

# HEALTHCARE WORKER PROTECTION

## An Overview of Safety Efforts

### Introduction

Healthcare workers face many serious safety and health hazards in the workplace, including exposure to COVID-19 and other diseases. Sadly, incidents of violence against healthcare workers are also common, as evidenced by recent events. For example, in June 2022, a shooting at St. Francis Health System in Tulsa, Okla., left four people dead, including the surgeon of the shooter.<sup>1</sup> In another incident in the same month, a man who walked into the Encino Hospital Medical Center in Los Angeles asking for treatment for anxiety stabbed a doctor and two nurses.<sup>2</sup>

According to the U.S. Bureau of Labor Statistics, workers in healthcare and social service industries experience the highest rates of injuries caused by workplace violence and are five times as likely to suffer a workplace violence injury compared to all other industries.<sup>3</sup> Patients are the most frequent perpetrators of violence against healthcare workers, followed by visitors.<sup>4</sup>

The COVID-19 pandemic exacerbated these issues. In a 2020 National Nurses United survey, about 20% of nurses reported facing increased workplace violence, which they attributed to COVID-19-related staffing shortages, changes in patient population, and restrictions for visitors.<sup>5</sup> In 2022, of the more than 2,500 registered nurses surveyed, nearly half (48%) reported an increase in workplace violence on the job.<sup>6</sup> In Arkansas, 30 nonfatal, intentional injuries caused by a person and involving days away from work were reported for healthcare practitioners and technical occupations in 2020.<sup>7</sup>

Despite growing concerns in the healthcare industry, efforts to pass federal legislation to address violence against healthcare workers have been unsuccessful, though new opportunities



are under consideration. Several states have introduced or passed legislation aimed to protect healthcare workers; however, many focus on reporting and recordkeeping rather than remedial



Source: U.S. Bureau of Labor Statistics, Case and Demographic Characteristics for Work-Related Injuries and Illnesses Involving Days Away From Work.

efforts for the victims of violence, e.g., punishment for offenders. This explainer highlights several state approaches and describes attempts at federal policy change. It does not include an exhaustive list of state efforts but does provide representative examples of the types of protections for healthcare workers found in state law.

## State Laws Protecting Healthcare Workers From Workplace Violence

Available remedies for healthcare workers who suffer an injury as a result of workplace violence include filing for workers' compensation<sup>a</sup> — the primary remedy — pursuing criminal charges, and suing the perpetrator for civil damages.<sup>8</sup>

Many states have enacted laws to protect healthcare workers from violence. Recurring themes in these laws include requirements to develop a workplace violence prevention program, annual

<sup>a</sup> In Arkansas, filing a workers' compensation claim against an employer for an injury or death does not affect the right of the employee, or his or her dependents, to take action in court against a third party for the injury, but the employer is entitled to reasonable notice and opportunity to join in the action.



assessments, employee training, protections against employee retaliation for reporting to law enforcement, post-incident resources such as counseling, mandatory reporting requirements, and enforcement measures against offenders, including criminal prosecution and enhanced penalties. In Arkansas, a person who commits battery against a healthcare provider performing medical treatment or emergency services during employment may be charged with an elevated felony offense.<sup>b,9</sup> Below are other examples of state laws protecting healthcare workers.

## California

In California, an assault or battery against a physician or nurse providing emergency medical care outside a hospital, clinic, or healthcare facility or an emergency medical technician performing his or her duties, whether on or off duty, is a misdemeanor.<sup>12</sup> California lawmakers introduced a bill during the 2019–2020 regular session that would have equalized penalties for assault and battery for incidents occurring inside these facilities; however, the bill died in committee.<sup>13</sup>

A 2014 law requires the standards board of the California Division of Occupational Safety and Health to adopt standards developed by the division<sup>c</sup> that require specified hospitals to adopt workplace violence prevention plans.<sup>14</sup>

## Illinois

The Illinois Health Care Violence Prevention Act of 2018 requires healthcare workers to provide notice to management if they report workplace violence to law enforcement; requires healthcare providers to offer post-incident services such as psychological evaluation and treatment to healthcare workers; requires healthcare providers to create workplace violence prevention

## UNDERREPORTING OF WORKPLACE VIOLENCE

Healthcare employers are obligated to provide a safe working environment free from recognized hazards. However, hesitancy of victims to report violence may hamper prevention efforts. Some studies have shown that 60% of violence is not reported.<sup>10</sup> This has been attributed to several factors, including the perception that violence is inherent to the profession, the notion that reporting implies the inability to provide patient care, complexities and misunderstanding of current reporting requirements, and the lack of repercussions for perpetrators.<sup>8,11</sup>

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<sup>b</sup> In Arkansas, a person may be held criminally liable for battery if he or she causes physical injury to another person. A battery charge may be elevated from a misdemeanor to a felony when the offense is committed against certain people, including healthcare providers.

