

HEALTH AND SENIOR SERVICES
SENIOR SERVICES AND HEALTH SYSTEMS BRANCH
HEALTH FACILITIES EVALUATION AND LICENSING DIVISION
OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE
FACILITY LICENSURE

Violence Prevention in Health Care Facilities

Proposed New Rules: N.J.A.C. 8:43E-11

Proposed Amendment: N.J.A.C. 8:43E-3.4

Authorized by: _____

Poonam Alaigh, MD, MSHCPM, FACP,

Commissioner, Department of Health and Senior Services

(with the approval of the Health Care Administration Board)

Authority: N.J.S.A. 26:2H-5.23

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2010 –

Written comments on the proposal must be postmarked on
or before _____, 2010 and mailed to:

Ruth Charbonneau, Director

Office of Legal and Regulatory Affairs

New Jersey Department of Health and Senior Services

PO Box 360

Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

The “Violence Prevention in Health Care Facilities Act,” (hereinafter “the Act”) P.L. 2007, c. 236 (N.J.S.A. 26:2H-5.17 et seq.), approved on January 3, 2008, requires general hospitals, special hospitals, county and private psychiatric hospitals, and nursing homes licensed in accordance with the Health Care Facilities Planning Act, P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), to establish violence prevention programs in order to protect health care workers from violence. The proposed new rules would require each covered healthcare facility to establish a violence prevention program, committee, and plan.

N.J.S.A. 26:2H-5.23 requires the Commissioners of Health and Senior Services and Human Services to adopt rules and regulations to implement the Act. The proposed new rules at N.J.A.C. 8:43E-11 would regulate the facilities licensed by the Department of Health and Senior Services (Department), while the Department of Human Services is authorized to regulate State psychiatric hospitals or State developmental centers.

In addition to the proposed new rules set forth at N.J.A.C. 8:43E-11, the Department is proposing an amendment at N.J.A.C. 8:43-3.4(a) which would: (1) establish a monetary penalty of \$5,000 per violation, which may be assessed for each day noncompliance is found, for

violations that result in injury to a health care worker; and (2) establish a monetary penalty of \$2,500 per violation, which may be assessed for each day noncompliance is found, for any violations of new rules proposed at N.J.A.C. 8:43E-11 that do not result in injury to a health care worker.

The proposed new rules at N.J.A.C. 8:43E-11 would include the following:

Proposed new N.J.A.C. 8:43E-11.1, “scope and purpose,” would identify the covered facilities to which these rules apply and indicate that the purpose of this subchapter is to establish violence prevention programs in each of the covered health care facilities in order to protect health care workers from violence, minimize damage from violence, reduce other costs of violence, maintain a safe environment and retain health care workers.

Proposed new N.J.A.C. 8:43E-11.2 would establish definitions of the following words and terms used in the proposed new subchapter: “covered health care facility,” or “facility,” “credible verbal threat of assault or harm,” “direct patient or resident contact,” “health care worker,” “incident investigation,” “in-house crisis response team,” “job task analysis,” “OSHA,” “violence” or “violent act” or “incident,” and “zero-tolerance policy.”

Proposed new N.J.A.C. 8:43E-11.3 would require a covered health care facility to establish a workplace violence prevention program within three months of adoption of these rules. This

section also would require a covered facility to allow health care workers and others to participate in the violence prevention program through means developed by the violence prevention committee.

Proposed new N.J.A.C. 8:43E-11.4 would mandate the establishment, composition, and responsibilities of a violence prevention committee.

Proposed new N.J.A.C. 8:43E-11.5 would specify the conditions under which the violence prevention program and committee could be operated at the system level.

Proposed new N.J.A.C. 8:43E-11.6 would require the violence prevention committee to develop and maintain a detailed, written violence prevention plan within six months after the adoption of this subchapter, and would specify components of this plan.

