

119TH CONGRESS
2D SESSION

S. 4086

To establish protections for health care providers who raise concerns about the quality of health care services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2026

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish protections for health care providers who raise concerns about the quality of health care services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Patient Safety and
5 Whistleblower Protections Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) The term “communicate”, with respect to
9 health care safety information, includes written or
10 oral communications.

1 (2) The term “government official” means any
2 local, State, Tribal, or Federal governmental official,
3 including municipal mayors and their staff, State
4 governors and their staff, State legislators and their
5 staff, Federal legislators and their staff, and staff or
6 leaders of Federal agencies or other Federal authori-
7 ties.

8 (3) The term “health care facility” means a fa-
9 cility in which health care services are provided, in-
10 cluding any hospitals, ambulatory surgery centers,
11 skilled nursing facilities, home health agencies, clin-
12 ics, urgent care centers, physician offices, dental of-
13 fices, end-stage renal facilities, chiropractic offices,
14 optometry offices, ophthalmology offices, nursing
15 homes, behavioral health centers, community mental
16 health centers, addiction treatment facilities, reha-
17 bilitation centers, hospices, outpatient therapy facili-
18 ties, and federally-qualified health centers.

19 (4) The term “health care practitioner” means
20 an individual who is licensed by a State, or otherwise
21 authorized, to provide health care services.

22 (5) The term “health care service” means care,
23 treatment, services, or other procedures to maintain,
24 diagnose, or otherwise affect an individual’s physical
25 or mental condition. Such term includes medical,

1 paramedical, nursing, chiropractic, dental, behav-
2 ioral, psychiatric, psychological, and vision services.

3 (6) The term “patient safety concern” means a
4 communication regarding a concern that materially
5 affects the health of one of more patients or that
6 has the potential to materially affect the health of
7 one or more patients, including a concern about—

8 (A) the quality of health care, patient safe-
9 ty, or staffing practices, such as the type of
10 health care practitioner caring for patients or
11 the number of patients for whom a health care
12 practitioner is responsible; or

13 (B) the sufficiency of equipment or sup-
14 plies for the health care services provided, or
15 the appropriateness of health care services or
16 referrals for patients.

17 (7) The term “retaliation” means any adverse
18 employment action against a health care practitioner
19 or any other materially adverse action that would
20 dissuade a reasonable health care practitioner from
21 raising patient safety concerns, including adverse ac-
22 tions against a health care practitioner who is no
23 longer employed by, contracting with, or otherwise
24 providing health care services at the health facility
25 to which the patient safety concerns relate.

1 **SEC. 3. PROHIBITION ON RETALIATION.**

2 (a) IN GENERAL.—A health care facility may not re-
3 taliate against a health care practitioner for commu-
4 nicating about patient safety concerns, including any writ-
5 ten or oral patient safety concerns communicated to—

6 (1) any supervisors, colleagues, or another indi-
7 viduals with authority over health care services or
8 the clinical or financial operations of the health care
9 facility;

10 (2) a State authority with oversight of health
11 care services, health care practitioners, or health
12 care facilities;

13 (3) a government official, including communica-
14 tions at a hearing, in response to written or oral
15 questions from government officials, or in a meeting,
16 phone call, email, or other communication;

17 (4) a patient safety organization, as defined in
18 section 921 of the Public Health Service Act (42
19 U.S.C. 299b–21);

20 (5) any individual, organization, or other body
21 investigating patient safety concerns in response to
22 a communication made by another health care prac-
23 titioner; or

24 (6) only after 90 days following a communica-
25 tion to a person described in paragraphs (1), (2), or

1 (4) that did not result in significant corrective ac-
2 tion, to the news media or press.

3 (b) REBUTTABLE PRESUMPTION.—There shall be a
4 rebuttable presumption that any adverse employment ac-
5 tion or other materially adverse action against the health
6 care practitioner within 180 days of the health care practi-
7 tioner communicating about patient safety concerns is re-
8 taliation.

9 (c) ATTRIBUTION TO HEALTH CARE FACILITY.—Any
10 retaliation by a health care practitioner, manager, super-
11 visor, executive, staffing company, provider organization
12 that contracts to provide services at the health care facil-
13 ity, or management services company shall be attributed
14 to the health care facility that is the subject of patient
15 safety concerns. A health care facility may seek indem-
16 nification or contribution from a staffing company, pro-
17 vider organization that contracts to provide services at the
18 health care facility, or management services company for
19 retaliation attributed to the health care facility under this
20 subsection.

21 (d) CLARIFICATION.—Nothing in this section pro-
22 hibits any adverse employment action or other materially
23 adverse action against a health care practitioner that is
24 not in retaliation for communicating about patient safety
25 concerns.

1 (e) INAPPLICABILITY OF CERTAIN CONTRACTUAL
 2 PROVISIONS.—Notwithstanding any other provision of
 3 law, any contractual provision that would prohibit a pro-
 4 vider from communicating about patient safety concerns,
 5 or otherwise speaking truthfully about the quality of
 6 health care services, shall be null and void.

7 (f) INAPPLICABILITY OF NON-COMPETITION PROVI-
 8 SIONS.—A health care practitioner who communicates
 9 about patient safety concerns shall be released from any
 10 existing non-competition agreement with the employer or
 11 contractor of the health care practitioner if the non-com-
 12 petition agreement relates to the health care practitioner's
 13 employment or contract work at the health facility that
 14 is the subject of patient safety concerns.

