

SB 459-FN - AS AMENDED BY THE SENATE

03/17/2022 1051s

2022 SESSION

22-3129

12/10

SENATE BILL **459-FN**

AN ACT relative to a health care facility workplace violence prevention program.

SPONSORS: Sen. Gray, Dist 6; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24; Rep. Greene, Hills. 37; Rep. McMahon, Rock. 7

COMMITTEE: Health and Human Services

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ANALYSIS

This bill requires health care facilities to implement and maintain workplace violence prevention programs and establishes the health care workplace safety commission. This bill also permits law enforcement to arrest an individual without a warrant in certain circumstances related to health care workplaces.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to a health care facility workplace violence prevention program.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

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

3 Workplace Violence Prevention Program  
4 151:53 Workplace Violence Prevention Program.

5 I. In this section:

6 (a) "Health facility" means an acute care, rehabilitation, psychiatric, or substance abuse  
7 treatment hospital, or an urgent care center licensed under RSA 151; provided that a facility with  
8 more than one physical location shall be considered a single health facility.

9 (b) "Workplace violence" means any act or threat of physical violence, harassment,  
10 intimidation, or other threatening behavior that occurs at a health facility, including verbal abuse,  
11 without regard to whether the victim sustains an injury, psychological trauma, or stress.

12 II. Except as provided in paragraph III, every health facility shall implement and maintain  
13 a workplace violence prevention program developed by a multidisciplinary team of direct care  
14 employees and other employees, in consultation with stakeholders or experts who specialize in  
15 workplace violence prevention, emergency response, or another related areas of expertise. Said  
16 program shall consider the size and complexity of the health facility and shall:

17 (a) Include policies and procedures to prevent and respond to workplace violence.

18 (b) Provide appropriate training, education, and resources to all employees based on  
19 their roles and responsibilities at the time of hire, annually and whenever changes occur regarding  
20 the workplace violence prevention program, which encourage participation and address prevention,  
21 recognition, response, and reporting of workplace violence. Said training, education, and resources  
22 shall include:

23 (1) Education on what constitutes workplace violence.

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

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

28 (4) The reporting process for workplace violence incidents.

29 (c) Establish a process to report workplace violence incidents internally and externally  
30 in order to analyze incidents and trends.

1 (d) Establish a process for follow up and support to victims and witnesses affected by  
2 workplace violence, including information about available counseling.

3 (e) Establish a process to conduct an annual facility-specific risk assessment to:

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

8 (2) Be used to develop recommendations to reduce the risk of workplace violence.

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

13 IV. Each health facility shall prepare and submit to the health care workplace safety  
14 commission established in RSA 151-J an annual report containing all workplace violence incidents  
15 reported to the health facility directed at an employee by a patient, coworker, supervisor, manager,  
16 or other individuals who have a personal relationship with a patient. The commissioner of health  
17 and human services, with the advice and consent of a majority of members of the commission, shall  
18 adopt rules pursuant to RSA 541-A deemed necessary for the implementation of this section in  
19 coordination with the department of health and human services, including a common reporting form.

20 V. The annual report required under paragraph IV shall include for each workplace violence  
21 incident a description of:

22 (a) The incident, including environmental and patient-specific risk factors present at the  
23 time of the incident.

24 (b) The date, time, and location of the incident, and the names and job titles of  
25 employees involved in the incident.

26 (c) The nature and extent of injuries to employees.

27 (d) A classification of each perpetrator who committed the violence, including whether  
28 the perpetrator was:

29 (1) A patient;

30 (2) An individual who has or is known to have had a personal relationship with a  
31 patient;

32 (3) A coworker, supervisor; or manager; or

33 (4) Any other appropriate classification.

34 (e) How the incident was abated, including any incident response and post-incident  
35 investigation.

1 (f) If the incident involves a patient, the patient's name or other similar identifier shall  
2 not be included in the report, provided that the report may include the patient's diagnosis code and  
3 whether or not behavioral health or disability were a factor.

4 (g) The percentage of employees that have participated in the workplace violence  
5 prevention program in the year preceding the incident.

6 VI. No person or health care facility shall retaliate in any manner against, or otherwise  
7 discriminate against, a person, employee, or subordinate who exercises any rights under this section  
8 or rules adopted pursuant to this section, or by any policy or procedure promulgated under this  
9 section or RSA 151-J, including but not limited to reporting of a workplace violence incident or  
10 otherwise providing notice to the health facility regarding the occupational health and safety of the  
11 employee or their fellow employees exposed to workplace violence risk factors. Nothing in this  
12 section shall be construed to authorize an employee to refuse to discharge his or her ordinary and  
13 customary duties in the workplace.

14 VII. Any health facility which violates any provision of this section, or rules adopted under  
15 this section, shall receive a written warning from the department of health and human services, for  
16 the first offense. For each subsequent offense, the commissioner of health and human services, after  
17 notice and hearing, pursuant to rules adopted under RSA 541-A, may impose an administrative fine  
18 not to exceed \$2,000. Rehearings and appeals from a decision of the commissioner shall be in  
19 accordance with RSA 541. The sums obtained from the levying of administrative fines under this  
20 chapter shall be forwarded to for deposit into the general fund.

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

23 2 New Chapter; New Hampshire Health Care Workplace Safety Commission. Amend RSA by  
24 inserting after chapter 151-I the following new chapter:

25 CHAPTER 151-J

26 NEW HAMPSHIRE HEALTH CARE WORKPLACE SAFETY COMMISSION

27 151-J:1 Commission Established; Membership.