Proposed new N.J.A.C. 8:43E-11.7 would require the violence prevention committee to complete an annual violence risk assessment for a covered facility and would identify the components of such an assessment.

Proposed new N.J.A.C. 8:43E-11.8 would require the implementation of methods to reduce risks identified in the risk assessment.

Proposed new N.J.A.C. 8:43E-11.9 would require that copies of the violence prevention plan be made available upon request to

the Commissioner of Health and Senior Services, health care workers, and collective bargaining agents; would describe the circumstances under which translation of the plan would be mandated; and would exclude from the public any information in the plan that would pose a threat to security if made public.

Proposed new N.J.A.C. 8:43E-11.10 would mandate violence prevention training within three months of the development of the violence prevention plan and annually thereafter, and would specify participants, duration, content, and methods of the training.

Proposed new N.J.A.C. 8:43E-11.11 would require a violence prevention committee to establish procedures for incident handling, investigation, and reporting.

Proposed new N.J.A.C. 8:43E-11.12 would require the covered facility to keep a record of all violent acts and would specify record maintenance requirements and timeframes for access to the records by employees and the Department. This section also would provide that records created and maintained would not be subject to disclosure under OPRA.

Proposed new N.J.A.C. 8:43E-11.13 would require covered facilities to provide appropriate medical care to health care workers injured during a violent act, and would establish procedures for post-incident response regarding psychological care.

Proposed new N.J.A.C. 8:43E-11.14 would specify that retaliatory action would have the same meaning as found in N.J.S.A. 34:19-2. This section also would mandate that retaliatory action may not be taken against any health care worker for reporting violent incidents.

Proposed new N.J.A.C. 8:43E-11.15 would provide that a covered health care facility that violates the provisions of this subchapter would be subject to penalties and enforcement actions specified in N.J.A.C. 8:43E-3.

As the Department has provided a 60-day comment period on this notice of proposal, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement as set forth at N.J.A.C. 1:30-3.1 and 3.2.

Social Impact

As set forth by the State Legislature in N.J.S.A. 26:2H-5.18, violence is an escalating problem in many health care settings in the State, and health care workers are at a particularly high risk. The Department anticipates that the proposed new rules and amendment would help prevent violence against health care workers. Furthermore, the rules would increase the probability of retaining health care professionals. Overall, the new rules and amendment would help to create a safe and therapeutic environment for everyone in the covered health care facilities. The

rules would also help ensure that more health care providers are available to provide services to all members of society.

The Department estimates that 465 covered facilities licensed by the Department would be affected by the proposal (general acute care hospitals-71; special hospitals-16; county psychiatric hospitals-4, private psychiatric hospitals-6; and nursing homes-368).

The Department met with representatives of hospitals, nursing homes, and health care workers to seek their input on the proposed rules. After completing detailed discussions, consensus was reached regarding the content of these proposed rules.

The Department expects a positive response to the proposal, although some covered facilities may object to the costs attendant upon training staff and purchasing equipment that deters violent incidents.

Economic Impact

The Department has no current way of estimating costs or conducting a cost-benefit analysis. However, covered health care facilities would likely incur some initial and ongoing costs related to implementation of safety devices, record keeping and reporting, and the training of all staff specified in section N.J.A.C. 8:43E-11.10(b)1. At the same time, the proposed new rules would have several beneficial economic impacts. Decreased violence in health

care facilities would help to minimize insurance claims, lost productivity, and disruptions to operations. Decreased violence also would result in fewer legal expenses and less money spent to rectify property damage. The provision of follow-up medical and psychological care would likely be covered by insurance or absorbed by the facilities.

The amendment that sets forth a monetary penalty for the violation of the proposed new rules would have no economic impact on covered facilities provided compliance with the subchapter is achieved.

The proposal would not affect existing funding sources, although the Department would have to use existing resources and staff to enforce and administer the requirements of proposed new N.J.A.C. 8:43E-11.

