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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 "Department" means (i) the Department of Human Services, in
3 the case of a health care workplace that is operated or
4 regulated by the Department of Human Services, or (ii) the
5 Department of Public Health, in the case of a health care
6 workplace that is operated or regulated by the Department of
7 Public Health.

8 "Director" means the Secretary of Human Services or the
9 Director of Public Health, as appropriate.

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

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

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

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

31 "Violence" or "violent act" means any act by a patient or
32 resident that causes or threatens to cause an injury to another
33 person.

1 Section 15. Workplace violence plan.

2 (a) By July 1, 2007 (in the case of a health care workplace
3 participating in the pilot project under Section 35) or July 1,
4 2008 (in the case of health care workplaces not participating
5 in the pilot project), every health care workplace must adopt
6 and implement a plan to reasonably prevent and protect
7 employees from violence at that setting. The plan must address
8 security considerations related to the following items, as
9 appropriate to the particular workplace, based on the hazards
10 identified in the assessment required under subsection (b):

11 (1) The physical attributes of the health care
12 workplace.

13 (2) Staffing, including security staffing.

14 (3) Personnel policies.

15 (4) First aid and emergency procedures.

16 (5) The reporting of violent acts.

17 (6) Employee education and training.

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

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

33 (d) It is the intent of the General Assembly that any

1 violence protection and prevention plan developed under this
2 Act be appropriate to the setting in which it is to be
3 implemented. To that end, the General Assembly recognizes that
4 not all health care services are provided in a facility or
5 other formal setting. Many health care services are provided in
6 other, less formal settings. The General Assembly finds that it
7 may be inappropriate and impractical for all health care
8 workplaces to address workplace violence in the same manner.
9 When enforcing this Act, the Department shall allow a health
10 care workplace sufficient flexibility in recognition of the
11 unique circumstances in which the health care workplace may
12 deliver services.

13 (e) Promptly after adopting a plan under subsection (a), a
14 health care workplace must file a copy of its plan with the
15 Department. The Department shall then forward a copy of the
16 plan to the appropriate responsible agency.

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

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

1 Section 20. Violence prevention training. By July 1, 2006
2 (in the case of a health care workplace participating in the
3 pilot project under Section 35) or July 1, 2009 (in the case of
4 health care workplaces not participating in the pilot project),
5 and on a regular basis thereafter, as set forth in the plan
6 adopted under Section 15, a health care workplace must provide
7 violence prevention training to all its affected employees as
8 determined by the plan. For temporary employees, training must
9 take into account unique circumstances. A health care workplace
10 also shall provide periodic follow-up training for its
11 employees as appropriate. The training may vary by the plan and
12 may include, but need not be limited to, classes, videotapes,
13 brochures, verbal training, or other verbal or written training
14 that is determined to be appropriate under the plan. The
15 training must address the following topics, as appropriate to
16 the particular health care workplace and to the duties and
17 responsibilities of the particular employee being trained,
18 based on the hazards identified in the assessment required
19 under Section 15:

20 (1) General safety procedures.

21 (2) Personal safety procedures.

22 (3) The violence escalation cycle.

23 (4) Violence-predicting factors.

24 (5) Obtaining patient history from a patient with a
25 history of violent behavior.

26 (6) Verbal and physical techniques to de-escalate and
27 minimize violent behavior.

28 (7) Strategies to avoid physical harm.

29 (8) Restraining techniques, as permitted and governed
30 by law.

31 (9) Appropriate use of medications to reduce violent
32 behavior.

33 (10) Documenting and reporting incidents of violence.

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

4 (12) Any resources available to employees for coping
5 with violence.

6 (13) The workplace violence prevention plan adopted
7 under Section 15.

8 (14) The protection of confidentiality in accordance
9 with the Health Insurance Portability and Accountability
10 Act of 1996 and other related provisions of law.

11 Section 25. Record of violent acts. Beginning no later than
12 July 1, 2007 (in the case of a health care workplace
13 participating in the pilot project under Section 35) or July 1,
14 2008 (in the case of health care workplaces not participating
15 in the pilot project), every health care workplace must keep a
16 record of any violent act against an employee, a patient, or a
17 visitor occurring at the workplace. At a minimum, the record
18 must include the following:

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

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

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

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

27 (A) A patient.

28 (B) A visitor.

29 (C) An employee.

30 (D) Other.

31 (5) A description of the person committing the violent
32 act as one of the following:

33 (A) A patient.

1 (B) A visitor.

2 (C) An employee.

3 (D) Other.

4 (6) A description of the type of violent act as one of
5 the following:

6 (A) A verbal or physical threat that presents
7 imminent danger.

8 (B) A physical assault with major soreness, cuts,
9 or large bruises.

10 (C) A physical assault with severe lacerations, a
11 bone fracture, or a head injury.

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

13 (E) A violent act requiring employee response, in
14 the course of which an employee is injured.

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

16 (8) A description of any weapon used.

