
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1746 Session of
2013

INTRODUCED BY MICOZZIE, COHEN, YOUNGBLOOD, HENNESSEY, WATSON,
BARRAR, DIGIROLAMO, QUINN, GODSHALL, RAVENSTAHL, HESS,
R. MILLER, FARRY, GINGRICH AND BRADFORD, OCTOBER 11, 2013

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 11, 2013

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 Nurse
9 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 facility pursuant to this act.

16 "Department." The Department of Labor and Industry of the
17 Commonwealth.

18 "Employee." An individual who is employed by a health

1 facility, the Commonwealth or a political subdivision who is
2 involved in direct patient care or clinical care services.

3 "Health facility." A hospital, long-term care facility or
4 home health care center as those terms are defined under the act
5 of July 19, 1979 (P.L.130, No.48), known as the Health Care
6 Facilities Act.

7 "Program." A workplace violence prevention program
8 established by a committee.

9 "Workplace violence." Violence or the threat of violence
10 against workers.

11 Section 3. Violence prevention committee.

12 (a) Establishment.--A health facility shall establish a
13 violence prevention committee to establish, review, administer
14 and provide guidance about a program relating to the prevention
15 of workplace violence at the health facility.

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

17 (1) At least one member of the committee who shall
18 represent management or a designee, who shall oversee all
19 aspects of the program.

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

23 (3) The remaining members of the committee shall have
24 experience, expertise or responsibility relevant to violence
25 prevention or any other expertise that is considered
26 beneficial to the committee.

27 (4) The committee shall have a proportional
28 representation by union members, selected by their union, and
29 nonunion members elected by secret ballots by their peers.

30 The proportional representation shall incorporate all health

1 care professionals and support personnel at the health
2 facility at risk of becoming a victim of a violent act.

3 (5) In the case of a health care system that is subject
4 to a collective bargaining agreement, the contractual
5 agreement can and should designate the number of union
6 members to serve on the committee, as well as the number of
7 representatives from management. The agreement should also
8 account for individuals who are employed by the health care
9 system, but not a member of a union or management.

10 (c) Operation of committee and program.--In the case of a
11 health care system that owns or operates more than one covered
12 health facility, the committee and program may be operated at
13 the system or department level, provided that:

14 (1) Committee membership include at least one health
15 care worker from each facility who provides direct care to
16 patients.

17 (2) The committee develop a violence prevention plan for
18 each facility.

19 (3) Data related to violence prevention remain
20 distinctly identifiable for each facility.

21 Section 4. Duties of the committee.

22 (a) Risk assessment evaluation.--A committee shall annually
23 perform a risk assessment evaluation of any and all aspects or
24 factors that may put an employee of the health facility at risk
25 of workplace violence. Those aspects or factors shall include,
26 but not be limited to:

27 (1) Working in public settings.

28 (2) Guarding or maintaining property or possessions.

29 (3) Working in high-crime areas.

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

1 (5) Using commuter lots which are not adequately lit or
2 frequently patrolled.

3 (6) The existence of uncontrolled public access to the
4 workplace.

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

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

8 (a.1) Review.--The committee shall meet quarterly to review
9 any case of workplace violence and to perform duties required by
10 this act.

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

12 (1) A committee shall prepare a report from the risk
13 assessment and establish a violence prevention program. If
14 there is more than one health facility within a system, there
15 shall be a program established for each health facility.

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

19 (3) The committee shall also distribute the written
20 violence prevention plan to those employees who are
21 identified to be at risk for workplace violence or any other
22 employee who requests the report.

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

25 (5) The committee shall also establish a method to
26 expedite reporting and review of a report of workplace
27 violence and make written recommendations to the health
28 facility management on how to prevent additional incidents of
29 similar workplace violence.

30 (c) Appropriate employee training.--The committee shall

1 provide appropriate employee training to all health care
2 providers who provide direct patient care at the time of hire
3 and annually thereafter.

4 Section 5. Reporting of workplace violence.

5 (a) Reporting.--An employee of a health facility who
6 reasonably believes that an incident of workplace violence has
7 occurred shall report the occurrence of such incident in
8 accordance with the violence prevention committee plan of the
9 health facility unless the employee knows a report has already
10 been made. The report shall be made immediately or as soon
11 thereafter as reasonably practicable, but in no event later than
12 24 hours after the occurrence or discovery of the incident.

13 (b) Liability.--An employee of a health facility who reports
14 the occurrence of an incident of workplace violence in
15 accordance with subsection (a) shall not be subject to any
16 retaliatory action for reporting the serious event or incident
17 set forth in the act of December 12, 1986 (P.L.1558, No.169),
18 known as the Whistleblower Law.

19 (c) Limitation.--Nothing in this section shall limit a
20 health facility's ability to take appropriate disciplinary
21 action against an employee for failure to meet defined
22 performance expectations or to take corrective action against an
23 employee for unprofessional conduct, including making false
24 reports or failure to report serious events under this section.

25 Section 6. Distribution of reports of workplace violence.

26 A report of workplace violence that is submitted to
27 management or to the health facility shall also be provided to
28 the committee within 72 hours of the report.

29 Section 7. Penalties.

30 (a) Administrative fine.--The department may levy an

1 administrative fine on a health facility or employer that
2 violates this act or any regulation issued under this act. The
3 fine shall be not less than \$100 nor greater than \$1,000 for
4 each violation.

5 (b) Administrative order.--The department may order a health
6 facility to take an action which the department deems necessary
7 to correct a violation of section 4.

8 (c) Administrative agency law.--This section is subject to 2
9 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
10 Commonwealth agencies) and 7 Subch. A (relating to judicial
11 review of Commonwealth agency action).
12 Section 8. Remedies.

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

23 (b) Appeals to department.--

24 (1) If the committee concludes that a health facility is
25 not acting in good faith in implementing the recommendations
26 of the committee, the committee, by vote of a majority of the
27 members, may appeal the health facility's decision to the
28 department.

29 (2) If the department after a hearing determines the
30 health facility is acting in bad faith and failing to

1 implement safety recommendations suggested by the committee,
2 the department may implement penalties against the health
3 facility, including appropriate fines and administrative
4 penalties.

5 Section 9. Effect on collective bargaining agreements.

6 Nothing in this act shall be construed to:

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

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

15 Section 10. Rules and regulations.

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

23 Section 11. Effective date.

24 This act shall take effect in 180 days.