Federal Standards Statement

At the national level, despite a 1993 petition by a multi-union coalition to the Occupational Safety and Health Administration (OSHA), the federal government declined to issue a standard regarding violence against health care workers. Instead, the federal government issued OSHA's 2004 "Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers." (www.osha.gov/Publications/osha3148.pdf). Since then, several states have enacted legislation requiring the implementation of

programs or incident reporting regarding violence in health care facilities. The proposed new rules and amendment are mandated by N.J.S.A. 26:2H-5.17 et seq. and are not subject to federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not expect that the proposed new rules and amendment would result in a loss of jobs. In fact, it is expected that these new rules and amendment will allow more health care workers to keep their existing jobs. In addition, when the rules take effect, new jobs might be generated in the industries that manufacture and install equipment that deters violent incidents.

Agriculture Impact Statement

The proposed new rules and amendment would not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed new rules and amendment would impose requirements on general hospitals, special hospitals, county and private psychiatric hospitals, and nursing homes licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c. 136 (C.26:2H-1 et seq.).

Covered facilities such as general hospitals, special hospitals, and county and private psychiatric hospitals are not

considered to be “small businesses” within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as each generally employs more than 100 people full-time. Some of the 368 licensed nursing homes employ more than 100 people full-time and others do not. The covered nursing homes that employ less than 100 people full-time would be considered small businesses.

Therefore, the proposed new rules and amendment would impose compliance, reporting and record-keeping requirements on the covered facilities that employ less than 100 people full-time. Some may need to obtain professional services or new hires in order to comply with the proposed new rules and amendment, such as for training of employees, for budgeting for and purchase of new equipment, and for follow-up care for victims of violence. All would incur costs and cost savings as described in the Economic Impact Statement above similar to those incurred by all facilities covered by these regulations. Because of the need for violence prevention in all covered facilities, no lesser requirements may be imposed on these small businesses.

Smart Growth Impact

The proposed new rules and amendment would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments and new rules would have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the regulation would evoke a change in the average costs associated with housing because the proposal affects workplace violence in licensed general hospitals, special hospitals, county and private psychiatric hospitals, and nursing homes operating in New Jersey.

Smart Growth Development Impact

The proposal would have an insignificant impact on smart growth and there is an extreme unlikelihood that the regulation would evoke a change in housing production in Planning areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposal concerns workplace violence in licensed general hospitals, special hospitals, county and private psychiatric hospitals, and nursing homes operating in New Jersey.

Full text of proposed amendment and new rules follows
(additions indicated in boldface **thus**; deletions indicated in
brackets [thus]):

8:43E-3.4 Civil monetary penalties

(a) Pursuant to N.J.S.A. 26:2H-13 and 14, the
Commissioner may assess a penalty for violation of licensure
regulations in accordance with the following standards:

1. - 15. (No change.)

16. For violation of N.J.A.C. 8:43G-12A or 36.3(b)4,
governing emergency care for sexual assault victims, \$5,000 per
violation, which may be assessed for each day noncompliance is
found[.];

**17. For violations of the requirements of N.J.A.C. 8:43E-11
which result in injury to a health care worker, \$5,000 per
violation, which may be assessed for each day noncompliance
is found.**

**18. For violations of the requirements of N.J.A.C. 8:43E-
11 not resulting in injury as set forth paragraph 17 of this
subsection, \$2,500 per violation, which may be assessed for
each day noncompliance is found.**

(b) – (c) (No change.)

SUBCHAPTER 11. VIOLENCE PREVENTION IN HEALTH CARE FACILITIES

8:43E-11.1 Scope and purpose

(a) The provisions of this subchapter apply to general hospitals, special hospitals, county and private psychiatric hospitals, and nursing homes licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.).

(b) The purpose of this subchapter is to establish violence prevention programs in each of the covered health care facilities in order to protect health care workers from violence; to minimize insurance claims, lost productivity, disruptions to operations, legal expenses and property damage; to maintain a safe and therapeutic environment for patients and residents; and to retain health care professionals.

