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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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AB-2975 Occupational safety and health standards: workplace violence prevention plan: hospitals.
(2023-2024)

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Assembly Bill No. 2975

CHAPTER 749

An act to amend Section 6401.8 of the Labor Code, relating to employment.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2975, Gipson. Occupational safety and health standards: workplace violence prevention plan: hospitals.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime. Existing law also requires the Occupational Safety and Health Standards Board to adopt standards developed by the Division of Occupational Safety and Health that require specified types of hospitals to adopt a workplace violence prevention plan as part of the hospital's injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

This bill would require the standards board, by March 1, 2027, to amend the standards to include a requirement that a hospital implement a weapons detection screening policy that requires the use of weapons detection devices that automatically screen a person's body at specific entrances of the hospital, a requirement that a hospital assign appropriate personnel who meet specified training standards, a requirement that a hospital have reasonable protocols for alternative search and screening for patients, family, or visitors who refuse to undergo weapons detection device screening, and a requirement that a hospital adopt reasonable protocols addressing how the hospital will respond if a dangerous weapon is detected, as specified.

Among other provisions, the bill would require that the standards include a requirement that a hospital post, in a conspicuous location, within reasonable proximity of any public entrances where weapons detection devices are utilized, a notice notifying the public that the hospital conducts screenings for weapons upon entry but that no person shall be refused medical care, pursuant to specified federal law.

The bill would require the Division of Occupational Safety and Health to set an effective date that is no longer than 90 days after the standard is adopted for hospitals to comply with these requirements.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6401.8 of the Labor Code is amended to read:

6401.8. (a) The standards board, no later than July 1, 2016, shall adopt standards developed by the division that require a hospital licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code, except as exempted by subdivision (e), to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

(b) The standards adopted pursuant to subdivision (a) shall include all of the following:

(1) A requirement that the workplace violence prevention plan be in effect at all times in all patient care units, including inpatient and outpatient settings and clinics on the hospital's license.

(2) A definition of workplace violence that includes, but is not limited to, both of the following:

(A) The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

(B) An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

(3) A requirement that a workplace violence prevention plan include, but not be limited to, all of the following:

(A) Personnel education and training policies that require all health care workers who provide direct care to patients to, at least annually, receive education and training that is designed to provide an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training shall cover topics that include, but are not limited to, the following topics:

(i) How to recognize potential for violence, and when and how to seek assistance to prevent or respond to violence.

(ii) How to report violent incidents to law enforcement.

(iii) Any resources available to employees for coping with incidents of violence, including, but not limited to, critical incident stress debriefing or employee assistance programs.

(B) A system for responding to, and investigating violent incidents and situations involving violence or the risk of violence.

(C) A system to, at least annually, assess and improve upon factors that may contribute to, or help prevent workplace violence, including, but not limited to, the following factors:

(i) Staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence.

(ii) Sufficiency of security systems, including alarms, emergency response, and security personnel availability.

(iii) Job design, equipment, and facilities.

(iv) Security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas.

(4) A requirement that all workplace violence prevention plans be developed in conjunction with affected employees, including their recognized collective bargaining agents, if any.

(5) A requirement that all temporary personnel be oriented to the workplace violence prevention plan.

(6) Provisions prohibiting hospitals from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

(7) A requirement that hospitals document, and retain for a period of five years, a written record of any violent incident against a hospital employee, regardless of whether the employee sustains an injury, and regardless of whether the report is made by the employee who is the subject of the violent incident or any other employee.

(8) A requirement that a hospital report violent incidents to the division. If the incident results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel, the hospital shall report the incident to the division within 24 hours. All other incidents of violence shall be reported to the division within 72 hours.

(c) The standards board shall, by March 1, 2027, amend the standards adopted pursuant to subdivision (a) to include all of the following:

(1) (A) A requirement that a hospital implement a weapons detection screening policy that requires the use of weapons detection devices that automatically screen a person's body, as described in clause (iii), at the hospital's main public entrance, at the entrance to the hospital's emergency department, and at the hospital's labor and delivery entrance if separately accessible to the public.

(i) For purposes of this paragraph, a weapons detection screening policy shall include security mechanisms, devices, or technology designed to screen and identify instruments capable of inflicting death or serious bodily injury.

