

ASSEMBLY BILL NO. 348—ASSEMBLYMEN GORELOW, MUNK;
ASSEFA, FLORES, MARTINEZ AND MCCURDY

MARCH 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to prevent and track workplace violence at certain medical facilities. (BDR 53-843)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 14-17)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational safety and health; requiring certain medical facilities to develop and carry out a plan for the prevention of workplace violence and report incidents of workplace violence to the Division of Industrial Relations of the Department of Business and Industry; prohibiting such a medical facility from taking certain actions against an employee or other provider of care who seeks the assistance of a public safety agency in response to workplace violence or who reports workplace violence; requiring such a medical facility to maintain certain records and provide copies of those records to certain persons upon request; requiring the Division to publish an annual report concerning workplace violence at such medical facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prohibits an employer from maintaining unsafe or unhealthy
- 2 places of employment. (NRS 618.385) Existing law imposes certain requirements
- 3 concerning specific issues related to workplace safety, including the control of
- 4 asbestos, the operation of cranes and the manufacture and use of explosives and
- 5 photovoltaic system projects. (NRS 618.750-618.936) **Section 14** of this bill
- 6 requires a hospital or psychiatric hospital to develop and carry out a plan for the



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prevention of workplace violence. **Section 14** requires such a plan to require training for employees and other providers of care concerning the prevention of workplace violence at certain times during employment. **Section 15** of this bill requires a hospital or psychiatric hospital to collaborate with employees, other providers of care, employee organizations representing employees and any employee organization representing other providers of care in developing, reviewing and revising the training.

Section 14 additionally requires the plan to include procedures for responding to workplace violence and situations that create the potential for workplace violence. **Section 16** of this bill prescribes the required contents of those procedures. **Section 14** further requires the plan to include procedures for: (1) correcting hazards that increase the risk of workplace violence; (2) obtaining assistance from security guards and public safety agencies when appropriate; (3) responding to incidents that create the possibility of mass casualties; and (4) annually assessing and improving on the capability of a hospital or psychiatric hospital to prevent or respond to workplace violence.

Section 17 of this bill requires a hospital or psychiatric hospital to take certain actions relating to the development and implementation of the plan and provide orientation concerning the plan to temporary employees and other providers of care. **Section 17** also requires a hospital or psychiatric hospital to carry out certain controls to prevent and mitigate the risk of workplace violence. **Section 17** additionally requires a hospital or psychiatric hospital to document and report to the Division of Industrial Relations of the Department of Business and Industry certain incidents of workplace violence. **Section 17** bans a hospital or psychiatric hospital from prohibiting an employee or other provider of care from reporting an incident of workplace violence or seeking the assistance of a public safety agency in response to an incident of workplace violence or punishing or retaliating against an employee or other provider of care who reports an incident or seeks such assistance. **Section 19.3** of this bill authorizes an employee who is aggrieved by such prohibited actions to file a complaint with the Division for reinstatement and reimbursement for lost wages and work benefits.

Section 18 of this bill requires a hospital or psychiatric hospital to maintain and make available to the Division upon request certain documentation, including: (1) records relating to the identification of hazards and training sessions; and (2) a log of each incident of workplace violence against an employee or other provider of care. **Section 18** requires a medical facility to provide copies of such records to employees and other providers of care and representatives of such persons upon request. **Section 19** of this bill requires the Division to annually publish a report concerning workplace violence at hospitals and psychiatric hospitals. On July 1, 2021, **section 19.6** of this bill makes the provisions of this bill applicable to various other medical facilities to the same extent as they apply to hospitals and psychiatric hospitals. Such medical facilities include certain large agencies to provide nursing in the home, independent centers for emergency medical care, facilities for intermediate care, facilities for skilled nursing, rural clinics, facilities for modified medical detoxification and community triage centers.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this act have the meaning ascribed to them in those sections.*

Sec. 3. *“Alarm” means a mechanical or electronic communication system that does not rely on the vocalization of a person to alert others to an incident of workplace violence.*

Sec. 4. *“Dangerous weapon” means an item capable of inflicting death or serious bodily injury, regardless of whether the item was designed for that purpose.*

Sec. 5. *“Engineering control” means an aspect of a building, other designed space or device that removes a hazard from the workplace or creates a barrier between an employee or other provider of care and the hazard. The term includes, without limitation:*

