



Rep. Lou Lang

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1 AMENDMENT TO HOUSE BILL 399

2 AMENDMENT NO. _____. Amend House Bill 399, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Health Care Workplace Violence Prevention Act.

7 Section 5. Findings. The General Assembly finds as follows:

8 (1) Violence is an escalating problem in many health
9 care workplaces in this State and across the nation.

10 (2) The actual incidence of workplace violence in
11 health care workplaces, in particular, is likely to be
12 greater than documented because of failure to report such
13 incidents or failure to maintain records of incidents that
14 are reported.

15 (3) Patients, visitors, and health care employees
16 should be assured a reasonably safe and secure environment
17 in a health care workplace.

18 (4) Many health care workplaces have undertaken
19 efforts to ensure that patients, visitors, and employees
20 are safe from violence, but additional personnel training
21 and appropriate safeguards may be needed to prevent
22 workplace violence and minimize the risk and dangers
23 affecting people in connection with the delivery of health
24 care.

1 Section 10. Definitions. In this Act:

2 "Abuse" means (i) any physical injury, sexual abuse, or
3 mental injury inflicted on a patient, employee, or visitor at a
4 health care workplace other than by accidental means or (ii) a
5 perceived immediate, threatened, or impending risk of physical
6 injury.

7 "Department" means the Department of Labor.

8 "Director" means the Director of Labor.

9 "Employee" means any individual who is employed on a
10 full-time, part-time, or contractual basis by a health care
11 workplace.

12 "Health care workplace" means a mental health facility or
13 developmental disability facility as defined in the Mental
14 Health and Developmental Disabilities Code, other than a
15 hospital or unit thereof licensed under the Hospital Licensing
16 Act or operated under the University of Illinois Hospital Act.
17 "Health care workplace" does not include, and shall not be
18 construed to include, any office of a physician licensed to
19 practice medicine in all its branches, an advanced practice
20 nurse, or a physician assistant, regardless of the form of such
21 office.

22 "Imminent danger" means a preliminary determination of
23 immediate, threatened, or impending risk of physical injury as
24 determined by the employee.

25 "Responsible agency" means the State agency that (i)
26 licenses, certifies, registers, or otherwise regulates or
27 exercises jurisdiction over a health care workplace or a health
28 care workplace's activities or (ii) contracts with a health
29 care workplace for the delivery of health care services.

30 "Violence" or "violent act" means any act by a person that
31 causes abuse of another person.

32 Section 15. Workplace violence plan.

1 (a) By July 1, 2006, every health care workplace must adopt
2 and implement a plan to reasonably prevent and protect
3 employees from violence at that setting. The plan must address
4 security considerations related to the following items, as
5 appropriate to the particular workplace, based on the hazards
6 identified in the assessment required under subsection (b):

7 (1) The physical attributes of the health care
8 workplace.

9 (2) Staffing, including security staffing.

10 (3) Personnel policies.

11 (4) First aid and emergency procedures.

12 (5) The reporting of violent acts.

13 (6) Employee education and training.

14 (b) Before adopting the plan required under subsection (a),
15 a health care workplace must conduct a security and safety
16 assessment to identify existing or potential hazards for
17 violence and determine the appropriate preventive action to be
18 taken. The assessment must include, but need not be limited to,
19 a measure of the frequency of, and an identification of the
20 causes for and consequences of, violent acts at the workplace
21 during at least the preceding 5 years or for the years for
22 which records are available.

23 (c) In adopting the plan required by subsection (a), a
24 health care workplace may consider any guidelines on violence
25 in the workplace or in health care workplaces issued by the
26 Department of Public Health, the Department of Human Services,
27 the Department of Labor, the federal Occupational Safety and
28 Health Administration, Medicare, and health care workplace
29 accrediting organizations.

