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## NJ Passes Violence Prevention in Health Care Act

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In the years that I served as the State Ombudsman for the Institutionalized Elderly, I frequently traveled to long-term care facilities to offer in-service training on prevention of abuse and neglect of vulnerable elderly residents. Occasionally, after one of these presentations, health care workers would ask me, "Mr. Isele, we understand that your job is to protect the residents, but who protects us?"

It has long been known that health care workers have the highest incidence of assault injuries of any worker group. In 1989, researchers found that the nursing staff at a psychiatric hospital sustained 16 assaults per 100 employees per year.<sup>1</sup> This rate, which includes assault-related injuries, is nearly double the 8.3 injuries of all types per 100 full time workers in all industries reported by the U.S. Department of Labor.<sup>2</sup> Assaults on health care workers are found in all areas of practice and constitute a serious hazard.

On December 17, 2007, The New Jersey Legislature addressed these concerns by enacting the "Violence Prevention in Health Care Facilities Act" (A-3027/S-1761). Governor Corzine signed it into law on January 3, 2008.

The law directs health care facilities in New Jersey, including general and specialty hospitals, nursing homes, State and county psychiatric hospitals and State developmental centers, to create programs to combat physical violence or credible threats of violence against employees. Within six (6) months, each facility must establish a violence prevention committee. At least 50% of the members shall be direct patient care workers and the rest persons experienced in violence prevention. Within 18 months, each facility must have developed and be maintaining a detailed, written violence prevention plan. The plan must identify workplace risks and include:

- the facility's layout and access restrictions;
- consideration of local crime rates in areas surrounding the facility;
- lighting;
- communication and alarm devices;
- staffing levels;
- security staffing;
- the presence of individuals who may pose a risk of violence; and
- reports of violence at the facility.

Each facility must also specify methods to reduce the risks it has identified, including training, changes to job design, staffing, security, equipment, and facility modifications.

The law also requires facilities to establish annual violence prevention training, to familiarize workers with the facility's violence prevention plan and goals, and prepare them to respond to violent acts or threats appropriately.

### What Is Workplace Violence?

Workplace violence can range from offensive or threatening language to homicide. Examples of violence include the following:

- Threats: Expressions of intent to cause harm, including verbal threats, threatening body language, and written threats.
- Physical assaults: Attacks ranging from slapping and beating to rape or homicide. By law, any attempt to cause physical harm is an assault.
- Muggings: Aggravated assaults, usually conducted by surprise and with intent to rob.

### What Are the Effects of Violence?

Violence may result in minor physical injuries, serious physical injuries, temporary or permanent disability, psychological trauma, or even death. Violence can also have negative impacts on health care facilities, such as decreased worker morale, increased job stress and fear, increased employee turnover, and a hostile working environment.

### Prevention Strategies for Facilities

The new law requires each facility to establish a violence prevention program, to include creation of a violence prevention committee, which will develop and maintain a detailed, written violence prevention plan that identifies workplace risks, and provides specific methods to address those risks.

Each facility's plan should be tailored to address its own risks and needs, but should include:

- Environmental designs, such as emergency signaling, improved lighting, staff emergency exits, and arrangement of furniture and decorative items to minimize their use as weapons. Hospitals should design their triage areas to minimize the risk of assault.
- Administrative controls, such as revised staffing patterns to prevent staff from walking alone, and alerting security personnel or local police when violence is threatened.

- Training of all personnel to recognize risk factors for violence and manage threatening behavior by patients, residents and clients. Training in conflict resolution and environmental hazard awareness are also strongly recommended.

Employers should be prepared to deal with the consequences of violence by providing an environment that promotes open communication and by developing clear written procedures for reporting and responding to violence. Employers are required by this law to establish a post-incident response system that offers and encourages counseling whenever a worker is threatened or assaulted. Facilities are prohibited from taking any retaliatory action against employees who report incidents of violence.

The Commissioners of the Departments of Health and Senior Services and Human Services are authorized to promulgate implementing regulations, which are expected to establish penalties for violations of the provisions of this law.

### Safety Tips for Healthcare Workers

Administrators can improve the safety of their facilities by conducting in-service training programs for staff that offer suggestions as follows:

1. Be alert for behavior that may be signal impending violence, such as verbally expressed anger, threatening gestures, drug or alcohol use, presence of a weapon.
2. Maintain behavior that helps defuse anger, such as a calm, caring attitude; refraining from giving orders; acknowledging the person's feelings; and avoiding rapid movements, getting too close, or speaking loudly.
3. When you enter a room, evaluate the situation for potential violence.
4. Don't isolate yourself with a potentially violent person.
5. Always keep an open exit path - don't let a potentially violent person stand between you and the door.
6. If you can't defuse a hostile situation quickly, remove yourself from the situation, call security for help, and always report violent or threatening incidents to management.

It is now up to each facility to develop programs and policies to address this serious issue in its own unique setting.

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Prior to joining Archer & Greiner, Mr. Isele served as New Jersey's Ombudsman for the Institutionalized Elderly from 1999 - 2007. In addition, he served as a member of the Office of General Counsel for the American Medical Association.

From 1985 to 1991, Mr. Isele served as an adjunct professor in the evening division of Seton Hall University School of Law, and currently serves as an adjunct professor of Law and Ethics at DeVry University. From 1989 to 1991, he served as Chair of the Health & Hospital Law Section of the New Jersey State Bar Association, and was instrumental in advocating for the passage of the New Jersey Advance Directives for Health Care Act in 1991. A graduate of the Catholic University of America and Georgetown University Law Center, Mr. Isele is also certified in Gerontology by the Rutgers University School of Social Work.

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<sup>1</sup> Carmel, H., Hunter, M. "Staff Injuries From Inpatient Violence." *Hospital and Community Psychiatry*, 40(1):41-46 (1989).

<sup>2</sup> Bureau of Labor Statistics, *Occupational Injuries and Illnesses in the United States by Industry*