EPSTEIN BECKER GREEN

Workplace Violence Checklist for Health Care Employers: Compliance, Prevention, and Response



As incidents of workplace violence rise in the health care sector, employers are facing an unprecedented challenge in addressing how to protect their workforce. New federal and state laws, enacted in response to this growing concern, can complicate efforts for multistate employers trying to implement uniform policies. While it is impossible to prevent all workplace violence, a proactive approach to compliance and preparedness is essential for mitigating legal risks and reducing the physical and emotional toll these incidents take on employees.

Epstein Becker Green has prepared this checklist to help health care employers develop comprehensive compliance, prevention, and response plans that meet legal requirements and the unique needs of their business in combating workplace violence.

I. COMPLIANCE

Health care employers are legally required to provide a safe working environment. Therefore, regularly review and update your workplace violence prevention plans (WVPPs) and safety procedures to confirm compliance with the minimum requirements under applicable federal, state, and local laws. Legal obligations may include:

- ☐ **Occupational Safety and Health Act of 1970, General Duty Clause**. This clause mandates that employers maintain a hazard-free environment, emphasizing the importance of safety in the workplace.
- ☐ **Occupational Safety and Health Administration (OSHA) 2015 Guidelines**. These voluntary guidelines offer a framework for preventing violence, helping employers implement effective safety measures. The guidelines address topics including management commitment and worker participation, worksite analysis and hazard identification, hazard prevention and control, safety and health training, and recordkeeping and program evaluation.
- ☐ **Workplace Violence Prevention Plans.** At least 20 states now require a WVPP for health care settings, and nearly all have enhanced penalties for assault or battery on a health care worker. [1]
- ☐ **Sexual Harassment Prevention.** Establishing a clear and comprehensive anti-harassment policy and providing regular sexual harassment prevention training are best practices and required under certain state and local laws.[2]
- ☐ **Background Check and Drug Testing Procedures.** Federal, state, and local laws may require health care employers to conduct background checks and drug or alcohol screenings on certain workers before or during employment. Conversely, some jurisdictions impose strict requirements and limitations on these procedures, including when employers may consider an individual's criminal history when making employment decisions.
- ☐ **Collective Bargaining Agreements.** In unionized work environments, collective bargaining agreements may supplement and strengthen the statutory requirements.

[1] States requiring certain health care employers to adopt WVPPs include Arizona, California, Colorado, Connecticut, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Rhode Island, Texas, Vermont, and Washington State.

[2] Jurisdictions that require sexual harassment prevention training include California (five or more employees), Connecticut (three or more employees; all employers must provide training to supervisors), Delaware (50 or more employees), Illinois and Chicago (all employers), Maine (15 or more employees), New York State and New York City, and Virginia (public contractors with a contract over $10,000 and five or more employees).

II. PREVENTION

Proactively identifying and mitigating risks may help prevent incidents of workplace violence. By developing a comprehensive prevention plan, conducting risk assessments, and implementing controls, employers can address potential issues before they escalate and create a safer environment for employees. Consider adopting some or all of the following prevention strategies:

- ☐ **Develop a Workplace Violence Prevention Plan**
  - ○ Create a comprehensive WVPP that complies with applicable legal requirements and is tailored to your facility's needs.
  - ○ Include clear policies and procedures for preventing violence.
  - ○ Review and update the WVPP regularly to comply with new legal requirements and address changes to your workplace.
- ☐ **Conduct Risk Assessments**
  - ○ Identify potential hazards that may contribute to incidents of workplace violence, including activities, online platforms, work areas, departments or units, job titles, and times of day that may expose employees to increased risk.
  - ○ Review past incidents of workplace violence.
  - ○ Engage staff in identifying areas of risk, including physical and non-physical (e.g., cyberabuse or cyberbullying) threats.
  - ○ Consider soliciting feedback from patients and/or vendors through surveys or strategic interviews.
  - ○ Repeat assessments periodically to address physical changes to facilities, employee turnover, and workforce reorganizations.
- ☐ **Implement Controls**
  - ○ Develop strategies to correct hazards and mitigate identified risks in a timely manner. These strategies may include:
    - » installing or updating security and alarm systems,
    - » identifying adequate exit routes,
    - » adopting and installing new monitoring systems,
    - » providing protection barriers,
    - » prohibiting vendors and visitors from certain areas,
    - » improving lighting,
    - » establishing formal entry and exit procedures,
    - » adjusting staffing or requiring certain employees to work in teams,
    - » implementing systems to flag patients who have a history of violence, and
    - » revising procedures when communicating terminations of employment.
  - ○ Regularly review the effectiveness of established controls and update, as needed.
- ☐ **Provide Regular Training for Employees**
  - ○ Develop employee training programs that address the WVPP, existing controls, and procedures for confronting, responding to, and reporting concerns, threats, or incidents of workplace violence.
  - ○ Ensure training meets or exceeds applicable legal requirements and informs employees of their rights under applicable law.
  - ○ Consider whether additional site, unit, or job-specific training is needed.
  - ○ Establish a regular cadence to refresh training or convey changes to workplace violence prevention policies, procedures, or controls.

