council Staff
P.O. Box 2536
(1 East Main Street, Room 401)
Madison, WI 53701-2536
Phone (608)266-2982
Fax (608)266-3830
E-mail richard.sweet@legis.state.wi.us

1999

Date (time) needed

3/1/00

LRB s 0341/1

GMM:jlg

**SUBSTITUTE AMENDMENT
[TO A BILL]**

Use the appropriate components and routines developed for substitute amendments.

§ A SUBSTITUTE AMENDMENT

TO 1999 ~~SB~~ **AB** 379 (LRB- /)

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:**

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

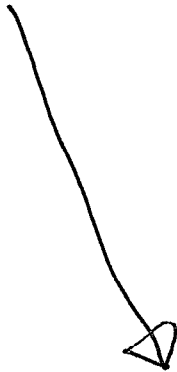
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

11
12
13



**SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 172**



1 AN ACT *to amend* 111.322 (2m) (a) and 111.322 (2m) (b); and *to create* 106.06
2 (6), 146.997 and 230.45 (1) (L) of the statutes; **relating to:** retaliation against
3 an employe of a health care facility or a health care provider who reports a
4 violation of the law or a violation of a clinical or ethical standard by the health
5 care facility or health care provider or by an employe of the health care facility
6 or health care provider and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 106.06 (6) of the statutes is created to read:
8 106.06 (6) The division shall receive complaints under s. 146.997 (4) (a) of
9 disciplinary action taken in violation of s. 146.997 (3) and shall process the
10 complaints in the same manner that employment discrimination complaints are
11 processed under s. 111.39.

12 SECTION 2. 111.322 (2m) (a) of the statutes is amended to read:

1 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
2 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12,
3 109.03, 109.07 ~~or~~, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

4 **SECTION 3.** 111.322 (2m) (b) of the statutes is amended to read:

5 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
6 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
7 103.455, 103.50, 104.12, 109.03, 109.07 ~~or~~, 109.075 or 146.997 or ss. 101.58 to
8 101.599 or 103.64 to 103.82.

9 **SECTION 4.** 146.997 of the statutes is created to read:

10 **146.997 Health care worker protection. (1) DEFINITIONS.** In this section:

11 (a) “Department” means the department of workforce development.

12 (b) “Disciplinary action” has the meaning given in s. 230.80 (2).

13 (c) “Health care facility” means a facility, as defined in s. 647.01 (4), or any
14 hospital, nursing home, community–based residential facility, county home, county
15 infirmary, county hospital, county mental health complex, tuberculosis sanatorium
16 or other place licensed or approved by the department of health and family services
17 under s. 49.70, 49.71, 49.72, 50.03, 50.35, 51.08, 51.09, 58.06, 252.073 or 252.076 or
18 a facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

19 (d) “Health care provider” means any of the following:

20 1. A nurse licensed under ch. 441.

21 2. A chiropractor licensed under ch. 446.

22 3. A dentist licensed under ch. 447.

23 4. A physician, podiatrist or physical therapist licensed under ch. 448.

24 5. An occupational therapist, occupational therapy assistant, physician
25 assistant or respiratory care practitioner certified under ch. 448.

1 6. A dietician certified under subch. V of ch. 448.

2 7. An optometrist licensed under ch. 449.

3 8. A pharmacist licensed under ch. 450.

4 9. An acupuncturist certified under ch. 451.

5 10. A psychologist licensed under ch. 455.

6 11. A social worker, marriage and family therapist or professional counselor
7 certified under ch. 457.

8 12. A speech–language pathologist or audiologist licensed under subch. II of ch.
9 459 or a speech and language pathologist licensed by the department of public
10 instruction.

11 13. A massage therapist or bodyworker issued a license of registration under
12 subch. XI of ch. 440.

13 14. An emergency medical technician licensed under s. 146.50 (5) or a first
14 responder.

15 15. A partnership of any providers specified under subs. 1. to 14.

16 16. A corporation or limited liability company of any providers specified under
17 subs. 1. to 14. that provides health care services.

18 17. An operational cooperative sickness care plan organized under ss. 185.981
19 to 185.985 that directly provides services through salaried employes in its own
20 facility.

21 18. A hospice licensed under subch. IV of ch. 50

22 19. A rural medical center, as defined in s. 50.50 (11).

