



Filed: 3/1/2005

09400HB0399ham001

LRB094 05629 DRJ 42684 a

1 AMENDMENT TO HOUSE BILL 399

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

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

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

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

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

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

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

1 Section 10. Definitions. In this Act:

2 "Abuse" means any physical injury, sexual abuse, or mental
3 injury inflicted on a patient, employee, or visitor at a health
4 care workplace other than by accidental means.

5 "Department" means the Department of Labor.

6 "Director" means the Director of Labor.

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

10 "Health care workplace" means any of the following:

11 (1) A public or private hospital licensed under the
12 Hospital Licensing Act or a hospital organized under the
13 University of Illinois Hospital Act.

14 (2) A mental health facility or developmental
15 disability facility as defined in the Mental Health and
16 Developmental Disabilities Code.

17 "Imminent danger" means a preliminary determination of
18 immediate, threatened, or impending risk of physical injury as
19 determined by the employee.

20 "Responsible agency" means the State agency that (i)
21 licenses, certifies, registers, or otherwise regulates or
22 exercises jurisdiction over a health care workplace or a health
23 care workplace's activities or (ii) contracts with a health
24 care workplace for the delivery of health care services.

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

27 Section 15. Workplace violence plan.

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

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

3 (2) Staffing, including security staffing.

4 (3) Personnel policies.

5 (4) First aid and emergency procedures.

6 (5) The reporting of violent acts.

7 (6) Employee education and training.

8 (b) Before adopting the plan required under subsection (a),
9 a health care workplace must conduct a security and safety
10 assessment to identify existing or potential hazards for
11 violence and determine the appropriate preventive action to be
12 taken. The assessment must include, but need not be limited to,
13 a measure of the frequency of, and an identification of the
14 causes for and consequences of, violent acts at the workplace
15 during at least the preceding 5 years or for the years for
16 which records are available for assessments involving home
17 health agencies or hospice programs.

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

25 (d) It is the intent of the General Assembly that any
26 violence protection and prevention plan developed under this
27 Act be appropriate to the setting in which it is to be
28 implemented. To that end, the General Assembly recognizes that
29 not all health care services are provided in a facility or
30 other formal setting, such as a hospital. Many health care
31 services are provided in other, less formal settings. The
32 General Assembly finds that it may inappropriate and
33 impractical for all health care workplaces to address workplace
34 violence in the same manner. When enforcing this Act, the

1 Department shall allow a health care workplace sufficient
2 flexibility in recognition of the unique circumstances in which
3 the health care workplace may deliver services.

4 (e) Promptly after adopting a plan under subsection (a), a
5 health care workplace must file a copy of its plan with the
6 Department. The Department shall then forward a copy of the
7 plan to the appropriate responsible agency.

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

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

26 Section 20. Violence prevention training. By July 1, 2007,
27 and on a regular basis thereafter, as set forth in the plan
28 adopted under Section 15, a health care workplace must provide
29 violence prevention training to all its affected employees as
30 determined by the plan. For temporary employees, training must
31 take into account unique circumstances. A health care workplace
32 also shall provide periodic follow-up training for its
33 employees as appropriate. The training may vary by the plan and

1 may include, but need not be limited to, classes, videotapes,
2 brochures, verbal training, or other verbal or written training
3 that is determined to be appropriate under the plan. The
4 training must address the following topics, as appropriate to
5 the particular health care workplace and to the duties and
6 responsibilities of the particular employee being trained,
7 based on the hazards identified in the assessment required
8 under Section 15:

9 (1) General safety procedures.

10 (2) Personal safety procedures.

11 (3) The violence escalation cycle.

12 (4) Violence-predicting factors.

13 (5) Obtaining patient history from a patient with a
14 history of violent behavior.

15 (6) Verbal and physical techniques to de-escalate and
16 minimize violent behavior.

17 (7) Strategies to avoid physical harm.

18 (8) Restraining techniques.

19 (9) Appropriate use of medications to reduce violent
20 behavior.

21 (10) Documenting and reporting incidents of violence.

22 (11) The process whereby employees affected by a
23 violent act may debrief.

