

## **Retaliation - Whistleblower**



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## The Retaliation Provisions in RCW 49.60

- Only three retaliation provisions found in RCW 49.60.210
- Retaliation against someone who has opposed a practice forbidden by RCW 49.60, or filed a charge, testified or assisted in a proceeding under RCW 49.60

## State Employee Whistleblower

- RCW 42.40.050
  - A state employee
    - Includes public colleges and universities; does not include county or local government employees.
  - Who in good faith reports alleged improper governmental action to the State Auditor or other public official, initiating an investigation by the Auditor.
    - Not enough that the EE files, the auditor must initiate and investigation.
    - Or EE perceived as reporting, initiating an investigation.
    - Or, EE who provides information to the Auditor, or is believed to have provided information, in an investigation.
    - EE who identifies rules or provides information to the rules review committee, or is believed to have done so.
- A state employee who files a complaint with the ethics board is given whistleblower protection under RCW 42.40 and RCW 49.60(210)
  - Even if the ethics board does not investigate.
  - Retaliator may be subject to a \$5,000 civil penalty
  - RCW 42.52.410

## Welfare Fraud Whistleblower

- RCW 74.04.012 – DSHS
  - Cannot retaliate against someone who is assisting with an office of fraud and accountability investigation.
  - DSHS office investigates fraud and abuse of public assistance benefits, and collects overpayments.
  - Public assistance – medical, welfare, food stamps, TANF.
  - We get the whistleblower retaliation complaints

## State Hospital Whistleblower

- RCW 70.124.060 – State Hospital Whistleblower DSHS
  - State Hospital Whistleblower
  - Persons making reports of patient abuse or neglect, or testifying as to alleged abuse or neglect, are protected.
  - If the person making the report or testifying is an employee of a state hospital, it is an unfair practice under RCW 49.60 for the employer to discharge, expel or otherwise discriminate against the employee for such activity.
- RCW 70.124.100 –State Hospital Whistleblower - DSHS
  - A whistleblower is a resident or employee of a state hospital (Western and/or Eastern Washington Hospitals) or any person licensed as a health care provider, and who in good faith reports alleged abuse, neglect, financial exploitation or abandonment of a patient to DSHS or law enforcement.
  - An employee who is a whistleblower and is subjected to workplace reprisal or retaliatory action, has the remedies provided under RCW 49.60.
  - Workplace reprisal or retaliatory action is defined in the statute.

## Vulnerable Adult Whistleblower

- RCW 74.34.180 – Vulnerable adult whistleblower - DSHS
  - Protects person in facilities, hospice or home health care.
  - A whistleblower is a resident or person with a mandatory duty to report, or a licensed health care professional who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect of a patient or client to DSHS, Department of the Health (DOH) or law enforcement.
    - Mandatory reporters – social workers, health care providers, employees of nursing homes, adult family homes, adult daycare, hospice workers, home health care workers, DSHS contracted care providers, etc.
  - An employee or contractor who is a whistleblower and is subjected to reprisal or retaliatory action has the remedies provided under RCW 49.60.
    - Workplace reprisal or retaliatory action is defined in the statute.

## Health Care Whistleblower

- RCW 43.70.075 – Health Care Whistleblower – DOH

- A whistleblower is a consumer, employee or health care professional who in good faith reports alleged improper quality of care concerns about a patient the Washington State Department of Health.
- Any employee who is a whistleblower and is subjected to workplace reprisal or retaliatory action has the remedies provided under RCW 49.60
  - Workplace reprisal or retaliatory action is defined in the statute.

## Conveyance Industry Whistleblower

- RCW 70.87.310 – Department of Labor and Industries (LNI)
  - Elevators and escalators
  - An employee who reports unsafe conditions of conveyances to LNI or any other city or county governmental department that regulates conveyances, is protected from retaliation has the remedies provided under RCW 49.60.