15 (g) BAD FAITH COMMUNICATIONS.—Nothing in this
 16 section shall be construed as prohibiting a civil lawsuit
 17 against a health care practitioner who communicated
 18 about patient safety concerns in bad faith, if an inde-
 19 pendent investigation has determined that the patient
 20 safety concerns were not valid.

21 **SEC. 4. ENFORCEMENT.**

22 (a) INDIVIDUAL ACTIONS.—

23 (1) IN GENERAL.—A health care facility that
 24 retaliates against a health care practitioner for com-
 25 municating patient safety concerns is liable to that

1 practitioner in an amount equal to the sums deter-
2 mined in paragraph (2).

3 (2) DAMAGES.—In an individual action under
4 paragraph (1), the sum awarded for liability is equal
5 to—

6 (A) actual damage sustained by the health
7 care practitioner;

8 (B) attorney's fees and costs; and

9 (C) punitive damages of up to \$1,000,000.

10 (b) CLASS ACTIONS.—

11 (1) IN GENERAL.—Class actions are authorized
12 for health care practitioners who communicate pa-
13 tient safety concerns at the same health care facility
14 or at different health care facilities under the same
15 management or ownership. The subject of patient
16 safety concerns or the form of retaliation need not
17 be identical to establish a common scheme of retali-
18 ating against health care practitioners who commu-
19 nicate patient safety concerns.

20 (2) DAMAGES.—In a class action under para-
21 graph (1), the sum awarded for liability is equal
22 to—

23 (A) the greater of \$10,000 or actual dam-
24 ages for each named individual;

(B) a total amount for all other class members, without regard to a minimum individual recovery amount, of the greatest of—

(i) actual damages;

(ii) \$500,000;

(iii) 1 percent of the net worth of the defendant health care facility; or

(iv) if the defendant health care facility is fully owned, directly or indirectly, by another entity or entities, and, among all such entities that own such facility, the entity with the highest net worth owns at least 1 other health care facility at which retaliation for raising patient safety concerns is alleged in another action under this section or in a complaint described in subsection (d)(1), 1 percent of the net worth of such entity with the highest net worth that owns the health care facility; and

(C) attorney's fees and costs.

(c) STATUTE OF LIMITATIONS.—Any action alleging retaliation for communicating patient safety concerns under this section may be commenced not later than 3

1 years after the last action that is alleged to be retaliatory
2 occurs.

3 (d) REQUIREMENTS PRIOR TO BRING AN ACTION.—

4 An action alleging retaliation for communicating patient
5 safety concerns may be filed—

6 (1) after the health care practitioner—

7 (A) files a complaint with the State au-
8 thority that licenses or otherwise oversees the
9 health care facility that is the subject of the
10 complaint; and

11 (B) in the case that the health facility that
12 is the subject of patient safety concerns is a
13 hospital, files a complaint with the Joint Com-
14 mission on Hospital Accreditation; and

15 (2) not earlier than the date on which—

16 (A) the State authority described in para-
17 graph (1)(A) completes its investigation pursu-
18 ant to such paragraph, and, as applicable, the
19 Joint Commission on Hospital Accreditation de-
20 scribed in paragraph (1)(B) completes its inves-
21 tigation pursuant to such paragraph; or

22 (B) 180 days after the filing of a com-
23 plaint under paragraph (1)(A) and, if applica-
24 ble, a complaint under paragraph (1)(B).

1 **SEC. 5. PROFESSIONAL LIABILITY ACTIONS.**

2 In any civil or criminal action against a health care
3 facility or health care practitioner relating to professional
4 liability, communications about patient safety concerns
5 made by the health care practitioner that is the subject
6 of the civil or criminal action may not be used to draw
7 an adverse inference about the quality of health care serv-
8 ices provided by the health care practitioner. The pre-
9 ceding sentence shall only apply if communications about
10 patient safety concerns were made by the health care prac-
11 titioner prior to the filing of the civil or criminal action
12 against the health care facility or health care practitioner.

13 **SEC. 6. REQUIRING THE REPORTING AND RESOLUTION OF**
14 **PATIENT SAFETY CONCERNS FOR PRO-**
15 **VIDERS OF SERVICES PARTICIPATING IN**
16 **MEDICARE.**

17 (a) IN GENERAL.—Section 1866(a)(1) of the Social
18 Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

19 (1) by moving subparagraphs (W) and (X) 2
20 ems to the left;

21 (2) in subparagraph (X), by striking “and” at
22 the end;

23 (3) in subparagraph (Y), by striking the period
24 at the end and inserting “, and”; and

25 (4) by inserting after subparagraph (Y) the fol-
26 lowing new subparagraph:

1 (4) by inserting after subparagraph (Y) the fol-
 2 lowing new subparagraph:

3 “(Z) to establish—

4 “(i) a mechanism that allows a health care
 5 provider or practitioner to anonymously report
 6 patient safety concerns; and

7 “(ii) a process for investigating and ad-
 8 dressing any patient safety concern reported to
 9 the provider of services.”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 subsection (a) shall take effect 1 year after the date of
 12 enactment of this Act.

13 **SEC. 7. IMPACT ON OTHER LAWS WITH RESPECT TO RE-**
 14 **PORTING PATIENT SAFETY CONCERNS.**

15 Nothing in this Act, including the amendments made
 16 by this Act, shall be construed to limit or supersede the
 17 protections for health care providers with respect to re-
 18 porting patient safety events pursuant to part C of title
 19 IX of the Public Health Service Act (42 U.S.C. 299b–
 20 21 et seq.) or any other Federal or State law on patient
 21 safety reporting.