24 (12) Any resources available to employees for coping
25 with violence.

26 (13) The workplace violence prevention plan adopted
27 under Section 15.

28 Section 25. Record of violent acts; reporting of violent
29 acts.

30 (a) Beginning no later than July 1, 2006, every health care
31 workplace must keep a record of any violent act against an
32 employee, a patient, or a visitor occurring at the workplace.
33 At a minimum, the record must include the following:

- 1 (1) The health care workplace's name and address.
- 2 (2) The date, time, and specific location at the health
3 care workplace where the violent act occurred.
- 4 (3) The name, job title, department or ward assignment,
5 and staff identification or other identifier of the victim,
6 if the victim was an employee.
- 7 (4) A description of the person against whom the
8 violent act was committed as one of the following:
 - 9 (A) A patient.
 - 10 (B) A visitor.
 - 11 (C) An employee.
 - 12 (D) Other.
- 13 (5) A description of the person committing the violent
14 act as one of the following:
 - 15 (A) A patient.
 - 16 (B) A visitor.
 - 17 (C) An employee.
 - 18 (D) Other.
- 19 (6) A description of the type of abuse as one of the
20 following:
 - 21 (A) A verbal or physical threat that presents
22 imminent danger to an employee.
 - 23 (B) A physical assault with mild soreness, surface
24 abrasions, scratches, or small bruises.
 - 25 (C) A physical assault with major soreness, cuts,
26 or large bruises.
 - 27 (D) A physical assault with severe lacerations, a
28 bone fracture, or a head injury.
 - 29 (E) A physical assault with loss of limb or death.
- 30 (7) An identification of any body part injured.
- 31 (8) A description of any weapon used.
- 32 (9) The number of employees in the vicinity of the
33 violent act when it occurred.
- 34 (10) A description of actions taken by employees and

1 the health care workplace in response to the violent act.

2 (b) A health care workplace must immediately report the
3 occurrence of a violent act to the Department and to the
4 appropriate law enforcement agency. The Department shall
5 promptly forward a copy of the report of a violent act to the
6 appropriate responsible agency. In addition, in the case of a
7 report of a violent act occurring at a State-operated mental
8 health or developmental disability facility under the
9 jurisdiction of the Department of Human Services, the
10 Department shall promptly forward a copy of the report to the
11 Department of State Police and to the Inspector General
12 appointed under Section 6.2 of the Abused and Neglected Long
13 Term Care Facility Residents Reporting Act. The Department of
14 State Police shall investigate any report indicating a possible
15 murder, rape, or other felony.

16 The health care workplace must also make each report of a
17 violent act in writing within 24 hours after the occurrence of
18 a violent act.

19 (c) The Department or other appropriate responsible agency
20 shall initiate an investigation of each report of a violent
21 act. A report of a violent act that indicates that a patient's
22 life or safety is in imminent danger must be investigated
23 within 24 hours after the Department or other responsible
24 agency receives the report. The Department or other responsible
25 agency may delegate to a law enforcement agency or other public
26 agency the duty to perform an investigation under this
27 subsection. Nothing in this Section diminishes the duty of law
28 enforcement officers to respond to and investigate incidents of
29 possible criminal conduct.

30 (d) A health care workplace must annually forward a copy of
31 each such record of a violent act to the Department of Labor,
32 which in turn shall forward a copy to the appropriate
33 responsible agency.

34 (e) A health care workplace must keep each record of a

1 violent act for at least 5 years following the occurrence of
2 the violent act. During that time, the record must be available
3 for inspection by the Department or by the appropriate
4 responsible agency, upon request and subject to client
5 confidentiality. The Department and each responsible agency
6 must also make the record available to the General Assembly
7 upon request, so long as the release of the record to the
8 General Assembly does not violate client confidentiality.

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. Noncompliance with Act; order to comply; civil
20 penalty.

21 (a) If the Director determines that a health care workplace
22 has violated this Act or the rules implementing this Act, the
23 Director shall issue an order directing the health care
24 workplace to comply with the Act or rules.