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

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

21 Section 30. Assistance in complying with Act. A health care
22 workplace that needs assistance in complying with this Act may
23 contact the federal Department of Labor for assistance. The
24 Illinois departments of Human Services and Public Health shall
25 collaborate with representatives of health care workplaces to
26 develop technical assistance and training seminars on
27 developing and implementing a workplace violence plan as
28 required under Section 15. Those departments shall coordinate
29 their assistance to health care workplaces.

30 Section 35. Pilot project; task force.

31 (a) The Department of Human Services and the Department of
32 Public Health shall initially implement this Act as a 2-year

1 pilot project in which only the following health care
2 workplaces shall participate:

3 (1) The Chester Mental Health Center.

4 (2) The Alton Mental Health Center.

5 (3) The Douglas Singer Mental Health Center.

6 (4) The Andrew McFarland Mental Health Center.

7 (5) The Jacksonville Developmental Center.

8 Each health care workplace participating in the pilot
9 project shall comply with this Act as provided in this Act.

10 (b) The Governor shall convene a 6-member task force
11 consisting of the following: one member appointed by the
12 President of the Senate; one member appointed by the Minority
13 Leader of the Senate; one member appointed by the Speaker of
14 House of Representatives; one member appointed by the Minority
15 Leader of the House of Representatives; one representative from
16 a statewide association representing licensed registered
17 professional nurses; and one representative from the
18 Department of Human Services. The task force shall submit a
19 report to the Illinois General Assembly by January 1, 2008 that
20 shall (i) evaluate the effectiveness of the health care
21 workplace violence prevention pilot project in the facilities
22 participating in the pilot project and (ii) make
23 recommendations concerning the implementation of workplace
24 violence prevention programs in all health care workplaces.

25 Section 40. Rules. The Department shall adopt rules to
26 implement this Act.

27 Section 900. The Mental Health and Developmental
28 Disabilities Administrative Act is amended by adding Section 72
29 as follows:

30 (20 ILCS 1705/72 new)

31 Sec. 72. Violent acts against employees of facilities under

1 the Department's jurisdiction. Within 6 months after the
2 effective date of this amendatory Act of the 94th General
3 Assembly, the Department shall adopt rules prescribing the
4 procedures for reporting, investigating, and responding to
5 violent acts against employees of facilities under the
6 Department's jurisdiction. As used in this Section, "violent
7 acts" has the meaning ascribed to that term in the Health Care
8 Workplace Violence Prevention Act.

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

11 (30 ILCS 5/3-2) (from Ch. 15, par. 303-2)

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

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

1 Simultaneously with the biennial compliance audit of the
2 Department of Human Services, the Auditor General shall conduct
3 a program audit of each facility under the jurisdiction of that
4 Department that is described in Section 4 of the Mental Health
5 and Developmental Disabilities Administrative Act. The program
6 audit shall include an examination of the records of each
7 facility concerning (i) reports of suspected abuse or neglect
8 of any patient or resident of the facility and (ii) reports of
9 violent acts against facility staff by patients or residents.

10 The Auditor General shall report the findings of the program
11 audit to the Governor and the General Assembly, including
12 findings concerning patterns or trends relating to (i) abuse or
13 neglect of facility patients and residents or (ii) violent acts
14 against facility staff by patients or residents. However, for
15 any year for which the Inspector General submits a report to
16 the Governor and General Assembly as required under Section 6.7
17 of the Abused and Neglected Long Term Care Facility Residents
18 Reporting Act, the Auditor General need not conduct the program
19 audit otherwise required under this paragraph.

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

24 (a) require the Auditor General to examine and report
25 upon specific management efficiencies or cost
26 effectiveness proposals specified therein;

27 (b) in the case of a program audit, set forth specific
28 program objectives, responsibilities or duties or may
29 specify the program performance standards or program
30 evaluation standards to be the basis of the program audit;

31 (c) be directed at particular procedures or functions
32 established by statute, by administrative regulation or by
33 precedent; and

34 (d) require the Auditor General to examine and report

1 upon specific proposals relating to state programs
2 specified in the resolution.

3 The Commission may by resolution clarify, further direct,
4 or limit the scope of any audit directed by a resolution of the
5 House or Senate, provided that any such action by the
6 Commission must be consistent with the terms of the directing
7 resolution.

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

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

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

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

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

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

26 (3) Violates this Act or rules and regulations promulgated
27 under this Act;

28 (4) Violates the rights of its residents;

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

31 (6) Fails to submit a workplace violence prevention plan in
32 compliance with the Health Care Workplace Violence Prevention

1 Act.

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

3 Section 915. The Community-Integrated Living Arrangements
4 Licensure and Certification Act is amended by changing Section
5 6 as follows:

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

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

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

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

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

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

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

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

29 (b) If the Department determines that the operation of a
30 community mental health or developmental services agency or one
31 or more of the programs or placements certified by the agency
32 under this Act jeopardizes the health, safety or welfare of the

1 recipients served by the agency, the Department may immediately
2 revoke the agency's license and may direct the agency to
3 withdraw recipients from any such program or placement.

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

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.".