

SENATE No. 2084

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act requiring health care employers to develop and implement programs to prevent workplace violence.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby
2 amended by inserting after section 129D, the following new section:-

3 Section 129E. (a) As used in this section, the following words shall have the following
4 meanings:-

5 “Employee”, an individual employed by a health care employer as defined in this section.

6 “Health care employer”, any individual, partnership, association, corporation or, trust or
7 any person or group of persons operating a health care facility as defined in this section and
8 employing five or more employees.

9 “Health care facility”, an individual, partnership, association, corporation or trust or any
10 person or group of persons that employs health care providers, including any hospital, clinic,
11 convalescent or nursing home, charitable home for the aged, community health agency or other
12 provider of health care services licensed, or subject to licensing by, or operated by, the

13 department of public health; any facility as defined in section 3 of chapter 111B; any private,
14 county or municipal facility, department or unit which is licensed or subject to licensing by the
15 department of mental health pursuant to section 19 of chapter 19, or by the department of
16 developmental services pursuant to section 15 of chapter 19B; any facility as defined in section 1
17 of chapter 123; the Soldiers' Home in Holyoke, the Soldiers' Home in Massachusetts; or any
18 facility as set forth in section 1 of chapter 19 or section 1 of chapter 19B.

19 (b) Each health care employer shall annually perform a risk assessment, in cooperation
20 with the employees of the health care employer and any labor organization or organizations
21 representing the employees, of all factors that may put any of the employees at risk of workplace
22 assaults and homicide. The factors shall include, but not be limited to: working in public settings;
23 guarding or maintaining property or possessions; working in high-crime areas; working late night
24 or early morning hours; working alone or in small numbers; uncontrolled public access to the
25 workplace; working in public areas where people are in crisis; working in areas where a patient
26 or resident may exhibit violent behavior; working in areas with known security problems and
27 working with a staffing pattern insufficient to address foreseeable risk factors.

28 (c) Based on the findings of the risk assessment, the health care employer shall develop
29 and implement a program to minimize the danger of workplace violence to employees, which
30 shall include appropriate employee training and a system for ongoing reporting and monitoring
31 of incidents and situations involving violence or the risk of violence. Employee training shall
32 include, in addition to all employer training program policies, methods of reporting to
33 appropriate public safety officials, bodies or agencies and processes necessary for the filing of
34 criminal charges. Each health care employer shall develop a written violence prevention plan
35 setting forth the employer's workplace violence prevention program. The health care employer

36 shall make the plan available to each employee and provide to the plan to any of its employees
37 upon their request. The health care employer shall provide the plan to any labor organization or
38 organizations representing any of its employees. The plan shall include: (i) a list of those factors
39 and circumstances that may pose a danger to employees; (ii) a description of the methods that the
40 health care employer will use to alleviate hazards associated with each factor, including, but not
41 limited to, employee training and any appropriate changes in job design, staffing, security,
42 equipment or facilities; and (iii) a description of the reporting and monitoring system.

43 (d) Each health care employer shall designate a senior manager responsible for the
44 development and support of an in-house crisis response team for employee-victims of workplace
45 violence. The response team shall implement an assaulted staff action program that includes, but
46 is not limited to, group crisis interventions, individual crisis counseling, staff victims' support
47 groups, employee victims' family crisis intervention, peer-help and professional referrals.

48 (e) The commissioner of labor shall adopt rules and regulations necessary to implement
49 the purposes of this act. The rules and regulations shall include such guidelines as the
50 commissioner deems appropriate regarding workplace violence prevention programs required
51 pursuant to this act, and related reporting and monitoring systems and employee training.

52 (f) Any health care employer who violates any provision of this section or any rule,
53 regulation or requirement made by the department under the authority of this section, shall be
54 punished by a fine of not more than \$2,000 for each offense. The attorney general shall enforce
55 the provisions of this section and of any regulation promulgated thereunder in accordance with
56 the provisions of section 2 of this chapter.

57 (g) No employee shall be penalized by a health care employer in any way as a result of
58 such employee's filing of a complaint or otherwise providing notice to the department in regard
59 to the occupational health and safety of such employee or their fellow employees exposed to
60 workplace violence risk factors.