III. RESPONSE

A well-coordinated response is essential for effectively managing incidents of workplace violence, particularly in health care environments where employees, vendors, patients, and other visitors regularly occupy the same physical spaces. Your response plan should consider the following action items:

- ☐ **Notify Law Enforcement**
  - Establish protocols for immediate notification of law enforcement in case of a serious incident.
  - Maintain a list of emergency contacts at strategic locations throughout the workplace, including entrances, waiting rooms, emergency rooms, and information desks.
- ☐ **Mobilize Internal Crisis Management Teams**
  - Coordinate with security personnel for immediate response.
  - Train and prepare internal teams to handle incidents effectively, including de-escalation techniques.
  - Establish procedures for protection or evacuation of staff, patients, and visitors.
  - Engage legal counsel and determine whether to file for a protective order.
- ☐ **Manage Public Relations**
  - Develop a communication plan to mitigate external public relations concerns.
  - Ensure transparency and timely updates to employees and employee stakeholders.
- ☐ **Investigate the Incident**
  - Conduct thorough investigations as soon as practicable to understand the cause and impact of all workplace violence incidents.
  - Identify witnesses and custodians, and collect statements.
  - Document findings and take corrective actions.
  - Evaluate the effectiveness of existing prevention and safety measures.
- ☐ **Preserve Evidence**
  - Review regular retention schedules.
  - Suspend routine destruction programs.
  - Preserve documentary, digital, and electronic records.
  - Issue preservation or litigation hold letters to custodians, if necessary.
- ☐ **Comply with Reporting Requirements**
  - Report incidents to federal, state, and local officials as required, including OSHA and Boards of Health.
  - Communicate with leadership, including Boards of Directors.
  - Alert union representatives in accordance with collective bargaining agreements, where applicable.
- ☐ **Support Your Employees**
  - Leverage time-off and leaves-of-absence policies.
  - Offer accommodations to employees in accordance with applicable law.
  - Establish an employee assistance program.
  - Connect affected employees with victim advocacy services.
  - Maintain workers' compensation insurance.
  - Provide post-incident debriefing for affected staff, including information about your response, employee resources, and interim protective measures.
  - Encourage leadership and supervisors to check in with affected employees.

☐ **Take Corrective Action**

- ○ Review and update the WVPP and controls within a defined time frame following any serious incident.
- ○ Conduct a root cause analysis.
- ○ Implement interim protective measures while permanent corrections are developed.
- ○ Track corrective action items to closure with assigned owners and deadlines.
- ○ Report corrective action outcomes to leadership, employee stakeholders, and employees.

HOW EPSTEIN BECKER GREEN CAN HELP

Talking about workplace violence is crucial. Encourage your health care team to share their experiences—what is working and what is not. Keep the lines of communication open and make sure everyone feels comfortable reporting concerns. Regularly assess risks and tweak your security plans as needed. Remember, this is not just about safety; it is also about supporting your team's well-being and morale. Ensure that you are up to date with OSHA compliance and stay informed about federal and state legislation by reviewing our 50-state survey. By focusing on these areas, you can create a safer and more supportive environment for everyone.

Epstein Becker Green and its affiliated consultancy, EBG Advisors, will work with you to create proactive workplace violence solutions.

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Learn more: Violence Prevention in the Health Care Workplace

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