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NEW WORKPLACE VIOLENCE PREVENTION RULES ABOUT TO GO INTO EFFECT FOR NY MEDICAL FACILITIES: HOW TO PREPARE

Insights
Aug 13, 2026

New Workplace Violence Prevention Rules About To Go Into Effect For NY Medical Facilities: How To Prepare

Hospitals and nursing homes in New York face a pending deadline to implement workplace violence prevention programs, following a new law passed last year. Starting September 18, general hospitals and nursing homes have 12 months to establish a program to address threats and hazards related to workplace violence. NY hospitals will also have separate obligations to review their safety and security protocols annually and develop plans to mitigate risks specific to their facilities. Here's everything you need to know about the law ahead of its upcoming effective dates.

Key Provisions

Next month, New York general hospitals and nursing homes will be expected to start the process of creating a workplace violence prevention program covering healthcare workers, patients, residents, and visitors. Medical facilities subject to the law have 12 months to establish the program to maintain compliance with the new law. For general hospitals, the law also requires annual workplace safety and security assessments, as well as the development and implementation of a safety and security plan.

The state law doesn't impose these specific program requirements on employers generally, but healthcare employers should review their services with counsel to see

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if one of their operations fall within the law's definition of a covered "facility."

Special Requirements For Hospitals

Starting January 1, 2027, general hospitals must begin conducting annual workplace safety and security hazard assessments. From there, hospitals are required to develop a "safety and security" plan that protects patients and staff from aggressive or violent behavior, and addresses the specific risks identified by the review.

NY hospitals should keep in mind that the assessment should generally:

- Be site- or facility-specific. Tailor the review to the hospital's size, complexity, and local geographic factors.
- Consider data like incident reports and logs, as well as complaints or concerns from employees, patients, visitors, and unions.
- Review the facility's physical layouts, access points, and communication systems.
- Audit the adequacy of training and response procedures for disruptive or violent individuals or events. You must train hospital security staff.
- Be updated when material risks or operating conditions change.

Other important reminders: The law explicitly instructs hospitals to actively involve employees and any recognized collective-bargaining representatives in developing their safety and security assessment and plan. General hospitals must give employees and applicable unions a written, detailed summary of the safety and security plan, and explain how workplace-violence incidents should be reported. General hospitals must also share appropriately redacted workplace violence incident-log summaries, trends, and analyses with the hospital security or safety committee responsible for workplace violence.

Hospital Emergency Department Security

Once the law goes into effect on September 18, New York general hospitals are also required to have continuous

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emergency department security on staff. The required number of officers depends on hospital location and size:

- **City or county population = one million or more:** At least one off-duty law-enforcement officer or trained security person must always be physically present in the emergency department (ED).
- **Population < one million:** At least one officer or trained security person must be on premises at all times, with physical presence prioritized near the ED and direct responsibility for it.
- **Critical-access, sole-community, and rural emergency hospitals:** Excluded from the mandate, but may be required to hire an officer or security personnel if the facility experiences increased ED violence or abuse at a level determined by the state Health Commissioner.

Potential Penalties For Non-Compliance

The statute doesn't define what a "violation" of the new law is or list specific penalties, leaving broad discretion to state enforcement. Failing to create a program, conduct a required assessment, maintain necessary documentation, involve employees or union representatives, or satisfy ED security requirements could potentially be treated as separate compliance issues and generate individual fines.

Non-compliance may be enforced under NY's Public Health Law, which applies where the law is silent on penalties. Currently, that law permits civil penalties of up to $2,000 per violation. At the state Health Commissioner's request, the state Attorney General can also issue an injunction compelling a facility to comply with parts of the law.

Want to learn more about what should be included in a comprehensive workplace violence prevention plan? Read FP's primer here.

Steps To Take Now

With two key deadlines approaching, hospitals and nursing homes covered by the law should start working to comply now. Start by following this list:

1. Determine whether your organization operates a general hospital or nursing home covered by the law. The state's health law **excludes** residential health care facilities, public health centers, diagnostic centers, treatment centers, among other facilities from its definition of covered "general hospitals."

2. Identify and assign executive, security, HR, and labor relations staff to lead development and implementation of the workplace violence plan. Reach out to FP's Workplace Safety team for assistance with hazard assessments or crafting a prevention program or plan.

3. Compare your existing Centers for Medicare and Medicaid Services' compliance, accreditations, as well as incident-reporting and security policies against the new statute's specific requirements to identify gaps.

4. Create a documented annual risk assessment process that incorporates incident data, workforce input, and union participation where applicable.

5. Evaluate emergency-department security coverage, including staffing models, training, vendor arrangements, and funding needs.

6. Develop a written safety and security plan that includes clear employee-reporting protocols, training processes, and mechanisms to share appropriately redacted incident data and trends with relevant employee representatives.

Conclusion

We will continue to monitor developments on this law, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our New York City office.