30 (d) It is the intent of the General Assembly that any
31 violence protection and prevention plan developed under this
32 Act be appropriate to the setting in which it is to be
33 implemented. To that end, the General Assembly recognizes that
34 not all health care services are provided in a facility or

1 other formal setting. Many health care services are provided in
2 other, less formal settings. The General Assembly finds that it
3 may inappropriate and impractical for all health care
4 workplaces to address workplace violence in the same manner.
5 When enforcing this Act, the Department shall allow a health
6 care workplace sufficient flexibility in recognition of the
7 unique circumstances in which the health care workplace may
8 deliver services.

9 (e) Promptly after adopting a plan under subsection (a), a
10 health care workplace must file a copy of its plan with the
11 Department. The Department shall then forward a copy of the
12 plan to the appropriate responsible agency.

13 (f) A health care workplace must review its plan at least
14 once every 3 years and must report each such review to the
15 Department, together with any changes to the plan adopted by
16 the health care workplace. If a health care workplace does not
17 adopt any changes to its plan in response to such a review, it
18 must report that fact to the Department. A health care
19 workplace must promptly report to the Department all changes to
20 the health care workplace's plan, regardless of whether those
21 changes were adopted in response to a periodic review required
22 under this subsection. The Department shall then forward a copy
23 of the review report and changes, if any, to the appropriate
24 responsible agency.

25 (g) A health care workplace that is required to submit
26 written documentation of active safety and violence prevention
27 plans to comply with national accreditation standards shall be
28 deemed to be in compliance with subsections (a), (b), (c), and
29 (f) of this Section when the health care workplace forwards a
30 copy of that documentation to the Department.

31 Section 20. Violence prevention training. By July 1, 2007,
32 and on a regular basis thereafter, as set forth in the plan
33 adopted under Section 15, a health care workplace must provide

1 violence prevention training to all its affected employees as
2 determined by the plan. For temporary employees, training must
3 take into account unique circumstances. A health care workplace
4 also shall provide periodic follow-up training for its
5 employees as appropriate. The training may vary by the plan and
6 may include, but need not be limited to, classes, videotapes,
7 brochures, verbal training, or other verbal or written training
8 that is determined to be appropriate under the plan. The
9 training must address the following topics, as appropriate to
10 the particular health care workplace and to the duties and
11 responsibilities of the particular employee being trained,
12 based on the hazards identified in the assessment required
13 under Section 15:

14 (1) General safety procedures.

15 (2) Personal safety procedures.

16 (3) The violence escalation cycle.

17 (4) Violence-predicting factors.

18 (5) Obtaining patient history from a patient with a
19 history of violent behavior.

20 (6) Verbal and physical techniques to de-escalate and
21 minimize violent behavior.

22 (7) Strategies to avoid physical harm.

23 (8) Restraining techniques, as permitted and governed
24 by law.

25 (9) Appropriate use of medications to reduce violent
26 behavior.

27 (10) Documenting and reporting incidents of violence.

28 (11) The process whereby employees affected by a
29 violent act may debrief or be calmed down and the tension
30 of the situation may be reduced.

31 (12) Any resources available to employees for coping
32 with violence.

33 (13) The workplace violence prevention plan adopted
34 under Section 15.

1 (14) The protection of confidentiality in accordance
2 with the Health Insurance Portability and Accountability
3 Act of 1996 and other related provisions of law.

4 Section 25. Record of violent acts; reporting of violent
5 acts. Beginning no later than July 1, 2006, every health care
6 workplace must keep a record of any violent act against an
7 employee, a patient, or a visitor occurring at the workplace.
8 At a minimum, the record must include the following:

9 (1) The health care workplace's name and address.

10 (2) The date, time, and specific location at the health
11 care workplace where the violent act occurred.

12 (3) The name, job title, department or ward assignment,
13 and staff identification or other identifier of the victim,
14 if the victim was an employee.

15 (4) A description of the person against whom the
16 violent act was committed as one of the following:

17 (A) A patient.

18 (B) A visitor.

19 (C) An employee.

20 (D) Other.

21 (5) A description of the person committing the violent
22 act as one of the following:

23 (A) A patient.

24 (B) A visitor.

25 (C) An employee.