8:43E-11.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Covered health care facility” or “facility” means a general hospital, special hospital, county or private psychiatric

hospital, or nursing home licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.).

“Credible verbal threat of assault or harm” means a knowing and willful statement that is corroborated by independent evidence, which would cause a reasonable person to believe that he or she is under imminent threat of death or serious bodily injury, and which actually causes a person to believe that he or she is under imminent threat of death or serious bodily injury.

“Direct patient or resident contact” means hands-on or face-to-face contact with patients or residents.

“Health care worker” means an individual who is directly employed by a covered health care facility.

“Incident investigation” means an in-depth analysis of a violent act that is designed to identify both direct and underlying causes of the act, in order to develop corrective actions that could reduce the potential for similar violent acts in the future.

“In-house crisis response team” means a crisis response team on-site at a facility 24 hours-a-day, seven days a week, or immediately available from an outside contractor.

“Job task analysis” means an evaluation conducted by the facility in collaboration with and for each health care worker to determine job or task-specific hazards or risk factors that may contribute to a health care worker’s vulnerability to a violent act.

“OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor.

“Violence” or “violent act” or “incident” means any physical assault or any physical or credible verbal threat of assault or harm that is committed against a health care worker.

“Zero-tolerance policy” means a policy stating that a violent act will not be tolerated and that, in every case, management will ensure reporting, response, and follow-up as specified in N.J.A.C. 8:43E-11.

8:43E–11.3 Establishment of a violence prevention program

(a) Except as provided in N.J.A.C. 8:43E-11.6, within three months after adoption of these rules, a covered health care facility shall establish a violence prevention program that complies with the requirements of this subchapter for the purpose of protecting health care workers.

(b) A covered facility shall allow health care workers including, but not limited to, union representatives, supervisors and managers, to participate in the establishment and evaluation of the violence prevention program through means developed by the violence prevention committee.

8:43E–11.4 Violence prevention committee

(a) A covered health care facility shall establish a violence prevention committee, which shall meet at least quarterly, or more frequently as needed.

(b) The violence prevention committee shall include a representative of facility administration who shall be responsible for overseeing all aspects of the program.

(c) The violence prevention committee shall select a chairperson from among its members.

(d) The violence prevention committee shall be comprised of members as follows:

1. At least 50 percent of the committee members shall be health care workers who engage in direct patient contact or otherwise have contact with patients or residents.

2. The remaining committee members shall have experience, expertise, or responsibility relevant to violence prevention.

3. In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the administration of the facility or system shall consult with the applicable collective bargaining agents regarding the selection of the health care worker committee members.

(e) The violence prevention committee shall be responsible for tasks including, at a minimum, the following:

1. Completion of an annual violence risk assessment to analyze risk factors for workplace violence and to identify patterns of violence;

2. Development of a written violence prevention plan that shall be submitted to facility administration;

i. The written violence prevention plan shall outline policies, procedures, and responsibilities and shall be updated annually.

3. Provision of recommendations to the facility regarding methods to reduce identified risks based on findings of the violence risk assessment;

4. Review of the design and layout of all existing, new and renovated covered health care facilities to ensure safe, secure work areas and to prevent entrapment of workers;

5. Identification of information in the violence prevention plan that might pose a threat to security if made public;

6. Development, annual review, evaluation and revision of violence prevention training content and methods as required by N.J.A.C. 8:43E-11.10.

7. Development of strategies for encouraging the reporting of all incidents of workplace violence and procedures for reporting such incidents; and

8. Review of de-identified, aggregated data that has been compiled from incident investigation reports by the appropriate department designated by the facility, in order to identify trends and, if needed, to make recommendations to prevent similar incidents.

i. The violence prevention committee shall have access to data prior to de-identification and aggregation, as determined necessary by the committee and in keeping with procedures established by the committee.

