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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1398

02/18/2019 Authored by Stephenson, Lesch, Halverson, Noor, Moran and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; establishing duties for commissioner of health and hospitals
1.3 regarding violence against health care workers in hospitals; modifying civil and
1.4 criminal penalties; amending Minnesota Statutes 2018, sections 144.566; 609.2231,
1.5 subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 144.566, is amended to read:

1.8 144.566 VIOLENCE AGAINST HEALTH CARE WORKERS.

1.9 Subdivision 1. Definitions. (a) The following definitions apply to this section and have
1.10 the meanings given.

1.11 (b) "Act of violence" means an act by a patient or visitor against a health care worker
1.12 that includes kicking, scratching, urinating, sexually harassing, or any act defined in sections
1.13 609.221 to 609.2241.

1.14 (c) "Commissioner" means the commissioner of health.

1.15 (d) "Health care worker" means any person, whether licensed or unlicensed, employed
1.16 by, volunteering in, or under contract with a hospital, who has direct contact with a patient
1.17 of the hospital for purposes of either medical care or emergency response to situations
1.18 potentially involving violence.

1.19 (e) "Hospital" means any facility licensed as a hospital under section 144.55.

1.20 (f) "Incident response" means the actions taken by hospital administration and health
1.21 care workers during and following an act of violence.

2.1 (g) "Interfere" means to prevent, impede, discourage, or delay a health care worker's
 2.2 ability to report acts of violence, including by retaliating or threatening to retaliate against
 2.3 a health care worker.

2.4 (h) "Preparedness" means the actions taken by hospital administration and health care
 2.5 workers to prevent a single act of violence or acts of violence generally.

2.6 (i) "Retaliate" means to discharge, discipline, threaten, otherwise discriminate against,
 2.7 or penalize a health care worker regarding the health care worker's compensation, terms,
 2.8 conditions, location, or privileges of employment.

2.9 (j) "Violence prevention database" means the database created by the commissioner
 2.10 under subdivision 3.

2.11 Subd. 2. **Hospital duties.** (a) All hospitals must design and implement preparedness and
 2.12 incident response action plans to acts of violence by January 15, 2016, and review the plan
 2.13 at least annually thereafter.

2.14 (b) A hospital shall designate a committee of representatives of health care workers
 2.15 employed by the hospital, including nonmanagerial health care workers, nonclinical staff,
 2.16 administrators, patient safety experts, and other appropriate personnel to develop preparedness
 2.17 and incident response action plans to acts of violence. The preparedness and incident response
 2.18 action plan must include providing adequate security personnel to protect employees,
 2.19 patients, and visitors. The hospital shall review any recommendations made by the
 2.20 commissioner while developing the plans and, if the commissioner adopts mandatory
 2.21 guidelines under subdivision 3, shall adopt plans that, at a minimum, meet the mandatory
 2.22 guidelines. The hospital shall, in consultation with the designated committee, implement
 2.23 the plans under paragraph (a). Nothing in this paragraph shall require the establishment of
 2.24 a separate committee solely for the purpose required by this subdivision.

2.25 (c) A hospital shall provide training to all health care workers employed or contracted
 2.26 with the hospital on safety during acts of violence. Each health care worker must receive
 2.27 safety training annually and upon hire. Training must, at a minimum, include:

2.28 (1) safety guidelines for response to and de-escalation of an act of violence;

2.29 (2) ways to identify potentially violent or abusive situations; ~~and~~

2.30 (3) the hospital's incident response reaction plan and violence prevention plan;

2.31 (4) how to access and use the violence prevention database;

3.1 (5) hospital guidelines on requesting additional staff if a potentially violent situation
 3.2 arises;

3.3 (6) an explanation of a health care worker's right to contact law enforcement or the
 3.4 commissioner regarding an act of violence; and

3.5 (7) an explanation that a hospital is prohibited from interfering with a health care worker's
 3.6 right to contact law enforcement or the commissioner regarding an act of violence.

3.7 (d) As part of its annual review required under paragraph (a), the hospital must review
 3.8 with the designated committee:

3.9 (1) the effectiveness of its preparedness and incident response action plans;

3.10 (2) the most recent gap analysis as provided by the commissioner; and

3.11 (3) the number of acts of violence that occurred in the hospital during the previous year,
 3.12 including injuries sustained, if any, and the unit in which the incident occurred.

3.13 (e) A hospital shall allow health care workers to access the violence prevention database
 3.14 during the health care worker's work shift. The hospital shall maintain the access and ensure
 3.15 that information regarding acts of violence is being provided to the commissioner through
 3.16 the violence prevention database.

