

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 472

H.P. 365

House of Representatives, February 10, 2011

An Act To Enhance the Security of Hospital Patients, Visitors and Employees

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CELLI of Brewer.
Cosponsored by Representative: RIOUX of Winterport.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1832** is enacted to read:

3 **§1832. Safety and security in hospitals**

4 **1. Safety and security plan.** By January 1, 2012 and annually thereafter, a hospital
5 shall adopt a safety and security plan to protect the patients, visitors and employees of the
6 hospital from aggressive and violent behavior. A hospital safety and security plan must
7 comply with the provisions of this subsection.

8 A. In developing a safety and security plan, a hospital shall consider guidelines and
9 standards on violence in health care facilities issued by the department, the
10 Department of Labor and the federal Department of Labor, Occupational Safety and
11 Health Administration.

12 B. In developing a safety and security plan, a hospital shall consult with affected
13 employees, including but not limited to any recognized collective bargaining agent.
14 A hospital may consult with its affected employees.

15 C. A safety and security plan must provide for adequate employee training to prevent
16 and respond to violent acts.

17 D. A safety and security plan must include the following security considerations:

18 (1) The physical layout of the hospital;

19 (2) Staffing and staffing patterns and patient classification systems and an
20 analysis of their contribution and connection to aggressive and violent behavior;

21 (3) The adequacy of the hospital's security systems, protocols and policies,
22 including the availability of security personnel;

23 (4) The potential security risks associated with specific units or areas of the
24 hospital where there is a greater likelihood that a patient, visitor or other person
25 may exhibit aggressive or violent behavior;

26 (5) Public access to the hospital;

27 (6) Potential security risks associated with working late night or early morning
28 hours;

29 (7) The potential use of a trained response team to assist an employee during an
30 incident of aggressive or violent behavior;

31 (8) Employee security in areas surrounding the hospital, including employee
32 parking areas;

33 (9) Policies and training related to appropriate response to aggressive and violent
34 behavior; and

35 (10) Efforts to cooperate with law enforcement regarding aggressive and violent
36 behavior in the hospital.

37 E. A safety and security plan must include the following:

1 (1) Personnel training policies to protect patients, visitors and employees,
2 including education on recognizing the potential for violence, when and how to
3 seek assistance, how to report an incident of aggressive or violent behavior and
4 how to file criminal charges. For employees regularly assigned to an emergency
5 department or psychiatric unit, the policies must require annual training related
6 to:

7 (a) General and personal safety measures;

8 (b) Factors that predict aggression and violence;

9 (c) Obtaining the patient history of a patient who has a history at the hospital
10 of violent behavior;

11 (d) Characteristics of aggressive and violent patients and of victims;

12 (e) Verbal and physical maneuvers to defuse potentially violent situations
13 and avoid violent behavior;

14 (f) Strategies to avoid physical harm;

15 (g) Restraining techniques, including the appropriate use of chemical
16 restraints; and

17 (h) Any resources available to employees for coping with incidents of
18 violence, including but not limited to critical incident stress management,
19 debriefing and employee assistance programs;

20 (2) A system for responding to immediate threats and incidents of aggressive or
21 violent behavior, including immediate assistance if needed;

22 (3) A system for investigating threats or incidents of aggressive and violent
23 behavior that must include interviewing any person who was threatened with or
24 was the subject of aggressive or violent behavior;

25 (4) A system for reporting to the hospital, recording and monitoring situations of
26 risk, threats and incidents of aggressive and violent behavior;

27 (5) A system for reporting to the Department of Public Safety, Bureau of State
28 Police incidents of aggressive and violent behavior. The system must require
29 reporting all criminal threatening or assaults committed by a patient or a person
30 accompanying a patient, with recording of the date, time and location of the
31 incident, the name of the person who committed the criminal threatening or
32 assault and the person who was the victim of the criminal threatening or assault, a
33 description of the incident and the response of the hospital. The system must
34 require reporting within 24 hours all assaults that result in injury and all criminal
35 threatening and all assaults that involve the use of a firearm or other dangerous
36 weapon or that present an urgent or emergent threat to the health, safety or
37 welfare of patients, visitors or employees. The system must require reporting all
38 other reportable incidents within 72 hours; and

39 (6) Modifications in job design, staffing, security, equipment or facilities to
40 prevent or address aggressive and violent behavior against patients, visitors or
41 employees.

