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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 769 Session of  
2015

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INTRODUCED BY DINNIMAN, GREENLEAF, RAFFERTY, YUDICHAK AND  
TARTAGLIONE, MAY 1, 2015

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REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 1, 2015

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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  
19 facility, the Commonwealth or a political subdivision who is

1 involved in direct patient care or clinical care services.

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

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

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

10 Section 3. Violence prevention committee.

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

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

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

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

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

26 (4) The committee shall have a proportional  
27 representation by union members, selected by their union, and  
28 nonunion members elected by secret ballots by their peers.  
29 The proportional representation shall incorporate all health  
30 care professionals and support personnel at the health

1 facility at risk of becoming a victim of a violent act.

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

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

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

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

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

20 Section 4. Duties of the committee.

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

25 (1) Working in public settings.

26 (2) Guarding or maintaining property or possessions.

27 (3) Working in high-crime areas.

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

29 (5) Using commuter lots that are not adequately lit or  
30 frequently patrolled.

1 (6) The existence of uncontrolled public access to the  
2 workplace.

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

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

6 (b) Review.--The committee shall meet quarterly to review  
7 any case of workplace violence and to perform duties required by  
8 this act.

9 (c) Preparation of report and establishment of program.--A  
10 committee shall:

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

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

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

22 (4) Make the risk assessment report available to the  
23 public upon the proper request.

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

28 (d) Employee training.--The committee shall provide  
29 appropriate employee training to all health care providers who  
30 provide direct patient care at the time of hire and annually

1 thereafter.

2 Section 5. Reporting of workplace violence.

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

11 (b) Liability.--An employee of a health facility who reports  
12 the occurrence of an incident of workplace violence in  
13 accordance with subsection (a) shall not be subject to  
14 retaliatory action for reporting the serious event or incident  
15 as set forth in the act of December 12, 1986 (P.L.1559, No.169),  
16 known as the Whistleblower Law.

17 (c) Limitation.--This section does not limit a health  
18 facility's ability to take appropriate disciplinary action  
19 against an employee for failure to meet defined performance  
20 expectations or to take corrective action against an employee  
21 for unprofessional conduct, including making false reports or  
22 failure to report serious events under this section.

23 Section 6. Distribution of reports of workplace violence.

24 A report of workplace violence that is submitted to  
25 management or to the health facility shall be provided to the  
26 committee within 72 hours of the submission of the report.

27 Section 7. Penalties.

28 (a) Administrative fine.--The department may levy an  
29 administrative fine on a health facility or employer that  
30 violates this act or any regulation issued under this act. The

1 fine shall be not less than \$100 nor greater than \$1,000 for  
2 each violation.

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

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

10 Section 8. Remedies.

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

21 (b) Appeals to department.--

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

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

1 facility, including appropriate fines and administrative  
2 penalties.

3 Section 9. Effect on collective bargaining agreements.

4 This act may not be construed to:

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

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

12 Section 10. Rules and regulations.

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

19 Section 11. Effective date.

20 This act shall take effect in 180 days.