26 (D) Other.

27 (6) A description of the type of abuse as one of the
28 following:

29 (A) A verbal or physical threat that presents
30 imminent danger to an employee.

31 (B) A physical assault with major soreness, cuts,
32 or large bruises.

33 (C) A physical assault with severe lacerations, a

1 bone fracture, or a head injury.

2 (D) A physical assault with loss of limb or death.

3 (7) An identification of any body part injured.

4 (8) A description of any weapon used.

5 (9) The number of employees in the vicinity of the
6 violent act when it occurred.

7 (10) A description of actions taken by employees and
8 the health care workplace in response to the violent act.

9 Section 30. Assistance in complying with Act. A health care
10 workplace that needs assistance in complying with this Act may
11 contact the federal Department of Labor or the Illinois
12 Department of Labor for assistance. The Illinois departments of
13 Labor, Human Services, and Public Health shall collaborate with
14 representatives of health care workplaces to develop technical
15 assistance and training seminars on developing and
16 implementing a workplace violence plan as required under
17 Section 15. Those departments shall coordinate their
18 assistance to health care workplaces.

19 Section 35. Rules. The Department shall adopt rules to
20 implement this Act.

21 Section 900. The Mental Health and Developmental
22 Disabilities Administrative Act is amended by adding Section 72
23 as follows:

24 (20 ILCS 1705/72 new)

25 Sec. 72. Violent acts against employees of facilities under
26 the Department's jurisdiction. Within 6 months after the
27 effective date of this amendatory Act of the 94th General
28 Assembly, the Department shall adopt rules prescribing the
29 procedures for reporting, investigating, and responding to
30 violent acts against employees of facilities under the

1 Department's jurisdiction. As used in this Section, "violent
2 acts" has the meaning ascribed to that term in the Health Care
3 Workplace Violence Prevention Act.

4 Section 905. The Illinois State Auditing Act is amended by
5 changing Section 3-2 as follows:

6 (30 ILCS 5/3-2) (from Ch. 15, par. 303-2)

7 Sec. 3-2. Mandatory and directed post audits. The Auditor
8 General shall conduct a financial audit, a compliance audit, or
9 other attestation engagement, as is appropriate to the agency's
10 operations under generally accepted government auditing
11 standards, of each State agency except the Auditor General or
12 his office at least once during every biennium, except as is
13 otherwise provided in regulations adopted under Section 3-8.
14 The general direction and supervision of the financial audit
15 program may be delegated only to an individual who is a
16 Certified Public Accountant and a payroll employee of the
17 Office of the Auditor General. In the conduct of financial
18 audits, compliance audits, and other attestation engagements,
19 the Auditor General may inquire into and report upon matters
20 properly within the scope of a performance audit, provided that
21 such inquiry shall be limited to matters arising during the
22 ordinary course of the financial audit.

23 In any year the Auditor General shall conduct any special
24 audits as may be necessary to form an opinion on the financial
25 statements of this State, as prepared by the Comptroller, and
26 to certify that this presentation is in accordance with
27 generally accepted accounting principles for government.

28 Simultaneously with the biennial compliance audit of the
29 Department of Human Services, the Auditor General shall conduct
30 a program audit of each facility under the jurisdiction of that
31 Department that is described in Section 4 of the Mental Health
32 and Developmental Disabilities Administrative Act. The program

1 audit shall include an examination of the records of each
2 facility concerning (i) reports of suspected abuse or neglect
3 of any patient or resident of the facility and (ii) reports of
4 suspected abuse of facility staff by patients or residents. The
5 Auditor General shall report the findings of the program audit
6 to the Governor and the General Assembly, including findings
7 concerning patterns or trends relating to (i) abuse or neglect
8 of facility patients and residents or (ii) abuse of facility
9 staff. However, for any year for which the Inspector General
10 submits a report to the Governor and General Assembly as
11 required under Section 6.7 of the Abused and Neglected Long
12 Term Care Facility Residents Reporting Act, the Auditor General
13 need not conduct the program audit otherwise required under
14 this paragraph.

