

Amendment to SB 459-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 New Subdivision; Workplace Violence Prevention Program. Amend RSA 151 by inserting  
4 after section 52 the following new subdivision:

5 Workplace Violence Prevention Program

6 151:53 Workplace Violence Prevention Program.

7 I. In this section:

8 (a) "Health facility" means an acute care, rehabilitation, psychiatric, or substance abuse  
9 treatment hospital, or an urgent care center licensed under RSA 151; provided that a facility with  
10 more than one physical location shall be considered a single health facility; and provided that  
11 "health facility" shall not include state-operated medical facilities, and voluntary compliance by a  
12 state-operated facility shall not subject such facility to the requirements of this section. The term  
13 "health facility" shall not include any non-hospital affiliated urgent care with less than 3 clinics in  
14 New Hampshire.

15 (b) "Workplace violence" means any act or threat of physical violence, harassment,  
16 intimidation, or other threatening behavior.

17 (c) "Hostile words" means aggressive and belligerent verbal abuse in which the recipient  
18 reasonably believes that the speaker intends to injure or create excessive stress, or in which the  
19 recipient suffers actual psychological trauma.

20 II. Except as provided in paragraph III, health facilities shall implement and maintain a  
21 workplace violence prevention program. Said program shall consider the size and complexity of the  
22 health facility and shall address the following topics, and others deemed appropriate by the health  
23 facility, the goal of which is to encourage participation and address prevention, recognition,  
24 response, and reporting of workplace violence:

25 (a) Policies and procedures to prevent and respond to workplace violence and hostile  
26 words.

27 (b) Appropriate training, education, and resources to employees based on their roles and  
28 responsibilities. Said training, education, and resources shall include:

29 (1) Education on what constitutes workplace violence and hostile words.

30 (2) Education on the roles and responsibilities of leadership, clinical staff, security  
31 personnel, if applicable, and external law enforcement.

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1                   (3) Training in de-escalation, nonphysical intervention skills, response to emergency  
2 incidents, and at the discretion of the health facility, physical intervention techniques.

3                   (4) The reporting process for workplace violence and hostile words incidents.

4                   (c) A process to report workplace violence and hostile words incidents internally and  
5 externally in order to analyze incidents and trends.

6                   (d) A process for follow-up and to support victims and witnesses affected by workplace  
7 violence or hostile words, including information about available counseling.

8                   (e) A process to conduct an annual facility-specific risk assessment, which shall:

9                         (1) Examine all existing and potential workplace violence and hostile words risks,  
10 including environmental and patient-specific risk factors, the health facility's workplace violence and  
11 hostile words incidents, and how the program's policies and procedures, training, education, and  
12 environmental design reflect best practices and conform to applicable laws and regulations; and

13                         (2) Be used to develop recommendations to reduce the risk of workplace violence and  
14 hostile words.

15                 III. A health facility accredited by the Joint Commission on the accreditation of healthcare  
16 organizations may give proof of compliance with Joint Commission standards on workplace violence  
17 prevention to the health care workplace safety commission established in RSA 151-J, in lieu of  
18 paragraph II.

19                 IV. The commissioner of the department of health and human services shall follow up on  
20 participation in the workplace violence prevention program so that participation status is proactively  
21 known and that this status is properly reported in the annual report described in RSA 151-J:7.

22                 V. Each health facility shall prepare and submit to the health care workplace safety  
23 commission established in RSA 151-J an annual report containing all workplace violence and hostile  
24 words incidents reported to the health facility directed at an employee by a patient, coworker,  
25 supervisor, manager, or other individuals who have a personal relationship with a patient. The  
26 chair of the health and human services oversight committee, established in RSA 126-A:13, with the  
27 advice of the health care workplace safety commission, may recommend updates to New Hampshire  
28 statutes or recommend updates to the rules adopted for the implementation of this section. The  
29 commissioner of health and human services, in consultation with the health care workplace safety  
30 commission and the health and human services oversight committee, shall adopt rules pursuant to  
31 RSA 541-A deemed necessary for the implementation of this section in coordination with the  
32 department of health and human services, including a common reporting form.

33                 VI.(a) The annual report required under paragraph V shall include but not be limited to, for  
34 each workplace violence or hostile words incident, a description of:

35                         (1) The incident, including environmental and patient-specific risk factors present at  
36 the time of the incident, as well as the appropriate categorization of the incident as workplace  
37 violence and/or hostile words.