25 (b) If a health care workplace fails to comply with an
26 order of the Director issued under subsection (a), the Director
27 may impose a civil penalty against the health care workplace in
28 an amount set by rule. The Director may impose a civil penalty
29 under this subsection only after the Director provides the
30 following to the health care workplace:

31 (1) Written notice of the alleged failure to comply
32 with the Director's order.

1 (2) Written notice of the health care workplace's right
2 to request an administrative hearing on the question of the
3 alleged failure to comply.

4 (3) An opportunity to present evidence, orally or in
5 writing or both, on the question of the alleged failure to
6 comply before an impartial hearing examiner appointed by
7 the Director.

8 (4) A written decision from the Director, based on the
9 evidence introduced at the hearing and the hearing
10 examiner's recommendations, finding that the health care
11 workplace failed to comply with the Director's order and
12 imposing the civil penalty.

13 The Attorney General may bring an action in the circuit
14 court to enforce the collection of a civil penalty imposed
15 under this subsection.

16 (c) The penalties authorized by this Section are in
17 addition to any other penalties authorized by law, including
18 administrative action with respect to a health care workplace's
19 license, certification, or registration by a regulatory
20 agency.

21 Section 40. Rules. The Department shall adopt rules to
22 implement this Act.

23 Section 45. Hospitals; when deemed in compliance.
24 Notwithstanding any other provision of this Act, a hospital
25 licensed under the Hospital Licensing Act or organized under
26 the University of Illinois Hospital Act shall be deemed to be
27 in compliance with this Act if the hospital:

28 (1) has a written plan to manage the safety of
29 patients, staff, and visitors that is consistent with the
30 requirements of a national accreditation organization and
31 submits a copy of that plan to the Department of Public
32 Health; and

1 (2) completes reports of incidents of violence to
2 patients, staff, and visitors that are available for review
3 by the Department of Public Health.

4 Section 900. 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 905. 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.

26 The Department also may begin proceedings to revoke a
27 license if the Department determines that a licensee (i) has
28 failed to file a workplace violence prevention plan, or a
29 review of such a plan or changes made to such a plan, as
30 required under the Health Care Workplace Violence Prevention
31 Act or (ii) has failed to report a violent act as required
32 under that Act.

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

2 Section 915. The Hospital Licensing Act is amended by
3 changing Section 7 as follows:

4 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

5 Sec. 7. (a) The Director after notice and opportunity for
6 hearing to the applicant or licensee may deny, suspend, or
7 revoke a permit to establish a hospital or deny, suspend, or
8 revoke a license to open, conduct, operate, and maintain a
9 hospital in any case in which he finds that there has been a
10 substantial failure (i) to comply with the provisions of this
11 Act or the Hospital Report Card Act or the standards, rules,
12 and regulations established by virtue of either of those Acts
13 or (ii) to file a workplace violence prevention plan, or a
14 review of such a plan or changes made to such a plan, as
15 required under the Health Care Workplace Violence Prevention
16 Act or to report a violent act as required under that Act.

17 (b) Such notice shall be effected by registered mail or by
18 personal service setting forth the particular reasons for the
19 proposed action and fixing a date, not less than 15 days from
20 the date of such mailing or service, at which time the
21 applicant or licensee shall be given an opportunity for a
22 hearing. Such hearing shall be conducted by the Director or by
23 an employee of the Department designated in writing by the
24 Director as Hearing Officer to conduct the hearing. On the
25 basis of any such hearing, or upon default of the applicant or
26 licensee, the Director shall make a determination specifying
27 his findings and conclusions. In case of a denial to an
28 applicant of a permit to establish a hospital, such
29 determination shall specify the subsection of Section 6 under
30 which the permit was denied and shall contain findings of fact
31 forming the basis of such denial. A copy of such determination
32 shall be sent by registered mail or served personally upon the

1 applicant or licensee. The decision denying, suspending, or
2 revoking a permit or a license shall become final 35 days after
3 it is so mailed or served, unless the applicant or licensee,
4 within such 35 day period, petitions for review pursuant to
5 Section 13.

