

Regular Session, 2014

HOUSE BILL NO. 399

BY REPRESENTATIVE ARMES

HEALTH CARE/FACILITIES: Provides relative to the prevention of workplace violence in healthcare facilities

1 AN ACT

2 To enact Part I-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:2031 through 2040, relative to workplace violence; to provide
4 for definitions; to require a healthcare facility to establish a violence prevention
5 committee; to provide for duties of the committee; to provide for reporting of
6 workplace violence; to require distribution of reports of workplace violence; to
7 prohibit retaliation; to provide for civil remedies; to provide for the effect on
8 collective bargaining agreements; to provide rulemaking authority; and to provide
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part I-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of
12 1950, comprised of R.S. 40:2031 through 2040, is hereby enacted to read as follows:

13 PART I-A. HEALTHCARE FACILITIES WORKPLACE VIOLENCE PREVENTION

14 §2031. Short title

15 This Part shall be known and may be cited as the "Healthcare Facilities
16 Workplace Violence Prevention Act".

17 §2032. Definitions

18 When used in this Part, the following words and phrases have the meanings
19 given to them in this Section unless the context clearly indicates otherwise:

1 (1) "Committee" means the violence prevention committee established by
2 a healthcare facility pursuant to this Part.

3 (2) "Employee" means an individual who is employed by a healthcare
4 facility, the state of Louisiana, or a political subdivision who is involved in direct
5 patient care or clinical care services.

6 (3) "Healthcare facility" means a facility or institution licensed by the state
7 to provide healthcare services, including but not limited to a hospital or other
8 licensed inpatient center, ambulatory surgical or treatment center, skilled nursing
9 facility, inpatient hospice facility, residential treatment center, diagnostic, laboratory,
10 or imaging center, or rehabilitation or other therapeutic health setting.

11 (4) "Program" means a workplace violence prevention program established
12 by a committee pursuant to this Part.

13 §2033. Violence prevention committee

14 A. A healthcare facility shall establish a violence prevention committee to
15 establish, review, administer, and provide guidance about a program relating to the
16 prevention of workplace violence at the healthcare facility.

17 B. A committee shall be comprised of the following members:

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

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

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

25 (4) In the case of a healthcare system that is subject to a collective
26 bargaining agreement, the contractual agreement can and should designate the
27 number of union members to serve on the committee as well as the number of
28 representatives from management. The agreement should also account for

1 individuals who are employed by the healthcare system, but not a member of a union
2 or management.

3 C. In the case of a healthcare system that owns or operates more than one
4 covered healthcare facility, the committee and program may be operated at the
5 system or department level, provided that all of the following conditions are met:

6 (1) Committee membership includes at least one healthcare worker from
7 each facility who provides direct care to patients.

8 (2) The committee develops a violence prevention plan for each facility.

9 (3) Data related to violence prevention remain distinctly identifiable for each
10 facility.

11 §2034. Duties of the committee

12 A. A committee shall annually perform a risk assessment evaluation of any
13 and all aspects or factors that may put an employee of the healthcare facility at risk
14 of workplace violence. Those aspects or factors shall include but not be limited to:

15 (1) Working in public settings.

16 (2) Guarding or maintaining property or possessions.

17 (3) Working in high crime areas.

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

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

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

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

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

24 B.(1) A committee shall prepare a report from the risk assessment and
25 establish a violence prevention program. If there is more than one healthcare facility
26 within a system, there shall be a program established for each healthcare facility.

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

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

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

6 (5) The committee shall also establish a method to expedite reporting and
7 review of a report of workplace violence and make written recommendations to the
8 healthcare facility management on how to prevent additional incidents of similar
9 workplace violence.

10 C. If the committee determines it is necessary in order to minimize
11 workplace violence, the healthcare facility shall provide appropriate employee
12 training.