23 20. A home health agency, as defined in s. 50.49 (1) (a).

24 **(2) REPORTING PROTECTED.** (a) Any employe of a health care facility or of a health
25 care provider who is aware of any information, the disclosure of which is not

-4 ✓
, of the state

1 expressly prohibited by any state law or rule or any federal law or regulation, that
2 would lead a reasonable person to believe any of the following may report that
3 information to any agency, as defined in s. 111.32 (6) (a); to any professionally
4 recognized accrediting or standard-setting body that has accredited, certified or
5 otherwise approved the health care facility or health care provider; to any officer or
6 director of the health care facility or health care provider; or to any employe of the
7 health care facility or health care provider who is in a supervisory capacity or in a
8 position to take corrective action:

9 1. That the health care facility or health care provider or any employe of the
10 health care facility or health care provider has violated any state law or rule or
11 federal law or regulation.

12 2. That there exists any situation in which the quality of any health care service
13 provided by the health care facility or health care provider or by any employe of the
14 health care facility or health care provider violates any standard established by any
15 state law or rule or federal law or regulation or any clinical or ethical standard
16 established by a professionally recognized accrediting or standard-setting body and
17 poses a potential risk to public health or safety.

18 (b) An agency or accrediting or standard-setting body that receives a report
19 under par. (a) shall, within 5 days after receiving the report, notify the health care
20 facility or health provider that is the subject of the report, in writing, that a report
21 alleging a violation specified in par. (a) 1. or 2. has been received and provide the
22 health care facility or health care provider with a written summary of the contents
23 of the report, unless the agency, or accrediting or standard-setting body determines
24 that providing that notification and summary would jeopardize an ongoing

1 investigation of a violation alleged in the report. The notification and summary may
2 not disclose the identity of the person who made the report.

3 (c) Any employe of a health care facility or health care provider may initiate,
4 participate in or testify in any action or proceeding in which a violation specified in
5 par. (a) 1. or 2. is alleged.

6 (d) Any employe of a health care facility or health care provider may provide
7 any information relating to an alleged violation specified in par. (a) 1. or 2. to any
8 legislator or legislative committee.

9 **(3) RETALIATION PROHIBITED.** (a) No health care facility or health care provider
10 and no employe of a health care facility or health care provider may take disciplinary
11 action against, or threaten to take disciplinary action against, any person because
12 the person reported in good faith any information under sub. (2) (a), in good faith
13 initiated, participated in or testified in any action or proceeding under sub. (2) (c) or
14 provided in good faith any information under sub. (2) (d) or because the health care
15 facility, health care provider or employe believes that the person reported in good
16 faith any information under sub. (2) (a), in good faith initiated, participated in or
17 testified in any action or proceeding under sub. (2) (c) or provided in good faith any
18 information under sub. (2) (d).

19 (b) No health care facility or health care provider and no employe of a health
20 care facility or health care provider may take disciplinary action against, or threaten
21 to take disciplinary action against, any person on whose behalf another person
22 reported in good faith any information under sub. (2) (a), in good faith initiated,
23 participated in or testified in any action or proceeding under sub. (2) (c) or provided
24 in good faith any information under sub. (2) (d) or because the health care facility,
25 health care provider or employe believes that another person reported in good faith

1 any information under sub. (2) (a), in good faith initiated, participated in or testified
2 in any action or proceeding under sub. (2) (c) or provided in good faith any
3 information under sub. (2) (d) on that person's behalf.

4 (c) For purposes of pars. (a) and (b), an employe is not acting in good faith if the
5 employe reports any information under sub. (2) (a) that the employe knows or should
6 know is false or misleading, initiates, participates in or testifies in any action or
7 proceeding under sub. (2) (c) based on information that the employe knows or should
8 know is false or misleading or provides any information under sub. (2) (d) that the
9 employe knows or should know is false or misleading.

10 (4) ENFORCEMENT. (a) Subject to par. (b), any employe of a health care facility
11 or health care provider who is subjected to disciplinary action, or who is threatened
12 with disciplinary action, in violation of sub. (3) may file a complaint with the
13 department under s. 106.06 (6). If the department finds that a violation of sub. (3)
14 has been committed, the department may take such action under s. 111.39 as will
15 effectuate the purpose of this section.