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

33 II. The members of the commission shall be as follows:

34 (a) One representative of each hospital in New Hampshire, licensed under RSA 151,  
35 appointed by the hospital.

36 (b) The chief executive officer of the New Hampshire hospital, or designee

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

3 (d) The commissioner of the department of health and human services, or designee.

4 (e) The commissioner of the department of labor, or designee.

5 (f) The attorney general, or designee.

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

9 151-J:2 Duties.

10 I. The commission shall:

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

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

15 (c) Propose changes that will improve the safety of the health care workplace.

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

19 151-J:3 Chair; Vice-Chair. The members of the commission shall elect a chair and vice-chair  
20 from among the members at the first meeting. The term of the chair and vice-chair shall be 2 years  
21 and until successors are elected. The chair shall be responsible for the orderly proceedings of the  
22 commission meetings and for compliance with mandates of this chapter. The vice-chair shall serve  
23 in the absence of the chair.

24 151-J:4 Education. Each member of the commission shall be responsible for the dissemination  
25 of commission discussions to his or her institutions. All such information shall be disseminated  
26 through each participant's safety and security program in order to protect the confidentiality of all  
27 participants and patients involved in any incident or topic discussed.

28 151-J:5 Confidentiality.

29 I. All information submitted to or collected by the commission, including, but not limited to,  
30 written, oral, and electronic information; records and proceedings of the commission, including, but  
31 not limited to, oral testimony and discussions, notes, minutes, summaries, analyses, and reports;  
32 and information disseminated by the commission or its members to hospitals and urgent care  
33 centers shall be confidential and privileged and shall be protected from direct or indirect means of  
34 discovery, subpoena, or admission into evidence in any judicial, administrative, or other type of  
35 proceeding. The provision of information to the commission and the dissemination of information by  
36 the commission shall not be deemed to void, waive, or impair in any manner the confidentiality  
37 protection of this section or which the information may have under any other law or regulation.

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

8 III. Notwithstanding paragraph I, if a workplace violence incident involves a patient, the  
9 health care workplace safety commission and the health care quality and safety commission  
10 established in RSA 151-G may share information about the incident for the purpose of reviewing and  
11 analyzing incidents involving both a patient and an employee.

12 151-J:6 Administration. The commission may delegate to the department of health and human  
13 services the functions of collecting, analyzing, and disseminating workplace violence information,  
14 organizing and convening meetings of the commission, and other substantive and administrative  
15 tasks as may be incident to these activities or directed by the commission. The activities of the  
16 department of health and human services and its employees or agents shall be subject to the same  
17 confidentiality provisions as those that apply to the commission.

18 151-J:7 Reports. On or before June 30 of each year, the commission shall report its findings and  
19 any recommendations which may include proposed legislation to the speaker of the house of  
20 representatives, the senate president, the governor, and the health and human services oversight  
21 committee established in RSA 126-A:13. Such report shall describe the activities of the commission,  
22 indicate the extent of each institution's participation, state the aggregate relative frequency of  
23 workplace violence incidents, the nature and extent of injuries, how incidents were responded to,  
24 and, to the extent possible, identify strategies for reducing workplace violence incidents. Any  
25 information about processes or outcomes provided pursuant to this section shall be aggregate data  
26 only and shall not reference individual incidents, patients, health care providers, or institutions.

27 151-J:8 Rulemaking. The commissioner of the department of health and human services, with  
28 the advice and consent of a majority of members of the commission, shall adopt rules pursuant to  
29 RSA 541-A, to assure de-identification of all individuals and facilities involved in the incidents  
30 received.

31 3 New Hampshire Health Care Quality and Safety Commission. Amend the title of RSA 151-G  
32 to read as follows:

33 CHAPTER 151-G

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

35 4 Arrests Without a Warrant. Amend RSA 594:10, I(c) to read as follows:

36 (c) He *or she* has probable cause to believe that the person to be arrested has committed  
37 a misdemeanor or violation, and, if not immediately arrested, such person will not be apprehended,

1 will destroy or conceal evidence of the offense, [ø] will cause further personal injury or damage to  
2 property, *or while in the care of a medical professional on the premises of a residential care*  
3 *or health care facility, as defined in RSA 151:2, through actual or threatened violence,*  
4 *interfere in the provision of medically necessary health care services.*

5 5 Effective Date.

6 I. Section 4 of this act shall take effect January 1, 2023.

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

**SB 459-FN- FISCAL NOTE**  
 AS AMENDED BY THE SENATE (AMENDMENT #2022-1051s)

AN ACT relative to a health care facility workplace violence prevention program.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$272,000	\$272,000	\$272,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill requires health care facilities to implement and maintain workplace violence prevention programs and establishes a health care workforce safety commission. The Department of Health and Human Services states the bill will necessitate two new training and development manager positions at labor grade 24, one each at NH Hospital and Glenclyff Home. Salaries and benefits for each position will total \$96,000 per year. The Department further expects \$40,000 in annual training costs at each of the two facilities. Total combined costs for the two facilities will therefor be \$272,000 per year. With respect to the regulation and enforcement of new requirements established by the bill, the Department does not anticipate the need for any additional staff in the Bureau of Licensing and Certification.

**AGENCIES CONTACTED:**

Department of Health and Human Services