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- 1                   (2) The date, time, and location of the incident.
- 2                   (3) The nature and extent of injuries to employees.
- 3                   (4) A classification, but not any identifiable personal information, of each
- 4 perpetrator who committed the violence, including whether the perpetrator was:
- 5                         (A) A patient;
- 6                         (B) An individual who has or is known to have had a personal relationship with
- 7 a patient;
- 8                         (C) A coworker, supervisor; or manager; or
- 9                         (D) Any other appropriate classification.
- 10                  (5) How the incident was abated, including any incident response and post-incident
- 11 investigation.
- 12                  (6) If the incident involves a patient, the patient's name or other similar identifier
- 13 shall not be included in the report, provided that the report may include the patient's diagnosis code
- 14 and whether or not behavioral health or disability were a factor.
- 15                  (7) The percentage of employees that have participated in the workplace violence
- 16 prevention program in the reporting year immediately preceding the incident. This percentage shall
- 17 be an annual point in time percentage and is not intended to be a rolling number calculated upon
- 18 each incident.
- 19                  (b) The report shall preserve the reporting distinction between workplace violence and
- 20 hostile words incidents. There shall not be any identifiable personal information included in any
- 21 report unless contained within an attached police report or other official report of a governmental
- 22 entity. No person or health care facility shall retaliate in any manner against any reporting
- 23 individual acting in good faith, or otherwise discriminate against, a person, employee, or subordinate
- 24 who exercises any rights under this section or rules adopted pursuant to this section, or by any
- 25 policy or procedure promulgated under this section or RSA 151-J, including but not limited to
- 26 reporting of a workplace violence or hostile words incident or otherwise providing notice to the
- 27 health facility regarding the occupational health and safety of the employee or their fellow
- 28 employees exposed to workplace violence or hostile words risk factors. Nothing in this section shall
- 29 be construed to authorize an employee to refuse to discharge his or her ordinary and customary
- 30 duties in the workplace.
- 31                  VII. The commissioner of the department of health and human services shall be responsible
- 32 for maintaining, in an easily navigable, searchable, distinct page on the department's website, a
- 33 database to share information on the activities of the New Hampshire health care workplace safety
- 34 commission. Topics included on the page shall include, but not be limited to:
- 35                         (a) A listing of all health care facilities by name, with their business address included,
- 36 which are subject to the provisions of the workplace violence prevention program.
- 37                         (b) The participation status of each facility as active, inactive, or unknown.

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1 (c) The dates of each meeting of the New Hampshire health care workplace safety  
2 commission.

3 (d) Annually, a press release shall be issued within 60 days of the end of the calendar  
4 year, highlighting the active participation of health care facilities and any major findings or  
5 recommendations.

6 VIII. Notwithstanding the requirements of this section, a health facility that is an urgent  
7 care center shall not be required to comply with this section before July 1, 2024.

8 2 New Chapter; New Hampshire Health Care Workplace Safety Commission. Amend RSA by  
9 inserting after chapter 151-I the following new chapter:

10 CHAPTER 151-J

11 NEW HAMPSHIRE HEALTH CARE WORKPLACE SAFETY COMMISSION

12 151-J:1 Commission Established; Membership.

13 I. There is hereby established a commission to review and analyze health care workplace  
14 violence safety issues including, but not limited to, reports of workplace violence incidents and  
15 trends. The commission shall also support the development and implementation of health care  
16 workplace violence prevention programs, including training, and propose changes to improve the  
17 safety in health care workplace settings.

18 II.(a) The members of the commission shall be as follows:

19 (1) One representative of each hospital in New Hampshire, licensed under RSA 151,  
20 appointed by the hospital.

21 (2) The chief executive officer of the New Hampshire hospital, or designee

22 (3) One representative of each non-hospital affiliated urgent care network of 3 or  
23 more clinics in New Hampshire, licensed under RSA 151, appointed by the urgent care network.

24 (4) The commissioner of the department of health and human services, or designee.

25 (5) The commissioner of the department of labor, or designee.

26 (6) The attorney general, or designee.

27 (7) Three members-at-large, one of whom shall be appointed by the speaker of the  
28 house of representatives, one of whom shall be appointed by the president of the senate, and one of  
29 whom shall be appointed by the governor.

30 (b) The governor may remove any member of the commission with cause.

31 151-J:2 Duties.

32 I. The commission shall:

33 (a) Review and analyze health care workplace violence safety issues including, but not  
34 limited to, reports of workplace violence incidents and trends.

35 (b) Support the development and implementation of health care workplace violence  
36 prevention programs, including training.

