

Statement of
The Hospital & Healthsystem Association of Pennsylvania

Before the
House Health Committee

Presented by
Brian C. Eury
Regional Director, Legislative Services
Delaware Valley Healthcare Council of The Hospital & Healthsystem Association of
Pennsylvania

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Good afternoon, Chairman Baker and members of the committee, I am Brian Eury, regional director, legislative services at the Delaware Valley Healthcare Council of The Hospital & Healthsystem Association of Pennsylvania (HAP). HAP represents and advocates for more than 250 acute and specialty care hospitals and health systems in the commonwealth, as well as for the patients and communities they serve.

HAP appreciates the opportunity to provide comments about House Bill 1992, which would mandate the development of violence prevention committees in health care facilities.

Pennsylvania's hospitals and health systems are committed to providing a safe and secure work environment for their employees, patients, and visitors. There are numerous programs in place to guide the hospital industry with establishing the appropriate processes to provide such protections. One such example is the OSHA Guidelines for Preventing Workplace Violence for Health Care & Social Services Workers.

As one of its standards, The Joint Commission requires commission-accredited hospitals (approximately 85% of Pennsylvania hospitals) to plan activities to minimize risks in the environment of care. As a result, many hospitals have taken very specific steps to have structures and processes in place to prevent workplace violence, including performing a risk assessment of their environment for potentially violent situations, and developing specific strategies to address threats to or by employees. Training is provided to all employees.

The elements of performance under this Joint Commission standard require hospitals to have:

- A written plan managing the environmental safety of patients and everyone who enters the hospital's facilities.
- Identification of safety and security risks associated with the environment of care that could affect patients, staff, and other people coming to the hospital's facilities.

- Actions to minimize and eliminate identified safety and security risks in the physical environment.
- Controlled access to and from areas that are identified as security-sensitive.
- Written procedures to follow in the event of a security incident.
- Identified procedures to follow when such an incident occurs.

Risks are identified from internal sources, such as ongoing monitoring of the environment, results of root cause analyses, and results of annual proactive risk assessments. All of these elements are required for accreditation by The Joint Commission.

In addition, the Pennsylvania Department of Health requires that every licensed hospital have a safety committee. Many hospitals have developed their workplace violence prevention plans through their safety committees which address hazards and disasters. Patient safety officers, security, human resources, management, and employees may serve on these committees.

HAP recently surveyed a statistically valid sample of its member hospitals and health systems about their workplace safety plans. The majority of the sample has written plans in place, as well as response teams established to assist employees who have experienced a violent attack in the workplace.

Because this legislation would be implemented by the Pennsylvania Department of Labor & Industry, HAP considers this a management/labor issue. Management/labor issues generally are addressed in collective bargaining agreements where hospitals are unionized. This legislation gives preferential treatment to contractual agreements, whether current or prospective, by dictating policy outside the parameters of the contract rather than allowing for negotiations between both parties.

Finally, the bill infringes on managerial responsibilities to determine how best to approach these processes given geography, plant size, patient mix, service lines, and specialization of care, on top of the licensing requirements set forth by the Department of Health and accreditation standards of The Joint Commission.

As a result of the current processes in place to address workplace safety and violence prevention in hospitals, and our concerns regarding disruption to collective bargaining and managerial responsibility, HAP does not support the creation of additional committees as prescribed by this legislation.

Beyond our principal objections and opposition to this bill, there are difficulties with the language as drafted. In the definition section, "health care facility" is defined under the Health Care Facilities Act to include birthing centers, home health agencies, hospice, long-term care, ambulatory surgical facilities, and cancer centers. The imposition of creating mandated committees on all of these facilities should be carefully considered.

Second, the bill requires that 50 percent of the committee be direct caregivers, with the majority being licensed nurses. The remaining members of the committee are required to have expertise or responsibility relevant to violence prevention. Hospitals employ numerous other health care professionals and support personnel beyond direct caregivers, who are equally at risk. House Bill 1992 does not provide the opportunity for adequate representation from these individuals.

The legislation prescribes which employees should receive written copies of a violence prevention plan. HAP contends that this is too narrow, and that all employees should be aware that violence prevention is a priority, should receive all materials related to a violence prevention process, and should receive appropriate training. Attached is an example of a hospital policy that accomplishes these objectives.

All hospital employees currently are covered by the Whistleblower Protection Law and the remedies under that law; therefore, specific language regarding retaliation should reference the current law, rather than create a different set of expectations.

There seems to be a conflict between court action and the Department of Labor & Industry oversight. The Department of Labor & industry is charged with developing rules and regulations and adherence thereto, regarding plan development, reporting, monitoring, and employee training, as well as an appeals process to the department. The Administrative Agency Law outlines the appeals process to the Court of Common Pleas if the parties are not in agreement with the outcome of the state agency action. The remedy section in House Bill 1992 begins with a General Rule directing court action for illegal activities which are not clearly defined, and appear to eliminate action by the department. In addition, the beginning of the bill describes the violence prevention committee as a body to provide guidance, but the remedies section contains a mandate for the hospital to implement the recommendations of the committee or be subject to court action. It is difficult to determine what actions are the purview of the department, and what actions subject the hospital to immediate court action.

Again, let me emphasize that all Pennsylvania hospitals consider the safety and security of their employees, patients, and visitors of utmost importance. There are existing processes in place that carefully reflect on the specific dynamics and needs of each facility as well as the Department of Health licensing requirements and The Joint Commission accreditation standards. For this reason, and because we are concerned about managerial flexibility and responsibility, HAP opposes this legislation.

Conclusion

Thank you for this opportunity to share HAP's perspective as it relates to this bill. I would be happy to answer any questions you may have.

Attachment

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