3.17 (f) A hospital shall create and implement a procedure for a health care worker to officially
 3.18 request of hospital supervisors or administration that additional staffing is provided. The
 3.19 hospital must document all requests for additional staffing made because of a health care
 3.20 worker's concern over a risk of an act of violence. If the request for additional staffing is
 3.21 denied, the hospital must provide to the health care worker who made the request a written
 3.22 reason for the denial, and must maintain documentation of that communication with the
 3.23 documentation maintained of requests for additional staffing. A hospital shall make
 3.24 documentation regarding staffing requests available to the commissioner for inspection at
 3.25 the commissioner's request. The commissioner may use documentation regarding staffing
 3.26 requests to inform the commissioner's determination on whether the hospital is providing
 3.27 adequate staffing and security to address acts of violence, and may use documentation
 3.28 regarding staffing requests if the commissioner imposes a penalty under subdivision 4.

3.29 ~~(e)~~ (g) A hospital shall make its action plans and the information listed in paragraph (d)
 3.30 publicly available to local law enforcement and, if any of its workers are represented by a
 3.31 collective bargaining unit, to the exclusive bargaining representatives of those collective
 3.32 bargaining units. by posting its most recent action plan and the results of the most recent
 3.33 annual review conducted under paragraph (d) on the hospital's website. A hospital must

4.1 also annually submit to the commissioner its most recent action plan and the results of the
 4.2 most recent annual review conducted under paragraph (d). The commissioner shall compile
 4.3 the information into a single report and annually submit the report to the members of the
 4.4 legislative committees with jurisdiction over health care.

4.5 ~~(f)~~ (h) A hospital, including any individual, partner, association, or any person or group
 4.6 of persons acting directly or indirectly in the interest of the hospital, shall not interfere with
 4.7 or discourage a health care worker if the health care worker wishes to contact law
 4.8 enforcement or the commissioner regarding an act of violence.

4.9 Subd. 3. **Commissioner duties.** (a) The commissioner shall develop a violence prevention
 4.10 database that allows health care workers to input information regarding an act of violence,
 4.11 including but not limited to:

4.12 (1) the date, place, and circumstances of an act of violence;

4.13 (2) details regarding the incident response to an act of violence;

4.14 (3) whether a health care worker previously requested additional staff or security for the
 4.15 patient that caused the act of violence;

4.16 (4) whether law enforcement was notified; and

4.17 (5) the extent of any injury to a health care worker.

4.18 (b) The violence prevention database shall also include a mechanism for a health care
 4.19 worker to report to the commissioner concerns that the health care worker has regarding:

4.20 (1) the hospital's preparedness to respond to an act of violence;

4.21 (2) the hospital's incident response to a particular act of violence; or

4.22 (3) any action the hospital took to interfere with the health care worker's attempt or act
 4.23 to contact law enforcement or the commissioner after an act of violence.

4.24 (c) The commissioner shall develop recommendations regarding hospital preparedness
 4.25 and incident response to acts of violence and make the recommendations available to
 4.26 hospitals and health care workers. The commissioner may adopt preparedness and incident
 4.27 response guidelines to acts of violence that hospitals must follow as a condition of licensure.

4.28 (d) The commissioner shall monitor the violence prevention database to assess the
 4.29 preparedness and incident response of hospital administrations and health care workers to
 4.30 acts of violence. The commissioner may use the information gathered from the violence
 4.31 prevention database to develop either recommendations or guidelines under paragraph (c).

5.1 As part of monitoring the database, the commissioner shall assess whether a hospital has
5.2 violated subdivision 2 and impose penalties as allowed under subdivision 4.

5.3 Subd. 4. **Penalty.** (~~g~~) The commissioner may impose an administrative fine of up to
5.4 ~~\$250~~ \$1,000 per day for failure each day a hospital fails to comply with the requirements
5.5 of this subdivision 2.

5.6 Sec. 2. Minnesota Statutes 2018, section 609.2231, subdivision 2, is amended to read:

5.7 Subd. 2. **Firefighters ~~and~~, emergency medical personnel, and hospital**
5.8 **personnel.** Whoever assaults any of the following persons and inflicts demonstrable bodily
5.9 harm is guilty of a felony and may be sentenced to imprisonment for not more than two
5.10 years or to payment of a fine of not more than \$4,000, or both:

5.11 (1) a member of a municipal or volunteer fire department or emergency medical services
5.12 personnel unit in the performance of the member's duties; or

5.13 (2) a physician, nurse, or other person providing health care services in a hospital
5.14 ~~emergency department.~~

5.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
5.16 committed on or after that date.