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1           (c) Propose changes to health and human services oversight committee, established in  
2 RSA 126-A:13, and to the commissioner of the department of health and human services that will  
3 improve the safety of the health care workplace.

4           II. Sources of data for the duties described in paragraph I may include, but are not limited  
5 to, reviews and reports currently required by or submitted to state or national regulatory and  
6 accrediting organizations.

7           151-J:3 Chair; Vice-Chair. The members of the commission shall elect a chair and vice-chair  
8 from among the members at the first meeting. The terms of the chair and vice-chair shall be 2 years,  
9 with the initial term for the chair to be 3 years, and until successors are elected. The chair shall be  
10 responsible for the orderly proceedings of the commission meetings and for compliance with  
11 mandates of this chapter. The vice-chair shall serve in the absence of the chair.

12           151-J:4 Education. Each member of the commission shall be responsible for the dissemination  
13 of commission discussions to his or her institutions. All such information shall be disseminated  
14 through each participant's safety and security program in order to protect the confidentiality of all  
15 participants and patients involved in any incident or topic discussed.

16           151-J:5 Confidentiality.

17           I. All information, other than police reports, submitted to or collected by the commission,  
18 including, but not limited to, written, oral, and electronic information; records and proceedings of the  
19 commission, including, but not limited to, oral testimony and discussions, notes, minutes,  
20 summaries, analyses, and reports; and information disseminated by the commission or its members  
21 to hospitals and urgent care centers shall be confidential and privileged and shall be protected from  
22 direct or indirect means of discovery, subpoena, or admission into evidence in any judicial,  
23 administrative, or other type of proceeding. The provision of information to the commission and the  
24 dissemination of information by the commission shall not be deemed to void, waive, or impair in any  
25 manner the confidentiality protection of this section or which the information may have under any  
26 other law or regulation.

27           II. Information, documents, or records otherwise available from original sources shall not be  
28 construed as immune from discovery or use in any civil or administrative action merely because they  
29 were presented to the commission. Any person who supplies information to or testifies before the  
30 commission shall not be immune from discovery in any civil or administrative action because the  
31 information or testimony was presented to the commission, but such witness shall not be asked  
32 about and shall not provide information about his or her testimony before this commission or  
33 opinions formed by him or her as a result of commission participation.

34           III. Notwithstanding paragraph I, if a workplace violence incident involves a patient, the  
35 health care workplace safety commission and the health care quality and safety commission  
36 established in RSA 151-G may share information about the incident for the purpose of reviewing and

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analyzing incidents involving both a patient and an employee. Nevertheless, the principles of data minimization will be respected to include deidentification of any personally identifiable information.

151-J:6 Administration. The commission may delegate to the department of health and human services the functions of collecting, analyzing, and disseminating workplace violence information, organizing and convening meetings of the commission, and other substantive and administrative tasks as may be incident to these activities or directed by the commission. The activities of the department of health and human services and its employees or agents shall be subject to the same confidentiality provisions and data privacy as those that apply to the commission.

151-J:7 Reports. The commission shall annually report its findings and any recommendations which may include proposed legislation to the speaker of the house of representatives, the senate president, the governor, and the health and human services oversight committee established in RSA 126-A:13. Such report shall describe the activities of the commission, indicate the extent of each institution's participation, state the aggregate relative frequency of workplace violence incidents, the nature and extent of injuries, how incidents were responded to, and, to the extent possible, identify strategies for reducing workplace violence incidents. Any information about processes or outcomes provided pursuant to this section shall be aggregate data only and shall not reference individual incidents, patients, health care providers, or institutions.

151-J:8 Rulemaking. The commissioner of the department of health and human services, with the advice of members of the commission, shall adopt rules pursuant to RSA 541-A, to assure deidentification of all individuals and facilities involved in the incidents received.

151-J:9 Exemption; State Operated Medical Facilities. All medical facilities operated by the state of New Hampshire shall not be subject to the jurisdiction of the health care workplace safety commission established in this chapter.

3 New Hampshire Health Care Quality and Safety Commission. Amend the title of RSA 151-G to read as follows:

**CHAPTER 151-G**

**NEW HAMPSHIRE HEALTH CARE QUALITY AND *PATIENT* SAFETY COMMISSION**

4 Repeal. The following are repealed:

I. RSA 151:53, relative to the workplace violence prevention program.

II. RSA 151-J, relative to New Hampshire health care workplace safety commission.

5 Effective Date.

I. Section 4 of this act shall take effect March 1, 2034.

II. The remainder of this act shall take effect July 1, 2023.