

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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AND PASHINSKI, NOVEMBER 16, 2011

REFERRED TO COMMITTEE ON HEALTH, NOVEMBER 16, 2011

AN ACT

1 Providing for violence prevention committees in health care  
2 facilities, for their powers and duties, for remedies and for  
3 the powers and duties of the Department of Labor and  
4 Industry.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Health Care  
9 Facilities Workplace Violence Prevention Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Committee." The violence prevention committee established  
15 by a health care facility pursuant to this act.

16 "Employee." An individual who is employed by a health care  
17 facility, the Commonwealth or a political subdivision who is  
18 involved in direct patient care or clinical care services.

1 "Health care facility." As defined under the act of July 19,  
2 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

3 "Program." A workplace violence prevention program  
4 established by a committee.

5 Section 3. Violence prevention committee.

6 (a) Establishment.--A health care facility shall establish a  
7 violence prevention committee to establish review, administer  
8 and provide guidance about a program relating to the prevention  
9 of workplace violence at the health care facility.

10 (b) Membership.--A committee shall be comprised as follows:

11 (1) At least one member of the committee who shall  
12 represent management or a designee, who shall oversee all  
13 aspects of the program.

14 (2) At least 50% of the members of the committee shall  
15 have direct patient care responsibilities, with the majority  
16 being licensed nurses.

17 (3) The remaining members of the committee shall have  
18 experience, expertise or responsibility relevant to violence  
19 prevention or any other expertise that is considered  
20 beneficial to the committee.

21 (4) In the case of a health care system that is subject  
22 to a collective bargaining agreement, the contractual  
23 agreement can and should designate the number of union  
24 members to serve on the committee as well as the number of  
25 representatives from management. The agreement should also  
26 account for individuals who are employed by the health care  
27 system, but not a member of a union or management.

28 (c) Operation of committee and program.--In the case of a  
29 health care system that owns or operates more than one covered  
30 health care facility, the committee and program may be operated

1 at the system or department level, provided that:

2 (1) Committee membership includes at least one health  
3 care worker from each facility who provides direct care to  
4 patients.

5 (2) The committee develops a violence prevention plan  
6 for each facility.

7 (3) Data related to violence prevention remain  
8 distinctly identifiable for each facility.

9 Section 4. Duties of the committee.

10 (a) Risk assessment evaluation.--A committee shall annually  
11 perform a risk assessment evaluation of any and all aspects or  
12 factors that may put an employee of the health care facility at  
13 risk of workplace violence. Those aspects or factors shall  
14 include, but not be limited to:

15 (1) Working in public settings.

16 (2) Guarding or maintaining property or possessions.

17 (3) Working in high-crime areas.

18 (4) Working late at night or early in the morning.

19 (5) Using commuter lots which are not adequately lit or  
20 frequently patrolled.

21 (6) The existence of uncontrolled public access to the  
22 workplace.

23 (7) Working in public areas with individuals in crisis.

24 (8) Working in areas where a patient or resident may  
25 exhibit violent behavior.

26 (b) Preparation of report and establishment of program.--

27 (1) A committee shall prepare a report from the risk  
28 assessment and establish a violence prevention program. If  
29 there is more than one health care facility within a system,  
30 there shall be a program established for each health care

1 facility.

2 (2) The committee shall develop and maintain a detailed,  
3 written violence prevention plan that identifies workplace  
4 risks and provides specific methods to address them.

5 (3) The committee shall also distribute the written  
6 violence prevention plan to those employees who are  
7 identified to be at risk for workplace violence or any other  
8 employee who requests the report.

9 (4) The committee shall make the report available to the  
10 public upon the proper request.

11 (5) The committee shall also establish a method to  
12 expedite reporting and review of a report of workplace  
13 violence and make written recommendations to the health care  
14 facility management on how to prevent additional incidents of  
15 similar workplace violence.

16 (c) Appropriate employee training.--If the committee  
17 determines it is necessary in order to minimize workplace  
18 violence, the health care facility shall provide appropriate  
19 employee training.

#### 20 Section 5. Reporting of workplace violence.

21 A committee shall designate a senior member of the committee  
22 to develop and support an in-house crisis response team for an  
23 employee who is a victim of workplace violence. The designee  
24 shall coordinate crisis counseling for the employee, coordinate  
25 reporting of the incident to the appropriate authorities and any  
26 other action necessary to assist and support the employee after  
27 the incident of workplace violence.

#### 28 Section 6. Distribution of reports of workplace violence.

29 A report of workplace violence that is submitted to  
30 management or to the health care facility shall also be provided

1 to the committee within 72 hours of the report.

2 Section 7. Retaliation.

3 A health care facility shall not retaliate or discriminate  
4 against an employee for reporting an incident of workplace  
5 violence. Neither participation on the committee nor any of the  
6 actions of the committee shall be grounds for discrimination,  
7 dismissal, discharge or any other employment action adverse to  
8 an employee.

9 Section 8. Remedies.

10 (a) General rule.--Where a health care facility has been  
11 found to have engaged in conduct which caused or maintained a  
12 substantial risk of further workplace violence, including  
13 failing to implement the recommendations of the committee, a  
14 court may enjoin the health care facility from engaging in the  
15 illegal activities and may order any other relief that is  
16 appropriate, including, but not limited to, reinstatement,  
17 removal of the offending party from the employee's work  
18 environment, reimbursement for lost wages, medical expenses,  
19 compensation for emotional distress and attorney fees.

20 (b) Appeals to Department of Labor and Industry.--

21 (1) If the committee concludes that a health care  
22 facility is not acting in good faith in implementing the  
23 recommendations of the committee, the committee, by vote of a  
24 majority of the members, may appeal the health care  
25 facility's decision to the Department of Labor and Industry.

26 (2) If the Department of Labor and Industry after a  
27 hearing determines the health care facility is acting in bad  
28 faith in failing to implement safety recommendations  
29 suggested by the committee, the Department of Labor and  
30 Industry may implement penalties against the health care

1 facility, including appropriate fines and administrative  
2 penalties.

3 Section 9. Effect on collective bargaining agreements.

4 Nothing in this act shall be construed to:

5 (1) Prevent, interfere, exempt or supersede any current  
6 provision of an employee's existing collective bargaining  
7 agreement that provides greater rights and protection than  
8 prescribed by this act.

9 (2) Prevent any new provisions of a collective  
10 bargaining agreement which provide greater rights and  
11 protections from being implemented and applicable to an  
12 employee.

13 Section 10. Rules and regulations.

14 The Secretary of Labor and Industry shall adopt rules and  
15 regulations necessary to implement this act. The rules and  
16 regulations shall include such guidelines as the Secretary of  
17 Labor and Industry deems appropriate regarding workplace  
18 violence prevention programs required pursuant to this act and  
19 related to reporting and monitoring systems and employee  
20 training.

21 Section 11. Effective date.

22 This act shall take effect in 180 days.