16 (b) Any employe of a health care facility operated by an agency, as defined in
17 s. 111.32 (6) (a), of the state who is subjected to disciplinary action, or who is
18 threatened with disciplinary action, in violation of sub. (3) may file a complaint with
19 the personnel commission under s. 230.45 (1) (L). If the personnel commission finds
20 that a violation of sub. (3) has been committed, the personnel commission may take
21 such action under s. 111.39 as will effectuate the purpose of this section.

22 (c) Section 111.322 (2m) applies to a disciplinary action arising in connection
23 with any proceeding under par. (a) or (b).

24 (5) CIVIL PENALTY. Any health care facility or health care provider and any
25 employe of a health care facility or health care provider who takes disciplinary action

1 against, or who threatens to take disciplinary action against, any person in violation
2 of sub. (3) may be required to forfeit not more than \$1,000 for a first violation, not
3 more than \$5,000 for a violation committed within 12 months of a previous violation
4 and not more than \$10,000 for a violation committed within 12 months of 2 or more
5 previous violations. The 12-month period shall be measured by using the dates of
6 the violations that resulted in convictions.

7 (6) **POSTING OF NOTICE.** Each health care facility and health care provider shall
8 post, in one or more conspicuous places where notices to employees are customarily
9 posted, a notice in a form approved by the department setting forth employees' rights
10 under this section. Any health care facility or health care provider that violates this
11 subsection shall forfeit not more than \$100 for each offense.

12 **SECTION 5.** 230.45 (1) (L) of the statutes is created to read:

13 230.45 (1) (L) Receive complaints under s. 146.997 (4) (a) of disciplinary action
14 taken in violation of s. 146.997 (3) and, except as provided in sub. (1m), process the
15 complaints in the same manner that employment discrimination complaints are
16 processed under s. 111.39.

17 **SECTION 6. Nonstatutory provisions.**

18 (1) **EMPLOYEE NOTIFICATION.** Within 90 days after the effective date of this
19 subsection, each health care facility, as defined in section 146.997 (1) (b) of the
20 statutes, as created by this act, and each health care provider, as defined in section
21 146.997 (1) (c) of the statutes, as created by this act, shall inform its employees of their
22 rights and remedies under this act.

23 **SECTION 7. Initial applicability.**

24 (1) **COLLECTIVE BARGAINING AGREEMENTS.** This act first applies to an employee of
25 a health care facility, as defined in section 146.997 (1) (b) of the statutes, as created

1 by this act, or of a health care provider, as defined in section 146.997 (1) (c) of the
2 statutes, as created by this act, who is affected by a collective bargaining agreement
3 that contains provisions inconsistent with this act on the day on which the collective
4 bargaining agreement expires or is extended, modified or renewed, whichever occurs
5 first.

6

(END)

Barman, Mike

From: Barman, Mike
Sent: Friday, March 03, 2000 3:24 PM
To: Lonergan, Sandra
Subject: 99s0341/1 (per your request)



99s0341/1

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1606/1
GMM/jlg:km

**ASSEMBLY AMENDMENT,
TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0341/1),
TO 1999 ASSEMBLY BILL 379**

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1, line 2: delete "retaliation" and substitute "disciplinary action".
- 3 **2.** Page 5, line 10: delete "RETALIATION" and substitute "DISCIPLINARY ACTION".
- 4 (END)

RVR

Today? (Floor Tomorrow)

(P1, L2 / P5, R10)

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 1999 ASSEMBLY BILL 379

disciplinary action ✓

Reger

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AN ACT *to amend* 111.322 (2m) (a) and 111.322 (2m) (b); and *to create* 106.06 (6), 146.997 and 230.45 (1) (L) of the statutes; **relating to: ~~retaliation~~** against an employe of a health care facility or a health care provider who reports a violation of the law or a violation of a clinical or ethical standard by the health care facility or health care provider or by an employe of the health care facility or health care provider and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 106.06 (6) of the statutes is created to read:

106.06 (6) The division shall receive complaints under s. 146.997 (4) (a) of disciplinary action taken in violation of s. 146.997 (3) and shall process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

1 **SECTION 2.** 111.322 (2m) (a) of the statutes is amended to read:

2 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
3 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12,
4 109.03, 109.07 ~~or~~, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

5 **SECTION 3.** 111.322 (2m) (b) of the statutes is amended to read:

6 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
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9 101.599 or 103.64 to 103.82.