8:42E-11.5 System-level programs and committees

(a) When a health care system owns or operates more than one covered health care facility, the violence prevention

program and committee may be operated at the system level, provided that:

- 1. Committee membership shall include at least one health care worker from each facility that provides direct care to patients or residents;**
- 2. The committee shall develop a violence prevention plan for each covered health care facility; and**
- 3. Data related to violence prevention shall remain distinctly identifiable for each covered health care facility.**

8:43E-11.6 Written violence prevention plan

(a) Within 6 months after adoption of these rules, the violence prevention committee shall develop and maintain a detailed, written violence prevention plan that identifies workplace risks and provides specific methods to address them.

- (b) The plan shall, at a minimum, describe the following:**
- 1. Establishment of a violence prevention committee;**
 - 2. Violence prevention policies;**
 - 3. Recordkeeping process;**
 - 4. Incident reporting, investigation, and evaluation methods;**

5. Follow-up medical and psychological care, which may include support groups, family crisis intervention, and professional referrals; and

6. How employees shall access a covered facility's post-incident response system.

(c) The plan shall require an annual comprehensive violence risk assessment for the covered health care facility that meets the requirements of N.J.A.C. 8:43E-11.7.

(d) The plan shall identify methods to reduce identified risks including, at a minimum: facility modifications; changes to equipment, job design, staffing, and security; and revision of violence prevention training content as specified in N.J.A.C. 8:43E-11.10.

(e) The plan shall include the following:

1. Copies of any agreements, if applicable, with law enforcement agencies and prosecutors, that contain contacts and a consistent set of remedial actions for specific events;

2. Dates on which the workplace violence prevention plan shall be reviewed; and

3. A copy of the written incident reporting procedure required by N.J.A.C. 8:43E-11.11.

8:43E-11.7 Completion of a violence risk assessment

(a) The violence prevention committee or a subcommittee with facility representation (in the case of a system-level committee) shall conduct an annual violence risk assessment, for each covered facility, that shall consider OSHA’s 2004 Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers (OSHA 3148-2004), as amended and supplemented, and available at www.OSHA.gov, and that shall include the following:

1. The facility shall conduct a job task analysis in collaboration with and for each health care worker that shall be used by the violence prevention committee to identify improved security procedures and controls based on potential risk factors for violent incidents.

i. Such risk factors shall include, as applicable, working with unstable or volatile persons (for example, those under the influence of drugs or alcohol, in acute psychiatric distress, having a history of violence and/or having criminal backgrounds); prevalence of weapons on site among patients, family, and visitors; the increasing presence of gang members; overcrowding and long waits for service that lead to client frustration, especially in emergency and clinical areas; isolated and/or solo work with patients and/or residents during

examinations or treatment; lack of staff training; and the impact of staffing, including security personnel.

2. The covered facility shall require at least two members of the violence prevention committee, at least one of whom is a direct care staff member, to conduct walk through surveys of all worksite areas at least annually and as needed to identify existing or potential physical environment risk factors for workplace violence.

i. Such possible risk factors shall include, at a minimum, the facility's physical layout; access restrictions; crime rate in surrounding areas; non-working alarm systems, communication devices, surveillance cameras and/or mirrors; and poor lighting and visibility in the facility and in parking areas.

3. The covered facility shall require the violence prevention committee to analyze trends in violent incidents through the collection and review of data provided by the appropriate department within the facility pursuant to N.J.A.C. 8:43E-11.4(e)8.

8:43E-11.8 Implementation of methods to reduce identified risks

(a) The covered facility shall implement prevention and control measures to counteract the risk factors identified by the violence risk assessment required by N.J.A.C. 8:43E-11.7.