15 The Auditor General shall conduct a performance audit of a
16 State agency when so directed by the Commission, or by either
17 house of the General Assembly, in a resolution identifying the
18 subject, parties and scope. Such a directing resolution may:

19 (a) require the Auditor General to examine and report
20 upon specific management efficiencies or cost
21 effectiveness proposals specified therein;

22 (b) in the case of a program audit, set forth specific
23 program objectives, responsibilities or duties or may
24 specify the program performance standards or program
25 evaluation standards to be the basis of the program audit;

26 (c) be directed at particular procedures or functions
27 established by statute, by administrative regulation or by
28 precedent; and

29 (d) require the Auditor General to examine and report
30 upon specific proposals relating to state programs
31 specified in the resolution.

32 The Commission may by resolution clarify, further direct,
33 or limit the scope of any audit directed by a resolution of the
34 House or Senate, provided that any such action by the

1 Commission must be consistent with the terms of the directing
2 resolution.

3 (Source: P.A. 93-630, eff. 12-23-03.)

4 Section 910. The Community Living Facilities Licensing Act
5 is amended by changing Section 11 as follows:

6 (210 ILCS 35/11) (from Ch. 111 1/2, par. 4191)

7 Sec. 11. Grounds for denial or revocation of a license. The
8 Department may deny or begin proceedings to revoke a license if
9 the applicant or licensee has been convicted of a felony or 2
10 or more misdemeanors involving moral turpitude, as shown by a
11 certified copy of the court of conviction; if the Department
12 determines after investigation that such person has not been
13 sufficiently rehabilitated to warrant the public trust; or upon
14 other satisfactory evidence that the moral character of the
15 applicant or licensee is not reputable. In addition, the
16 Department may deny or begin proceedings to revoke a license at
17 any time if the licensee:

18 (1) Submits false information either on Department
19 licensure forms or during an inspection;

20 (2) Refuses to allow an inspection to occur;

21 (3) Violates this Act or rules and regulations promulgated
22 under this Act;

23 (4) Violates the rights of its residents;

24 (5) Fails to submit or implement a plan of correction
25 within the specified time period; or -

26 (6) Fails to submit a workplace violence prevention plan in
27 compliance with the Health Care Workplace Violence Prevention
28 Act.

29 (Source: P.A. 82-567.)

30 Section 915. The Community-Integrated Living Arrangements
31 Licensure and Certification Act is amended by changing Section

1 6 as follows:

2 (210 ILCS 135/6) (from Ch. 91 1/2, par. 1706)

3 Sec. 6. (a) The Department shall deny an application for a
4 license, or revoke or refuse to renew the license of a
5 community mental health or developmental services agency, or
6 refuse to issue a license to the holder of a temporary permit,
7 if the Department determines that the applicant, agency or
8 permit holder has not complied with a provision of this Act,
9 the Mental Health and Developmental Disabilities Code, or
10 applicable Department rules and regulations. Specific grounds
11 for denial or revocation of a license, or refusal to renew a
12 license or to issue a license to the holder of a temporary
13 permit, shall include but not be limited to:

14 (1) Submission of false information either on Department
15 licensure forms or during an inspection;

16 (2) Refusal to allow an inspection to occur;

17 (3) Violation of this Act or rules and regulations
18 promulgated under this Act;

19 (4) Violation of the rights of a recipient; ~~or~~

20 (5) Failure to submit or implement a plan of correction
21 within the specified time period; or

22 (6) Failure to submit a workplace violence prevention plan
23 in compliance with the Health Care Workplace Violence
24 Prevention Act.

25 (b) If the Department determines that the operation of a
26 community mental health or developmental services agency or one
27 or more of the programs or placements certified by the agency
28 under this Act jeopardizes the health, safety or welfare of the
29 recipients served by the agency, the Department may immediately
30 revoke the agency's license and may direct the agency to
31 withdraw recipients from any such program or placement.

32 (Source: P.A. 85-1250.)

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.".