(ii) The use of handheld metal detector wands, while they may be used in connection with other weapons detection devices, may not be the sole equipment used. This clause does not apply to the following:

(I) Small and rural hospitals.

(II) Entrances with existing spacing limitations where the use of a weapons detection device other than a handheld metal detector wand would result in a violation of the standards in Title 24 of the California Code of Regulations.

(III) Hospitals that exclusively provide extended hospital care to patients with complex medical and rehabilitative needs, such as hospitals that are currently federally certified as long-term care hospitals or inpatient rehabilitation facilities.

(iii) The standards board shall define the list of applicable security mechanisms, devices, or technologies that meet the standard in this subparagraph.

(B) For purposes of this paragraph, the following definitions shall apply:

(i) "Main public entrance" means a singular entrance, as designated by the hospital, that serves as the primary point of access that patients and visitors use to enter the main hospital building.

(ii) "Small and rural hospital" has the same meaning as in subdivision (d) of Section 130076 of the Health and Safety Code for purposes of the Small and Rural Hospital Relief Program.

(C) The requirement described in this paragraph may not apply to the ambulance entrance.

(2) (A) A requirement that a hospital assign appropriate personnel, other than a health care provider, who meet training standards described in subparagraph (C), to implement the weapon detection screening policy, including the monitoring and operation of the weapons detection devices at each specified public entrance at all times the entrance is open to the public.

(B) A "health care provider" includes any health care professional licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(C) (i) A hospital shall implement training for personnel responsible for implementing the weapons detection screening policy that includes a minimum of eight hours of training on all of the following:

(I) The hospital's policies and procedures on how to respond if a dangerous weapon is detected at the point of screening.

(II) How to operate the hospital's weapons detection devices.

(III) Deescalation.

(IV) Implicit bias.

(ii) A hospital shall determine how the training described in this subparagraph is satisfied. The training topics described in clause (i) may be satisfied individually and on separate occasions or through one comprehensive training course, provided that the total amount of training received meets the minimum amount of time required in this subparagraph.

(D) No one other than trained personnel who have completed the requirements in subparagraph (C) shall search personal belongings at any hospital entrance or confiscate weapons if the hospital's policies include weapons confiscation by trained

personnel.

(3) (A) A provision permitting a hospital to exclude current hospital employees or health care providers who enter a hospital wearing an identification badge bearing their name and title from undergoing weapons detection screening as described in subparagraph (A) of paragraph (1) of this subdivision.

(B) A requirement that the weapons detection screening policy include reasonable protocols addressing how the hospital will respond if a dangerous weapon is detected and reasonable protocols for alternative search and screening for patients, family, or visitors who refuse to undergo weapons detection device screening.

(C) If an individual triggers the weapons detection device, the individual shall have the right to leave the facility with the object and the right to return without the object and without being denied entry to the facility solely for the reason of previously possessing the detected object.

(4) A requirement that a hospital post, in a conspicuous location in a size and manner determined by the standards board, within reasonable proximity of any public entrances where weapons detection devices are utilized, a notice advising the public that the hospital conducts screenings for weapons upon entry but that no person shall be refused medical care, pursuant to the federal Emergency Medical Treatment and Active Labor Act (EMTALA).

(5) The division shall set an effective date that is no longer than 90 days after the standard is adopted for hospitals to comply with the requirements of this subdivision.

(d) By January 1, 2017, and annually thereafter, the division, in a manner that protects patient and employee confidentiality, shall post a report on its internet website containing information regarding violent incidents at hospitals, that includes, but is not limited to, the total number of reports, and which specific hospitals filed reports, pursuant to paragraph (8) of subdivision (b), the outcome of any related inspection or investigation, the citations levied against a hospital based on a violent incident, and recommendations of the division on the prevention of violent incidents at hospitals.

(e) This section shall not apply to a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation.

(f) This section does not limit the authority of the standards board to adopt standards to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require other employers, including, but not limited to, employers exempted from this section by subdivision (e), to adopt plans to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require an employer subject to this section, or any other employer, to adopt a workplace violence prevention plan that includes elements or requirements additional to, or broader in scope than, those described in this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.