(b) The prevention and control measures shall include, at a minimum, the following:

- 1. Lighting indoors and in parking lots;**
- 2. The installation, as necessary, and maintenance of items including, alarm systems, closed circuit TVs, metal detection systems, cell phones, personal alarm devices, codes, drop phones, panic alarms, and audio surveillance systems;**
- 3. Assigning and training appropriate personnel to respond to each alarm system in use at a facility;**
- 4. The training and posting of security personnel in emergency departments, psychiatric wards, and in other locations, as needed; and**
- 5. Controlled access, as needed, to staff offices and employee work areas, especially secluded work areas.**

8:43E-11.9 Copies of the violence prevention plan

(a) A covered facility shall make a copy of the violence prevention plan available upon request, to the Office of Certificate of Need and Health Care Facility Licensure in the Department of Health and Senior Services.

(b) A covered facility shall make a copy of the violence prevention plan available within two business days of the request, to any health care worker or collective bargaining agent who represents health care workers at the facility.

(c) If a language other than English is the exclusive language spoken by at least 10 percent of a covered health care facility's health care workers, the facility shall translate the workplace violence prevention plan into that language and make it available to those workers.

(d) In the event that the violence prevention committee determines, in accordance with N.J.A.C. 8:43E-11.4(e)5, that the plan contains information that would pose a threat to security if made public, the facility shall exclude any such information before providing copies to workers or collective bargaining agents.

8:43E-11.10 Violence prevention training

(a) The violence prevention committee of a covered health care facility shall designate a coordinator or team to arrange for violence prevention training.

(b) Within three months after a violence prevention plan has been developed, a covered facility shall conduct initial

violence prevention training and annual training, thereafter, for the following:

1. All health care workers, including supervisors, managers and security staff, regardless of their level of risk;

(c) Training shall be at least two hours in duration and shall be held during paid work time.

(d) The training methods shall include, but not be limited to, at least two of the following: handouts, presentations, discussion, role playing, and DVD or computer-based training activities.

(e) A covered facility shall provide interim training for individuals designated in (b)1 above who begin work between annual training sessions.

(f) The training shall be conducted in easily understandable terminology.

1. If a language other than English is the exclusive language spoken by at least 10 percent of a covered facility's health care workers, the training also shall be conducted in that language and handouts shall be made available in that language.

(g) The content of the training shall include, at a minimum, the following:

1. Requirements of the workplace violence administrative rules at N.J.A.C. 8:43E-11;
2. A review of the facility's relevant policies;
3. Techniques to de-escalate and minimize violent behavior;
4. Appropriate responses to workplace violence, including the use of restraining techniques;
5. Reporting requirements and procedures;
6. Location and operation of safety devices;
7. Resources for coping with violence;
8. A summary and analysis of the facility's risk factors identified in the violence risk assessment and preventive actions taken in response to the risk factors identified; and
9. Information on multicultural diversity to increase staff sensitivity to racial and ethnic issues and differences.

8:43E-11.11 Incident response, investigation and reporting

(a) A covered facility shall respond to violent acts, conduct incident investigations, and prepare incident investigation reports in keeping with procedures specified by the violence prevention committee.

1. The procedures shall be in writing, easily understood by all employees, and take into account issues of

confidentiality, as determined by the violence prevention committee.

(b) A health care worker in a covered facility who is present during an incident of violence, or who is the first on the scene after such an incident occurs, shall act according to procedures established by the violence prevention committee.

i. Law enforcement officials shall be summoned, if necessary and in keeping with specified procedures, in order to assist victims, assess and secure the incident area, ensure the safety of everyone involved, protect evidence, and reduce distractions during the incident response process.

(c) The incident investigation required by (a) above shall focus on fact-finding, prevention, and corrective action rather than on assessing blame and/or fault finding.

(d) The incident investigation required by (a) above shall gather the following facts:

- 1. Date, time and location of the incident;**
- 2. Identity, job title, and job task of the victim;**
- 3. Identity, if known, of the person who committed the violent act.**
- 4. Description of the violent act, including whether a weapon was used;**
- 5. Description of physical injuries, if any;**

6. Number of employees in the vicinity when the incident occurred, if known, and their actions in response to the incident, if any;

7. Recommendations, if applicable, of police advisors, employees, or consultants; and

8. Actions taken by the facility in response to the incident.

(e) A covered facility shall prepare a written incident investigation report for each violent act.

