
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 326 Session of
2015

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FEBRUARY 4, 2015

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 4, 2015

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.

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

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

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

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

12 Section 3. Violence prevention committee.

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

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

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

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

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

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

1 The proportional representation shall incorporate all health
2 care professionals and support personnel at the health
3 facility at risk of becoming a victim of a violent act.

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

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

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

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

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

22 Section 4. Duties of the committee.

23 (a) Risk assessment evaluation.--A committee shall annually
24 perform a risk assessment evaluation of the factors that may put
25 an employee of the health facility at risk of workplace
26 violence. Those factors shall include, 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 that 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 (b) Review.--The committee shall meet quarterly to review
9 any case of workplace violence and to perform duties required by
10 this act.

11 (c) Preparation of report and establishment of program.--A
12 committee shall:

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

17 (2) Develop and maintain a detailed, written violence
18 prevention plan that identifies workplace risks and provides
19 specific methods to address them.

20 (3) Distribute the written violence prevention plan to
21 those employees who are identified to be at risk for
22 workplace violence or any other employee who requests the
23 risk assessment report.

24 (4) Make the risk assessment report available to the
25 public upon the proper request.

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

30 (d) Employee training.--The committee shall provide

1 appropriate employee training to all health care providers who
2 provide direct patient care at the time of hire and annually
3 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 the incident in
8 accordance with the violence prevention plan of the health
9 facility unless the employee knows a report has already been
10 made. The report shall be made immediately or as soon thereafter
11 as reasonably practicable, but in no event later than 24 hours
12 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
16 retaliatory action for reporting the serious event or incident
17 as set forth in the act of December 12, 1986 (P.L.1559, No.169),
18 known as the Whistleblower Law.

19 (c) Limitation.--This section does not limit a health
20 facility's ability to take appropriate disciplinary action
21 against an employee for failure to meet defined performance
22 expectations or to take corrective action against an employee
23 for unprofessional conduct, including making false reports or
24 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 be provided to the
28 committee within 72 hours of the submission 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 engaged in
14 conduct that caused or maintained a substantial risk of further
15 workplace violence, including failing to implement the
16 recommendations of a committee, a court may enjoin the health
17 facility from engaging in the illegal activities and may order
18 any other relief that is appropriate, including, but not limited
19 to, reinstatement of an employee, removal of the offending party
20 from the employee's work environment, reimbursement for lost
21 wages, medical expenses, compensation for emotional distress and
22 attorney fees.

23 (b) Appeals to department.--

24 (1) If a 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 This act may not be construed to:

7 (1) Supersede any current provision of an employee's
8 existing collective bargaining agreement that provides
9 greater rights and protection than prescribed by this act.

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

14 Section 10. Rules and regulations.

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

21 Section 11. Effective date.

22 This act shall take effect in 180 days.