- 1 F. A safety and security plan must provide for:
2 (1) An appropriate response by the hospital that protects the alleged perpetrator
3 and the alleged victim;
4 (2) The right of an employee to seek assistance and intervention from law
5 enforcement and evaluation and treatment for physical or emotional injuries
6 without retaliation by the hospital; and
7 (3) Evaluation and treatment for an employee who is a victim of an incident of
8 violence, including, if requested by the employee, access to individual crisis
9 counseling, support group counseling, peer assistance and professional referrals
10 to address trauma or distress.

11 G. A safety and security plan must include a system for tracking incidents of
12 aggressive and violent behavior and the hospital's responses to those incidents as part
13 of the hospital's quality assessment and improvement program.

14 **2. Security staffing.** A hospital shall provide security staffing to meet the
15 requirements of a safety and security plan under subsection 1 and shall provide training to
16 security staff on the role of security, the identification of factors that predict violence and
17 aggression and management of critical incidents.

18 **3. Immunity.** A hospital or employee of a hospital who in good faith makes a report
19 to the Department of Public Safety pursuant to a safety and security plan under subsection
20 1 is immune from liability for making the report.

21 **4. Interference prohibited.** A person may not interfere with or obstruct reporting
22 pursuant to a safety and security plan under subsection 1. A person who violates this
23 subsection commits a Class E crime.

24 **5. Penalties.** The department may impose an administrative penalty against a
25 hospital or a licensee of a hospital for a violation of the reporting requirements of a safety
26 and security plan adopted pursuant to subsection 1 in an amount not exceeding \$7,500 for
27 a first violation, \$10,000 for a 2nd violation and \$12,500 for a 3rd or subsequent
28 violation.

29 **6. Department of Public Safety response.** When the Department of Public Safety
30 receives a report that indicates an ongoing, urgent or emergent threat of imminent danger
31 of death or serious injury to the patients, visitors or employees of a hospital, the
32 Department of Public Safety shall visit the hospital to inspect or investigate the threat
33 within 2 business days of receiving the report and shall complete any investigation and
34 report to the Department of Health and Human Services within 45 days.

35 **Sec. 2. 34-A MRSA §1803, sub-§3, ¶A-1** is enacted to read:

36 A-1. Adopt standards for safety and security plans in correctional facilities and
37 county jails to protect inmates and employees from aggression and violence;

38 **Sec. 3. Report.** The Department of Health and Human Services shall report to the
39 Legislature by January 31st each year, beginning in 2013, regarding reports on incidents
40 of violence in hospitals made to the department for the previous year pursuant to hospital

1 safety and security plans required under the Maine Revised Statutes, Title 22, section
2 1832. The report must protect patient and employee confidentiality, must provide the
3 total number of reports, must identify the hospital facilities and any inspections or
4 investigations, must provide information on any administrative penalties levied by the
5 department for violations and may include recommendations on how to prevent incidents
6 of violence in hospitals.

7

SUMMARY

8 This bill requires the adoption of safety and security plans to protect patients, visitors
9 and employees in hospitals. The plan would require training for employees, a system for
10 reporting, investigation of incidents of violence, a guarantee of the employee's right to
11 seek assistance and treatment, immunity for good faith reporting of incidents and
12 reporting to the Department of Public Safety and from that department to the Department
13 of Health and Human Services. It requires the State Board of Corrections to adopt
14 standards for safety and security plans in correctional facilities and county jails. It also
15 requires annual reporting from the Department of Health and Human Services to the
16 Legislature on reports of violence in hospitals.