1. A covered facility shall provide written incident investigation reports, which have been de-identified as required by N.J.A.C. 8:43E-11.4(e)8i, to the designated administrative representative and to the violence prevention committee according to established procedures.

i. The violence prevention committee shall decide if and when the de-identified data shall be aggregated.

2. The victim's identity shall not be included in the incident report if such identity would not be entered on NJOSH 300 (N.J.A.C. 12:110-5.1) and the OSHA Log of Work-Related Injuries and Illnesses (OSHA 300 Log) required by 29 C.F.R. Part 1904, which is incorporated herein by reference, as amended and supplemented;

(f) After reviewing the de-identified incident reports, the covered facility, in collaboration with the violence prevention committee, shall encourage appropriate follow-up, consider changes in procedures, and add elements to training as needed.

8:43E-11.12 Recordkeeping

(a) A covered facility shall keep a record of all violent acts that occur in the facility to help select the appropriate controls to prevent the recurrence of workplace violence and to determine required training.

(b) A covered facility shall maintain, for at least five years after the reported act, all incident investigation reports required by N.J.A.C. 8:43E-11.11(a) and any record of a violent act contained in any of the following documents:

- 1. NJOSH 300, copies of which can be found at http://lwd.dol.state.nj.us/labor/forms_pdfs/lsse/NJOSH300.pdf;**
- 2. The OSHA Log of Work-Related Injuries and Illnesses (OSHA Form 300, which can be found at <http://osha.gov/recordkeeping/RKforms.html>) required by 29 C.F.R. Part 1904, which is incorporated herein by reference, as amended and supplemented;**
- 3. Staff termination records;**
- 4. Union grievances and complaints;**

- 5. Workers' compensation records;**
- 6. Insurance records;**
- 7. Medical records;**
- 8. Police reports;**
- 9. Accident investigation reports;**
- 10. Minutes of safety meetings;**
- 11. Training records; and**
- 12. Employee questionnaires.**

(c) A covered facility shall provide the Department of Health and Senior Services with immediate access to the records required to be maintained by this section and to any de-identified and/or aggregated data.

1. An employee and/or his or her authorized representatives shall have access to the employee's identifiable records and to de-identified and/or aggregated data within two business days.

(d) In accordance with N.J.S.A. 26:2H-5.20, the records created and maintained pursuant to this section shall not be considered public or government records under P.L. 1963, c. 73 (N.J.S.A. 47:1A-1 et seq.) or P.L. 2001, c. 404 (N.J.S.A. 47:1A-5 et al.).

8:43E-11.13 Post-incident response

(a) The covered facility shall ensure that prompt and appropriate medical care is provided to health care workers injured during an incident.

(b) The covered facility shall establish a post-incident response system.

1. The covered facility shall provide, at a minimum, an in-house crisis response team for employee-victims and their co-workers, and individual and group crisis counseling, which may include support groups, family crisis intervention and professional referrals as indicated in the violence prevention plan.

(c) The covered facility shall ensure that provisions for medical confidentiality and protection from discrimination shall be included in facility policies and procedures to prevent victims from suffering further loss.

8:43E-11.14 Prohibition of retaliatory action

(a) As used in this section, “retaliatory action” means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, in accordance with section 2 of P.L. 1986, c.105 (N.J.S.A. 34:19-2).

(b) A covered facility shall not take any retaliatory action against any health care worker for reporting violent incidents.

8:43E-11.15 Enforcement and penalties

(a) A covered facility licensed pursuant to N.J.S.A 26:2H-1 et seq. that is in violation of the provisions of this subchapter shall be subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.