1. Electronic access controls to areas occupied by employees or other providers of care;

2. Detectors for weapons, whether installed or handheld;

3. Workstations enclosed with glass that is resistant to shattering;

4. Deep service counters;

5. Separate rooms or areas for patients that pose a high risk of workplace violence;

6. Locks on doors;

7. Furniture affixed to the floor;

8. Opaque glass in rooms for patients that allows an employee or other provider of care to see the location of the patient before entering the room;

9. Closed-circuit television monitoring and video recording;

10. Devices designed to aid the sight of an employee or other provider of care; and

11. Personal alarm devices.

Sec. 6. *“Medical facility” means:*

1. A hospital, as defined in NRS 449.012; or

2. A psychiatric hospital, as defined in NRS 449.0165.

Sec. 7. *“Patient-specific risk factor” means a factor specific to a patient that may increase the likelihood or severity of an incident of workplace violence, including, without limitation:*

1. The mental health of a patient;



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2. *The status of a patient's treatment and medication;*
3. *A history of violent acts by the patient;*
4. *The use of drugs or alcohol by the patient; and*
5. *Any other condition that may cause a patient to experience confusion or disorientation, fail to respond to instruction or behave unpredictably.*

Sec. 8. "Public safety agency" means:

1. *A public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish and suppress fires;*
2. *A law enforcement agency as defined in NRS 277.035; or*
3. *An emergency medical service.*

Sec. 9. "Security guard" has the meaning ascribed to it in NRS 648.016.

Sec. 10. "Threat of violence" means a statement or conduct that:

1. *Causes a person to fear for his or her safety because of the possibility of physical injury; and*
2. *Has no legitimate purpose.*

Sec. 11. "Unit" means a component of a medical facility for providing patient care that is defined by the scope of service provided, the competencies required of its staff, the orientation process and methods for assessing the ability of the members of staff to fulfill their responsibilities.

Sec. 12. "Work practice control" means a procedure or rule that is used to reduce the risk of workplace violence, including, without limitation:

1. *Assigning and placing staff in a manner that reduces patient-specific risk factors;*
2. *Employing or contracting with security guards; and*
3. *Providing training on methods to prevent workplace violence and respond to incidents of workplace violence.*

Sec. 13. "Workplace violence" means any act of violence or threat of violence that occurs at a medical facility, except for a lawful act of self-defense or defense of another person. The term includes, without limitation:

1. *The use or threatened use of physical force against an employee or other provider of care, regardless of whether the employee or other provider of care is physically or psychologically injured; and*
2. *An incident involving the use or threatened use of a firearm or other dangerous weapon, regardless of whether an employee or other provider of care is physically or psychologically injured.*



Sec. 14. 1. A medical facility shall develop and carry out a plan for the prevention of workplace violence. The plan must:

- (a) Be in writing;**
- (b) Be in effect at all times;**
- (c) Be available to be viewed by each employee of the medical facility or other provider of care at the medical facility at all times;**
- (d) Be specific for each unit, area and location maintained by the medical facility; and**
- (e) Be developed in collaboration with employees of the medical facility, other providers of care at the medical facility, any employee organization representing employees of the medical facility and any employee organization representing other providers of care at the medical facility.**

2. The plan developed pursuant to subsection 1 must include, without limitation:

(a) A requirement that all employees of the medical facility and other providers of care at the medical facility receive the training described in section 15 of this act concerning the prevention of workplace violence:

(1) Upon the adoption of a new plan for the prevention of workplace violence;

(2) Upon commencing employment and annually thereafter;

(3) Upon commencing new job duties or a new assignment; and

(4) When conditions change, new equipment or work practices are introduced or a new or previously unrecognized hazard is identified.

(b) Procedures that meet the requirements of section 16 of this act for responding to and investigating incidents of workplace violence.

(c) Procedures that meet the requirements of section 16 of this act for assessing and responding to situations that create the potential for workplace violence.

(d) Applicable procedures for correcting hazards that increase the risk of workplace violence, including, without limitation and to the extent applicable, using engineering controls and work practice controls to eliminate or minimize exposure of employees and other providers of care to such hazards and carrying out corrective actions pursuant to subsection 2 of section 16 of this act.

(e) Procedures for obtaining assistance from security guards or public safety agencies when appropriate.

(f) Procedures for responding to incidents that create the possibility of mass casualties, including, without limitation,



1 incidents involving an active shooter, through the use of plans for
2 evacuation and sheltering that are feasible and appropriate for the
3 medical facility.