13 §2035. Reporting of workplace violence

14 A committee shall designate a senior member of the committee to develop
15 and support an in-house crisis response team for an employee who is a victim of
16 workplace violence. The designee shall coordinate crisis counseling for the
17 employee, coordinate reporting of the incident to the appropriate authorities, and
18 perform any other action necessary to assist and support the employee after the
19 incident of workplace violence.

20 §2036. Distribution of reports of workplace violence

21 A report of workplace violence that is submitted to management or to the
22 healthcare facility shall also be provided to the committee within seventy-two hours
23 of the report.

24 §2037. Retaliation

25 A healthcare facility shall not retaliate or discriminate against an employee
26 for reporting an incident of workplace violence. Neither participation on the
27 committee nor any of the actions of the committee shall be grounds for
28 discrimination, dismissal, discharge, or any other employment action adverse to an
29 employee.

1 §2038. Remedies; injunction; appeal

2 A. Where a healthcare facility has been found to have engaged in conduct
3 which caused or maintained a substantial risk of further workplace violence,
4 including failing to implement the recommendations of the committee, a court may
5 enjoin the healthcare facility from engaging in the illegal activities and may order
6 any other relief that is appropriate, including but not limited to reinstatement,
7 removal of the offending party from the employee's work environment,
8 reimbursement for lost wages, medical expenses, compensation for emotional
9 distress, and attorney fees.

10 B.(1) If the committee concludes that a healthcare facility is not acting in
11 good faith in implementing the committee's recommendations, the committee, by
12 vote of a majority of the members, may appeal the healthcare facility's decision to
13 the Department of Health and Hospitals.

14 (2) If, after a hearing, the Department of Health and Hospitals determines
15 that the healthcare facility is acting in bad faith in failing to implement safety
16 recommendations suggested by the committee, the Department of Health and
17 Hospitals may implement penalties against the healthcare facility, including
18 appropriate fines and administrative penalties.

19 §2039. Effect on collective bargaining agreements

20 Nothing in this Part shall be construed to do either of the following:

21 (1) Prevent, interfere, exempt, or supersede any current provision of an
22 employee's existing collective bargaining agreement that provides greater rights and
23 protection than prescribed by this Part.

24 (2) Prevent any new provisions of a collective bargaining agreement which
25 provide greater rights and protections from being implemented and applicable to an
26 employee.

27 §2040. Rulemaking authority

28 The Department of Health and Hospitals shall adopt rules and regulations, in
29 accordance with the Administrative Procedure Act, necessary to administer the

1 provisions of this Part. The rules and regulations shall include such guidelines as the
2 Department of Health and Hospitals deems appropriate regarding workplace violence
3 prevention programs required pursuant to this Part and guidelines related to reporting
4 and monitoring systems and employee training.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Armes

HB No. 399

Abstract: Requires a healthcare facility to establish a violence prevention committee.

Proposed law may be cited as the "Healthcare Facilities Workplace Violence Prevention Act".

Proposed law defines "committee", "employee", "healthcare facility", and "program" for the purposes of proposed law.

Proposed law requires a healthcare facility to establish a violence prevention committee to establish, review, administer, and provide guidance about a program relating to the prevention of workplace violence at the healthcare facility.

Proposed law requires the committee to be comprised of the following members:

- (1) At least one member of the committee who shall represent management or a designee, who shall oversee all aspects of the program.
- (2) At least 50% of the members of the committee shall have direct patient care responsibilities, with the majority being licensed nurses.
- (3) The remaining members of the committee shall have experience, expertise, or responsibility relevant to violence prevention or any other expertise that is considered beneficial to the committee.
- (4) In the case of a healthcare system that is subject to a collective bargaining agreement, the contractual agreement can and should designate the number of union members to serve on the committee as well as the number of representatives from management. The agreement should also account for individuals who are employed by the healthcare system, but not a member of a union or management.