10 **SECTION 4.** 146.997 of the statutes is created to read:

11 **146.997 Health care worker protection.** (1) DEFINITIONS. In this section:

12 (a) “Department” means the department of workforce development.

13 (b) “Disciplinary action” has the meaning given in s. 230.80 (2).

14 (c) “Health care facility” means a facility, as defined in s. 647.01 (4), or any
15 hospital, nursing home, community–based residential facility, county home, county
16 infirmary, county hospital, county mental health complex, tuberculosis sanatorium
17 or other place licensed or approved by the department of health and family services
18 under s. 49.70, 49.71, 49.72, 50.03, 50.35, 51.08, 51.09, 58.06, 252.073 or 252.076 or
19 a facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

20 (d) “Health care provider” means any of the following:

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23 3. A dentist licensed under ch. 447.

24 4. A physician, podiatrist or physical therapist licensed under ch. 448.

1 5. An occupational therapist, occupational therapy assistant, physician
2 assistant or respiratory care practitioner certified under ch. 448.

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5 8. A pharmacist licensed under ch. 450.

6 9. An acupuncturist certified under ch. 451.

7 10. A psychologist licensed under ch. 455.

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9 certified under ch. 457.

10 12. A speech–language pathologist or audiologist licensed under subch. II of ch.
11 459 or a speech and language pathologist licensed by the department of public
12 instruction.

13 13. A massage therapist or bodyworker issued a license of registration under
14 subch. XI of ch. 440.

15 14. An emergency medical technician licensed under s. 146.50 (5) or a first
16 responder.

17 15. A partnership of any providers specified under subs. 1. to 14.

18 16. A corporation or limited liability company of any providers specified under
19 subs. 1. to 14. that provides health care services.

20 17. An operational cooperative sickness care plan organized under ss. 185.981
21 to 185.985 that directly provides services through salaried employes in its own
22 facility.

23 18. A hospice licensed under subch. IV of ch. 50

24 19. A rural medical center, as defined in s. 50.50 (11).

25 20. A home health agency, as defined in s. 50.49 (1) (a).

1 **(2) REPORTING PROTECTED.** (a) Any employe of a health care facility or of a health
2 care provider who is aware of any information, the disclosure of which is not
3 expressly prohibited by any state law or rule or any federal law or regulation, that
4 would lead a reasonable person to believe any of the following may report that
5 information to any agency, as defined in s. 111.32 (6) (a), of the state; to any
6 professionally recognized accrediting or standard–setting body that has accredited,
7 certified or otherwise approved the health care facility or health care provider; to any
8 officer or director of the health care facility or health care provider; or to any employe
9 of the health care facility or health care provider who is in a supervisory capacity or
10 in a position to take corrective action:

11 1. That the health care facility or health care provider or any employe of the
12 health care facility or health care provider has violated any state law or rule or
13 federal law or regulation.

14 2. That there exists any situation in which the quality of any health care service
15 provided by the health care facility or health care provider or by any employe of the
16 health care facility or health care provider violates any standard established by any
17 state law or rule or federal law or regulation or any clinical or ethical standard
18 established by a professionally recognized accrediting or standard–setting body and
19 poses a potential risk to public health or safety.

20 (b) An agency or accrediting or standard–setting body that receives a report
21 under par. (a) shall, within 5 days after receiving the report, notify the health care
22 facility or health provider that is the subject of the report, in writing, that a report
23 alleging a violation specified in par. (a) 1. or 2. has been received and provide the
24 health care facility or health care provider with a written summary of the contents
25 of the report, unless the agency, or accrediting or standard–setting body determines

(3) DISCIPLINARY ACTION

1 that providing that notification and summary would jeopardize an ongoing
2 investigation of a violation alleged in the report. The notification and summary may
3 not disclose the identity of the person who made the report.

4 (c) Any employe of a health care facility or health care provider may initiate,
5 participate in or testify in any action or proceeding in which a violation specified in
6 par. (a) 1. or 2. is alleged.

7 (d) Any employe of a health care facility or health care provider may provide
8 any information relating to an alleged violation specified in par. (a) 1. or 2. to any
9 legislator or legislative committee.