4 (g) Procedures for annually assessing and improving on the
5 capability of the medical facility to prevent or respond to
6 workplace violence in collaboration with employees, other
7 providers of care, employee organizations representing employees
8 of medical facilities and employee organizations representing
9 other providers of care at medical facilities, including, without
10 limitation, reviewing logs of workplace violence maintained
11 pursuant to section 18 of this act, staffing, security systems, job
12 design, equipment, facilities and security risks associated with
13 specific areas, units, locations and times.

14 **Sec. 15. 1.** The training provided under the plan developed
15 pursuant to section 14 of this act must address the risks of
16 workplace violence that an employee or other provider of care may
17 be reasonably anticipated to encounter on his or her job and must
18 include, without limitation, instruction concerning:

19 (a) An explanation of the plan and any information necessary
20 for employees and other providers of care to:

21 (1) Understand how the plan improves the safety of each
22 unit, area or location in the medical facility; and

23 (2) Perform the duties that may be required of each
24 employee or other provider of care under the plan;

25 (b) Recognizing situations that may result in workplace
26 violence;

27 (c) When and how to respond to and seek assistance in
28 preventing or responding to workplace violence;

29 (d) Reporting incidents of workplace violence to the medical
30 facility and public safety agencies when appropriate;

31 (e) Resources available to employees and other providers of
32 care in coping with incidents of workplace violence, including,
33 without limitation, debriefing processes established by the medical
34 facility for use after an incident of workplace violence and
35 available programs to assist employees and other providers of care
36 in recovering from incidents of workplace violence; and

37 (f) For each employee or other provider of care who has
38 contact with patients, training concerning verbal intervention and
39 de-escalation techniques that:

40 (1) Allows the employee or other provider of care to
41 practice those techniques with other employees and other
42 providers of care with whom he or she works; and

43 (2) Includes a meeting to debrief each practice session
44 conducted pursuant to subparagraph (1).



2. A medical facility shall collaborate with employees of the medical facility, other providers of care at the medical facility, any employee organizations representing employees of the medical facility and employee organizations representing other providers of care at the medical facility in developing, reviewing and revising the training provided under the plan developed pursuant to section 14 of this act and any curricula or materials used in that training.

Sec. 16. 1. The procedures for responding to and investigating incidents of workplace violence included in the plan adopted pursuant to section 14 of this act must include, without limitation, procedures to:

(a) Carry out, maintain and use alarms and other communications systems to allow employees and other providers of care to seek immediate assistance during an incident of workplace violence;

(b) Ensure an effective response to each incident of workplace violence, including, without limitation, by ensuring that members of the staff of the medical facility are trained to address such incidents and designated to be available to immediately assist in the response to such an incident without interrupting patient care;

(c) Provide immediate medical care or first aid to employees or other providers of care who have been injured in an incident of workplace violence;

(d) Identify each employee or other provider of care involved in an incident of workplace violence;

(e) Offer counseling to each employee and other provider of care affected by an incident of workplace violence;

(f) Offer the opportunity for each employee and other provider of care, including, without limitation, supervisors and security guards, involved in an incident of workplace violence to debrief as soon as possible after the incident at a time and place that is convenient for the employee or other provider of care;

(g) Review any patient-specific risk factors and any measures specified to reduce those factors;

(h) Review the implementation and effectiveness of corrective measures taken under the plan; and

(i) Solicit the opinion of each employee or other provider of care involved in an incident of workplace violence concerning the precipitating factors of the incident and any measures that may have assisted in preventing the incident.

2. The procedures for assessing and responding to situations that create the potential for workplace violence must include, without limitation, procedures for:



(a) Assessing factors that may contribute to or prevent incidents of workplace violence in each unit, area and location of the medical facility. Such factors include, without limitation:

(1) Staffing that contributes to or is insufficient to address the risk of workplace violence;

(2) Sufficiency of security systems, including, without limitation, alarms and emergency response systems and the availability of security guards;

(3) Design of jobs, equipment and facilities;

(4) Environmental risk factors; and

(5) Patient-specific risk factors.

(b) Employees and other providers of care to report incidents of workplace violence and concerns about workplace violence or the potential for workplace violence without fear of reprisal.

(c) Investigating concerns reported pursuant to paragraph (b) and informing employees and other providers of care of the results of such an investigation and any corrective action taken in response to the investigation.

