

CHAPTER 236

AN ACT concerning prevention of violence against health care workers and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:2H-5.17 Short title.

1. This act shall be known and may be cited as the “Violence Prevention in Health Care Facilities Act.”

C.26:2H-5.18 Findings, declarations relative to prevention of violence against health care workers.

2. The Legislature finds and declares that:

a. Violence is an escalating problem in many health care settings in the State and across the nation, and although violence is an increasing problem for many workers, health care workers are at a particularly high risk;

b. According to the Bureau of Labor Statistics, the incidence of injury from nonfatal assaults of health service workers is significantly higher than that of other workers;

c. The actual incidence of violence is likely higher than reported for various reasons, including inadequate reporting mechanisms and because victims under-report incidents out of fear of reprisal, isolation and embarrassment;

d. Violence against health care workers exacts a significant toll on victims, their co-workers, patients, families and visitors;

e. Insurance claims, lost productivity, disruptions to operations, legal expenses and property damage are only a few of the negative effects that workplace violence has on health care facilities;

f. Preventing workplace violence is essential for creating a safe and therapeutic environment for patients;

g. Health care professionals who leave their occupations because of assaults or threats of assault contribute to the general shortage of health care professionals; and

h. It is possible to reduce and mitigate the effects of violence in health care settings through employer-based violence prevention programs.

C.26:2H-5.19 Definitions relative to prevention of violence against health care workers.

3. As used in this act:

“Covered health care facility” means a general or special hospital or nursing home licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), a State or county psychiatric hospital, or a State developmental center.

“Health care worker” means an individual who is employed by a covered health care facility.

“Violence” or “violent act” means any physical assault, or any physical or credible verbal threat of assault or harm against a health care worker.

C.26:2H-5.20 Establishment of violence prevention program in covered health care facility.

4. Within 6 months of the effective date of this act, a covered health care facility shall establish a violence prevention program for the purpose of protecting health care workers. The program shall, at a minimum, include the requirements set forth in this section.

a. (1) The covered health care facility shall establish a violence prevention committee, which shall include a representative of management, or his designee, who shall be

responsible for overseeing all aspects of the program. At least 50% of the members of the committee shall be health care workers who provide direct patient care or otherwise have contact with patients. In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the management of the facility or system shall consult with the applicable collective bargaining agents regarding the selection of the health care worker committee members.

The remaining committee members shall have experience, expertise, or responsibility relevant to violence prevention.

(2) In the case of a health care system that owns or operates more than one covered health care facility or Department of Human Services facilities, the violence prevention program and the committee may be operated at the system or department level, provided that: (a) committee membership includes at least one health care worker from each facility who provides direct care to patients, (b) the committee develops a violence prevention plan for each facility, and (c) data related to violence prevention remain distinctly identifiable for each facility.

b. Within 18 months of the effective date of this act, the committee shall develop and maintain a detailed, written violence prevention plan that identifies workplace risks, and provides specific methods to address them. The plan shall, at a minimum:

(1) provide an annual comprehensive violence risk-assessment for the covered health care facility that considers, to the extent applicable:

(a) the facility's layout, access restrictions, crime rate in surrounding areas, lighting, and communication and alarm devices;

(b) impact of staffing, including security personnel;

(c) the presence of individuals who may pose a risk of violence; and

(d) a review of any records relating to violent incidents at the facility, including incidents required to be reported pursuant to subsection f. of this section, the Occupational Safety and Health Administration Log of Work-Related Injuries and Illnesses (OSHA Form 300), and workers' compensation records;

(2) identify violence prevention policies; and

(3) specify methods to reduce identified risks, including training, and changes to job design, staffing, security, equipment and facility modifications.

c. The covered health care facility shall make a copy of the plan available, upon request, to the Commissioners of Health and Senior Services, Children and Families, and Human Services for on-site inspection, and upon request, to each health care worker and collective bargaining agent that represents health care workers at the facility, except that, in the event the committee determines that the plan contains information that would pose a threat to security if made public, any such information shall be excluded before providing copies to workers or collective bargaining agents.

d. The covered health care facility shall annually conduct violence prevention training. The training shall include a review of: the facility's relevant policies; techniques to de-escalate and minimize violent behavior; appropriate responses to workplace violence, including use of restraining techniques, reporting requirements and procedures; location and operation of safety devices; and resources for coping with violence.

e. The covered health care facility shall have personnel sufficiently trained to identify aggressive and violent predicting factors and the ability to appropriately respond to and manage violent disturbances.

f. The covered health care facility shall keep a record of all violent acts against employees while at work. The records shall be maintained for at least five years following

the reported act, during which time employees, their authorized representatives, and the Department of Health and Senior Services shall have access to the record. The record shall include:

- (1) the date, time and location of the incident;
- (2) the identity and job title of the victim, except that the victim's identity shall not be included if it would not be entered on the Occupational Safety and Health Administration Log of Work-Related Injuries and Illnesses (OSHA Form 300) because it is a privacy concern case under OSHA;
- (3) whether the act was committed by a patient, visitor, or employee;
- (4) the nature of the violent act, including whether a weapon was used;
- (5) a description of physical injuries, if any;
- (6) the number of employees in the vicinity when the incident occurred and their actions in response to the incident, if any; and
- (7) the actions taken by the facility in response to the incident.

The records established pursuant to this subsection shall not be considered public or government records under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

g. The covered health care facility shall establish a post-incident response system that provides, at a minimum, an in-house crisis response team for employee-victims and their co-workers, and individual and group crisis counseling, which may include support groups, family crisis intervention, and professional referrals.

C.26:2H-5.21 Retaliatory action prohibited.

5. A covered health care facility shall not take any retaliatory action against any health care worker for reporting violent incidents. As used in this section, "retaliatory action" shall have the same meaning as provided in section 2 of P.L.1986, c.105 (C.34:19-2).

C.26:2H-5.22 Violations, penalties.

6. A covered health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this act shall be subject to such penalties as the Commissioner of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

C.26:2H-5.23 Rules, regulations.

7. The Commissioners of Health and Senior Services and Human Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

8. This act shall take effect immediately.

Approved January 3, 2008.