Proposed law provides that, in the case of a healthcare system that owns or operates more than one covered healthcare facility, the committee and program may be operated at the system or department level, provided that all of the following conditions are met:

- (1) Committee membership includes at least one healthcare worker from each facility who provides direct care to patients.
- (2) The committee develops a violence prevention plan for each facility.
- (3) Data related to violence prevention remain distinctly identifiable for each facility.

Proposed law requires a committee to annually perform a risk assessment evaluation of any and all aspects or factors that may put an employee of the healthcare facility at risk of workplace violence. Those aspects or factors shall include but not be limited to:

- (1) Working in public settings.
- (2) Guarding or maintaining property or possessions.
- (3) Working in high crime areas.
- (4) Working late at night or early in the morning.
- (5) Using commuter lots which are not adequately lit or frequently patrolled.
- (6) The existence of uncontrolled public access to the workplace.
- (7) Working in public areas with individuals in crisis.
- (8) Working in areas where a patient or resident may exhibit violent behavior.

Proposed law further requires the committee to prepare a report from the risk assessment and establish a violence prevention program. If there is more than one healthcare facility within a system, there shall be a program established for each healthcare facility.

Proposed law requires the committee to develop and maintain a detailed, written violence prevention plan that identifies workplace risks and provides specific methods to address them.

Proposed law requires the committee to distribute the written violence prevention plan to those employees who are identified to be at risk for workplace violence or any other employee who requests the report and to make the report available to the public upon the proper request.

Proposed law requires the committee to also establish a method to expedite reporting and review of a report of workplace violence and to make written recommendations to the healthcare facility management on how to prevent additional incidents of similar workplace violence.

Proposed law requires the healthcare facility to provide appropriate employee training if the committee determines it is necessary in order to minimize workplace violence.

Proposed law requires a committee to designate a senior member of the committee to develop and support an in-house crisis response team for an employee who is a victim of workplace violence. Proposed law requires the designee to coordinate crisis counseling for the employee, coordinate reporting of the incident to the appropriate authorities, and perform any other action necessary to assist and support the employee after the incident of workplace violence.

Proposed law requires a report of workplace violence that is submitted to management or to the healthcare facility to also be provided to the committee within 72 hours of the report.

Proposed law prohibits a healthcare facility from retaliating or discriminating against an employee for reporting an incident of workplace violence. Proposed law provides that neither participation on the committee nor any of the actions of the committee shall be grounds for discrimination, dismissal, discharge, or any other employment action adverse to an employee.

Proposed law where a healthcare facility has been found to have engaged in conduct which caused or maintained a substantial risk of further workplace violence, including failing to implement the recommendations of the committee, a court may enjoin the healthcare facility from engaging in the illegal activities and may order any other relief that is appropriate, including but not limited to reinstatement, removal of the offending party from the employee's work environment, reimbursement for lost wages, medical expenses, compensation for emotional distress, and attorney fees.

Proposed law authorizes a committee, if the committee concludes that a healthcare facility is not acting in good faith in implementing the recommendations of the committee, by vote of a majority of the members, may appeal the healthcare facility's decision to the Department of Health and Hospitals.

Proposed law authorizes the Dept. of Health and Hospitals, if after a hearing the department determines that the healthcare facility is acting in bad faith in failing to implement safety recommendations suggested by the committee, to implement penalties against the healthcare facility, including appropriate fines and administrative penalties.

Nothing in proposed law shall be construed to do either of the following:

- (1) Prevent, interfere, exempt, or supersede any current provision of an employee's existing collective bargaining agreement that provides greater rights and protection than prescribed by proposed law.
- (2) Prevent any new provisions of a collective bargaining agreement which provide greater rights and protections from being implemented and applicable to an employee.

Proposed law requires the Dept. of Health and Hospitals to adopt rules and regulations necessary to administer the provisions of proposed law. Proposed law requires the rules and regulations to include such guidelines as the department deems appropriate regarding workplace violence prevention programs required pursuant to proposed law and guidelines related to reporting and monitoring systems and employee training.

(Adds R.S. 40:2031-2040)