(d) Communicating about workplace violence, including, without limitation:

(1) The manner in which employees and other providers of care may document and communicate information to other employees and other providers of care, including, without limitation, employees and other providers of care who work different hours or on different units, concerning conditions that may increase the potential for workplace violence; and

(2) Means by which to alert employees and other providers of care to the presence, location and nature of a security threat.

3. As used in this section, “environmental risk factors” means factors in the medical facility or an area in which health care services or operations are conducted that may contribute to the likelihood or severity of an incident of workplace violence, including, without limitation, working in an isolated area, poor illumination or blocked visibility and lack of physical barriers between employees or other providers of care and persons who are at a risk of committing workplace violence.

Sec. 17. 1. A medical facility shall:

(a) Ensure that the plan developed pursuant to section 14 of this act is effectively carried out at all times and in all units, areas and locations of the medical facility.

(b) Coordinate risk assessment and development and implementation of the plan developed pursuant to section 14 of this act with independent contractors whose employees provide care in the medical facility.



(c) Ensure that each temporary employee or other provider of care receives an appropriate orientation in the plan developed pursuant to section 14 of this act before beginning work in the medical facility.

(d) Implement engineering controls, work practice controls and other appropriate measures, as applicable, to prevent and mitigate the risk of workplace violence in all units, areas and locations of the facility. Such controls may include, without limitation:

(1) Assignment or placement of sufficient numbers of staff to reduce patient-specific risk factors;

(2) Reconfiguration of spaces in the facility to prevent or minimize potential incidents of workplace violence;

(3) Procedures to prevent the transportation of unauthorized firearms and other dangerous weapons into and within the medical facility; and

(4) Maintenance at all times of a sufficient number of trained staff or security guards to prevent or immediately respond to incidents of workplace violence. Such staff must not have other job duties that hinder their ability to respond immediately to an incident or potential incident of workplace violence.

(e) Report any incident of workplace violence at the medical facility that results in injury, involves a firearm or other dangerous weapon or presents an urgent or emergent threat to the welfare, health or safety of an employee or other provider of care to the Division not later than 24 hours after the incident.

(f) Report any other incident of workplace violence at the medical facility to the Division not later than 72 hours after the incident.

2. A medical facility shall not:

(a) Prohibit an employee or other provider of care from reporting incidents of workplace violence or concerns about workplace violence or seeking the assistance of a public safety agency to respond to an incident of workplace violence; or

(b) Punish or retaliate against an employee or other provider of care for reporting an incident of workplace violence or seeking such assistance.

Sec. 18. 1. A medical facility shall maintain and make available to the Division upon request records related to incidents of workplace violence and actions taken in compliance with sections 14 to 17, inclusive, of this act. Such records must include, without limitation:

(a) Records of the identification, evaluation and correction of hazards that increase the risk of workplace violence.



(b) A log of workplace violence which must include documentation of each incident of workplace violence against an employee of the medical facility or other provider of care at the medical facility, regardless of whether a report of the incident is submitted to the Division pursuant to paragraph (e) or (f) of subsection 1 of section 17 of this act. An entry in the log for an incident of workplace violence must be retained for at least 5 years after the incident and must include, without limitation:

(1) A detailed description of the incident, including, without limitation, the location and circumstances surrounding the incident;

(2) A classification of the perpetrator of the incident;

(3) A classification of the type of incident; and

(4) A description of any consequences of the incident, including, without limitation, any injuries caused by the incident.

(c) A record of each training session provided under the plan developed pursuant to section 14 of this act. Such records must be maintained for at least 1 year after the training session and must include, without limitation, the date and content of the training session and the names and qualifications of each person who provided training as part of the session.

(d) A record of each report to the Division pursuant to NRS 618.378 or paragraph (e) or (f) of subsection 1 of section 17 of this act.

2. Employees, other providers of care and representatives of employees or other providers of care at a medical facility are entitled to access to any records maintained by a medical facility pursuant to this section. A medical facility shall, upon request, provide copies of the records to the employees, other providers of care or representatives within 72 hours after receipt of the request.

3. If a copy of a record is provided pursuant to this section, the first six pages reproduced pursuant to the request must be provided without charge. The charge for each additional page copied must not exceed the cost of reproduction.

4. Records maintained pursuant to this section must not include the personally identifiable information of any patient, employee of the medical facility or other provider of care at the medical facility. Such records must not be maintained or disclosed in a manner that violates NRS 449A.112 or the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto.