10 (3) ~~RETALIATION~~ PROHIBITED. (a) No health care facility or health care provider
11 and no employe of a health care facility or health care provider may take disciplinary
12 action against, or threaten to take disciplinary action against, any person because
13 the person reported in good faith any information under sub. (2) (a), in good faith
14 initiated, participated in or testified in any action or proceeding under sub. (2) (c) or
15 provided in good faith any information under sub. (2) (d) or because the health care
16 facility, health care provider or employe believes that the person reported in good
17 faith any information under sub. (2) (a), in good faith initiated, participated in or
18 testified in any action or proceeding under sub. (2) (c) or provided in good faith any
19 information under sub. (2) (d).

20 (b) No health care facility or health care provider and no employe of a health
21 care facility or health care provider may take disciplinary action against, or threaten
22 to take disciplinary action against, any person on whose behalf another person
23 reported in good faith any information under sub. (2) (a), in good faith initiated,
24 participated in or testified in any action or proceeding under sub. (2) (c) or provided
25 in good faith any information under sub. (2) (d) or because the health care facility,

1 health care provider or employe believes that another person reported in good faith
2 any information under sub. (2) (a), in good faith initiated, participated in or testified
3 in any action or proceeding under sub. (2) (c) or provided in good faith any
4 information under sub. (2) (d) on that person's behalf.

5 (c) For purposes of pars. (a) and (b), an employe is not acting in good faith if the
6 employe reports any information under sub. (2) (a) that the employe knows or should
7 know is false or misleading, initiates, participates in or testifies in any action or
8 proceeding under sub. (2) (c) based on information that the employe knows or should
9 know is false or misleading or provides any information under sub. (2) (d) that the
10 employe knows or should know is false or misleading.

11 (4) ENFORCEMENT. (a) Subject to par. (b), any employe of a health care facility
12 or health care provider who is subjected to disciplinary action, or who is threatened
13 with disciplinary action, in violation of sub. (3) may file a complaint with the
14 department under s. 106.06 (6). If the department finds that a violation of sub. (3)
15 has been committed, the department may take such action under s. 111.39 as will
16 effectuate the purpose of this section.

17 (b) Any employe of a health care facility operated by an agency, as defined in
18 s. 111.32 (6) (a), of the state who is subjected to disciplinary action, or who is
19 threatened with disciplinary action, in violation of sub. (3) may file a complaint with
20 the personnel commission under s. 230.45 (1) (L). If the personnel commission finds
21 that a violation of sub. (3) has been committed, the personnel commission may take
22 such action under s. 111.39 as will effectuate the purpose of this section.

23 (c) Section 111.322 (2m) applies to a disciplinary action arising in connection
24 with any proceeding under par. (a) or (b).

1 **(5) CIVIL PENALTY.** Any health care facility or health care provider and any
2 employe of a health care facility or health care provider who takes disciplinary action
3 against, or who threatens to take disciplinary action against, any person in violation
4 of sub. (3) may be required to forfeit not more than \$1,000 for a first violation, not
5 more than \$5,000 for a violation committed within 12 months of a previous violation
6 and not more than \$10,000 for a violation committed within 12 months of 2 or more
7 previous violations. The 12-month period shall be measured by using the dates of
8 the violations that resulted in convictions.

9 **(6) POSTING OF NOTICE.** Each health care facility and health care provider shall
10 post, in one or more conspicuous places where notices to employes are customarily
11 posted, a notice in a form approved by the department setting forth employes' rights
12 under this section. Any health care facility or health care provider that violates this
13 subsection shall forfeit not more than \$100 for each offense.

14 **SECTION 5.** 230.45 (1) (L) of the statutes is created to read:

15 230.45 (1) (L) Receive complaints under s. 146.997 (4) (a) of disciplinary action
16 taken in violation of s. 146.997 (3) and, except as provided in sub. (1m), process the
17 complaints in the same manner that employment discrimination complaints are
18 processed under s. 111.39.

19 **SECTION 6. Nonstatutory provisions.**

20 **(1) EMPLOYE NOTIFICATION.** Within 90 days after the effective date of this
21 subsection, each health care facility, as defined in section 146.997 (1) (b) of the
22 statutes, as created by this act, and each health care provider, as defined in section
23 146.997 (1) (c) of the statutes, as created by this act, shall inform its employes of their
24 rights and remedies under this act.

25 **SECTION 7. Initial applicability.**