<sup>c</sup> California operates an OSHA-approved state plan.



programs that comply with federal Occupational Safety and Health Administration (OSHA) guidelines; and provides whistleblower protections for healthcare providers and their employees who take actions with the intent of complying with the act.<sup>15</sup>

## Connecticut

Connecticut law requires a healthcare employer to convene a workplace safety committee to assess issues related to the safety of healthcare employees, undertake a risk assessment of the factors that put employees at risk, develop and implement a workplace violence prevention and response plan, maintain records of incidents, and report allegations to law enforcement.<sup>16</sup>

Connecticut classifies an assault against healthcare personnel as a Class C felony, which can result in a prison sentence ranging from one to 10 years and additional fines up to \$10,000.<sup>17</sup>

## Alaska

Alaska imposes a mandatory minimum prison term of 30 or 60 days, depending on the severity of the offense, for an individual convicted of assault or harassment against a medical professional or emergency responder.<sup>d,18</sup>

## Utah

A 2022 Utah law makes it a Class A misdemeanor to assault or make a threat of violence against a healthcare worker. The offense is a third-degree felony if the perpetrator intentionally or knowingly causes substantial bodily injury — punishable by up to five years in prison and a fine not exceeding \$5,000.<sup>19,20</sup>

## Wisconsin

Prior to Act 209 of 2021, battery against nurses, emergency medical care providers, or individuals working in an emergency department constituted a felony in Wisconsin. Act 209 broadened this protection to include all healthcare providers, staff members of a healthcare facility, or family members of healthcare providers or staff members.<sup>21</sup>

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<sup>d</sup> The possible charges for this act are assault in the fourth degree or harassment in the first degree. Both are Class A misdemeanors.



## Colorado

Colorado seeks to prevent doxing — the release of personal information that may be used to harass or harm an individual — of healthcare workers by allowing healthcare workers to request that a state or local government official remove personal information available on the internet if the worker believes the information poses an imminent and serious threat to his or her safety.<sup>22</sup>

## Delaware

A new law in Delaware expands the definition of assault in the second degree to include assaults against healthcare treatment providers and employees and hospital security personnel who are injured while performing work-related duties. Delaware already included assaults against ambulance operators, rescue squad members, and nurses in its definition of assault in the second degree.<sup>23</sup>

## Laws Under Consideration

### New Jersey

New Jersey lawmakers are considering a bill that would expand the aggravating circumstances that courts consider in sentencing a defendant to include whether the defendant committed an offense against a healthcare professional, an employee of a healthcare professional or healthcare facility, or a volunteer working for a healthcare professional or at a healthcare facility. Under the Health Care Heroes Violence Prevention Act, a person found guilty of an offense could be sentenced to up to six months in prison, fined up to \$1,000, or both.<sup>24</sup>

### Michigan

Two bills have been introduced in Michigan. House Bill 5084 would increase penalties for an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers emergency room personnel.<sup>25</sup> House Bill 5682 would enhance fines for simple assault, aggravated assault, and assault with a deadly weapon if the victim is a health professional or medical volunteer performing their duties at the time of the crime.<sup>26</sup> The enhanced fines would not apply if the defendant is a patient who is receiving treatment from the victim, although the defendant could still be subject to prosecution for simple assault.



## Federal Action

Currently, no federal law protects healthcare employees from workplace violence. OSHA, the agency responsible for setting the basic procedures and standards for workplace safety, has recognized workplace violence as a hazard in the healthcare industry and has developed guidance for healthcare employers and workers. However, OSHA has not provided formal regulations to address workplace violence.<sup>27</sup>

H.R. 1195, the Workplace Violence Prevention for Health Care and Social Service Workers Act, would direct OSHA to issue a workplace violence prevention standard which would require healthcare and social service employers to write and implement plans to prevent and protect their employees from violent incidents.<sup>28</sup> The House passed H.R. 1195 on April 16, 2021, but the Senate has not yet considered the bill.

In June 2022, Congress introduced the Safety From Violence for Healthcare Employees (SAVE) Act. Under this bill, individuals who knowingly and intentionally assault or intimidate hospital employees could face up to 10 years in prison, with enhanced penalties, including up to 20 years in prison, for perpetrators who inflict bodily injury.<sup>29</sup> The SAVE Act would also provide grants for hospital workforce safety and security.

## Voluntary Accreditation Programs

New requirements for workplace violence from The Joint Commission (TJC) became effective in January 2022. TJC is an independent, not-for-profit organization that accredits and sets standards for healthcare organizations and programs. The standards apply to all TJC-accredited hospitals and critical access hospitals. According to TJC's R3 (Requirement, Rationale, Reference) Report, the standards provide a framework to guide hospitals in developing workplace violence prevention systems, including leadership oversight, policies and procedures, reporting systems, data collection and analysis, post-incident strategies, training, and education.<sup>30</sup>

The International Association for Healthcare Security and Safety (IAHSS), an organization that serves professionals involved in managing security and safety programs in healthcare facilities, has created a workplace violence prevention certificate program. The program is intended to provide knowledge, tools, and support for workplace violence prevention programs.<sup>31</sup> IAHSS research informed TJC standards and is referenced throughout the R3 Report.



## Promoting a Safe Work Environment

Workplace violence has historically been a factor in the recruitment and retention of healthcare employees. Violence contributes to higher negative emotions and mental health problems and lowers perceived social support.<sup>32</sup> In light of the current healthcare workforce shortages, there has been increased interest to identify ways to mitigate violence and create a safe environment for employees.

The American Hospital Association and the IAHS have collaborated to develop a guide containing recommended action steps for hospital leaders to build safer workplaces. The guide could also be applied in other healthcare settings.<sup>33</sup> The guide emphasizes the need to build a culture of safety, which includes reducing exposure to violence and prioritizing physical and psychological safety, mitigating risk, conducting violence interventions, and providing trauma support. The latter is of particular importance considering the toll that COVID-19 has taken on healthcare workers.

## Conclusion

Acts of violence can negatively impact healthcare workers' attitudes toward work, which in turn can create a significant burden on the healthcare system. Enhanced penalties and avenues for redress are a part of the solution that federal and state governments can address. Even without government intervention, healthcare organizations and programs should review existing policies and explore ways to strengthen worker protections. As digital privacy risks increase, protecting employees against doxing should be considered. It is also important to monitor these efforts to determine successful policies and potential modifications needed to mitigate workplace violence in health care.



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