6 (c) The procedure governing hearings authorized by this
7 Section shall be in accordance with rules promulgated by the
8 Department and approved by the Hospital Licensing Board. A full
9 and complete record shall be kept of all proceedings, including
10 the notice of hearing, complaint, and all other documents in
11 the nature of pleadings, written motions filed in the
12 proceedings, and the report and orders of the Director and
13 Hearing Officer. All testimony shall be reported but need not
14 be transcribed unless the decision is appealed pursuant to
15 Section 13. A copy or copies of the transcript may be obtained
16 by any interested party on payment of the cost of preparing
17 such copy or copies.

18 (d) The Director or Hearing Officer shall upon his own
19 motion, or on the written request of any party to the
20 proceeding, issue subpoenas requiring the attendance and the
21 giving of testimony by witnesses, and subpoenas duces tecum
22 requiring the production of books, papers, records, or
23 memoranda. All subpoenas and subpoenas duces tecum issued under
24 the terms of this Act may be served by any person of full age.
25 The fees of witnesses for attendance and travel shall be the
26 same as the fees of witnesses before the Circuit Court of this
27 State, such fees to be paid when the witness is excused from
28 further attendance. When the witness is subpoenaed at the
29 instance of the Director, or Hearing Officer, such fees shall
30 be paid in the same manner as other expenses of the Department,
31 and when the witness is subpoenaed at the instance of any other
32 party to any such proceeding the Department may require that
33 the cost of service of the subpoena or subpoena duces tecum and
34 the fee of the witness be borne by the party at whose instance

1 the witness is summoned. In such case, the Department in its
2 discretion, may require a deposit to cover the cost of such
3 service and witness fees. A subpoena or subpoena duces tecum
4 issued as aforesaid shall be served in the same manner as a
5 subpoena issued out of a court.

6 (e) Any Circuit Court of this State upon the application of
7 the Director, or upon the application of any other party to the
8 proceeding, may, in its discretion, compel the attendance of
9 witnesses, the production of books, papers, records, or
10 memoranda and the giving of testimony before the Director or
11 Hearing Officer conducting an investigation or holding a
12 hearing authorized by this Act, by an attachment for contempt,
13 or otherwise, in the same manner as production of evidence may
14 be compelled before the court.

15 (f) The Director or Hearing Officer, or any party in an
16 investigation or hearing before the Department, may cause the
17 depositions of witnesses within the State to be taken in the
18 manner prescribed by law for like depositions in civil actions
19 in courts of this State, and to that end compel the attendance
20 of witnesses and the production of books, papers, records, or
21 memoranda.

22 (Source: P.A. 93-563, eff. 1-1-04.)

23 Section 920. The Community-Integrated Living Arrangements
24 Licensure and Certification Act is amended by changing Section
25 6 as follows:

26 (210 ILCS 135/6) (from Ch. 91 1/2, par. 1706)

27 Sec. 6. (a) The Department shall deny an application for a
28 license, or revoke or refuse to renew the license of a
29 community mental health or developmental services agency, or
30 refuse to issue a license to the holder of a temporary permit,
31 if the Department determines that the applicant, agency or
32 permit holder has not complied with a provision of this Act,

1 the Mental Health and Developmental Disabilities Code, or
2 applicable Department rules and regulations. Specific grounds
3 for denial or revocation of a license, or refusal to renew a
4 license or to issue a license to the holder of a temporary
5 permit, shall include but not be limited to:

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

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

9 (3) Violation of this Act or rules and regulations
10 promulgated under this Act;

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

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

14 (6) Failure (i) to file a workplace violence prevention
15 plan, or a review of such a plan or changes made to such a plan,
16 as required under the Health Care Workplace Violence Prevention
17 Act or (ii) to report a violent act as required under that Act.

18 (b) If the Department determines that the operation of a
19 community mental health or developmental services agency or one
20 or more of the programs or placements certified by the agency
21 under this Act jeopardizes the health, safety or welfare of the
22 recipients served by the agency, the Department may immediately
23 revoke the agency's license and may direct the agency to
24 withdraw recipients from any such program or placement.

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

26 Section 999. Effective date. This Act takes effect upon
27 becoming law."