5. For the purposes of this section, "representatives of employees or other providers of care at a medical facility" means:

(a) A person previously identified to the Division as an authorized representative of the employee bargaining unit of a



1 *labor organization which has a collective bargaining relationship*
2 *with the employer and represents the affected employees.*

3 *(b) An attorney acting for an affected employee or other*
4 *provider of care.*

5 *(c) Any person designated by a court to act as the official*
6 *representative for the estate of an affected employee or other*
7 *provider of care.*

8 **Sec. 19.** 1. *On or before January 31 of each year, the*
9 *Division shall compile and make available on an Internet website*
10 *maintained by the Division a report concerning workplace*
11 *violence at medical facilities in this State. The report must include,*
12 *without limitation:*

13 *(a) The total number of incidents of workplace violence*
14 *reported pursuant to paragraphs (e) and (f) of subsection 1 of*
15 *section 17 of this act by medical facilities in this State and the*
16 *name of each medical facility that made a report pursuant to*
17 *paragraph (e) or (f) of subsection 1 of section 17 of this act;*

18 *(b) The outcome of any inspection or investigation conducted*
19 *in response to an incident of workplace violence at a medical*
20 *facility;*

21 *(c) Any action taken against a medical facility in response to*
22 *an incident of workplace violence; and*

23 *(d) Recommendations of the Division to prevent workplace*
24 *violence at medical facilities.*

25 2. *The report compiled pursuant to this section must not*
26 *include any personally identifiable information concerning an*
27 *employee, other provider of care or patient of a medical facility or*
28 *any other information for which disclosure would violate NRS*
29 *449A.112 or the Health Insurance Portability and Accountability*
30 *Act of 1996, Public Law 104-191, or any regulations adopted*
31 *pursuant thereto.*

32 **Sec. 19.3.** NRS 618.445 is hereby amended to read as follows:
33 618.445 1. A person shall not discharge or in any manner
34 discriminate against any employee because the employee has filed
35 any complaint or instituted or caused to be instituted any proceeding
36 under or related to this chapter , ~~for~~ has testified or is about to
37 testify in any such proceeding , *has performed an action described*
38 *in paragraph (a) of subsection 2 of section 17 of this act* or
39 because of the exercise by the employee on behalf of himself,
40 herself or others of any right afforded by this chapter.

41 2. Any employee aggrieved by a violation of subsection 1 may
42 file a complaint for the relief afforded under subsection 3 with the
43 Division. Any complaint must be filed with the Division within 30
44 days after the violation has occurred and must set forth in writing
45 the facts constituting the violation.



3. Upon receipt of the complaint by the Division, the Administrator shall cause such investigation to be made as the Administrator deems appropriate. If upon investigation, the Administrator determines that the provisions of subsection 1 have been violated, the Administrator shall bring an action in the name of the Administrator in any appropriate district court against the person who has committed the violation.

4. If the court finds that the employee was discharged or discriminated against in violation of subsection 1, the employee is entitled to reinstatement and reimbursement for lost wages and work benefits.

5. Any decision reached by the Administrator relating to the filing of an action pursuant to this section must be made available to the complaining employee within 90 days after the Division's receipt of the complaint.

Sec. 19.6. Section 6 of this bill is hereby amended to read as follows:

Sec. 6. "Medical facility" means:

1. A hospital, as defined in NRS 449.012;

2. A psychiatric hospital, as defined in NRS 449.0165;

3. An agency to provide nursing in the home, as defined in NRS 449.0015, that has at least 50 employees;

4. An independent center for emergency medical care, as defined in NRS 449.013;

5. A facility for intermediate care, as defined in NRS 449.0038;

6. A facility for skilled nursing, as defined in NRS 449.0039;

7. A rural clinic, as defined in NRS 449.0175;

8. A facility for modified medical detoxification, as defined in NRS 449.00385; or

9. A community triage center, as defined in NRS 449.0031.

Sec. 20. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 21. 1. This section and sections 1 to 19.3, inclusive, and 20 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2020, for all other purposes.

2. Section 19.6 of this act becomes effective:



- 1 (a) Upon passage and approval for the purpose of adopting any
2 regulations and performing any other preparatory administrative
3 tasks that are necessary to carry out the provisions of this act; and
4 (b) On July 1, 2021, for all other purposes.



