

# Workplace Violence in Health Care: Managing Legal Risks and Maintaining a Culture of Safety

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# Agenda

- Introduction and Urgency
- Federal Oversight
- Legislative Efforts
- Risks, Liability, and Legal Exposure
- Operational and Workforce Challenges
- Practical Steps to Address Workplace Violence

# Introduction and Urgency





# INTRODUCTION TO WORKPLACE VIOLENCE IN HEALTH CARE

## High Risk in Health Care

Health care workers face **five** times higher risk of workplace violence compared to other industries. <sup>1</sup>

## Contributing Risk Factors

Emotional environments, poor lighting, understaffing, and lack of security increase violence risks.

## Legal and Employer Responsibilities

Employers must understand laws and implement safety measures to protect staff and patients.

# DEFINING “WORKPLACE VIOLENCE”

## OSHA’S Definition of Workplace Violence:

- “Any act or threat of physical violence, harassment, intimidation, or other threatening behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide.”

## Types of Violent Incidents:

1. Patient or Customer
2. Outsider with Criminal Intentions
3. Worker-on-Worker
4. Personal Relationship



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# Federal Oversight





# OSHA'S ROLE AND ENFORCEMENT

## Enforcement via General Duty Clause

- OSHA enforces the General Duty Clause to hold employers accountable in providing a workplace free from hazards that may cause death or serious physical harm to employees.

## 2016 Voluntary Guidelines for Health Care and Social Services Workers

- In 2016, OSHA updated its voluntary guidelines for preventing workplace violence, emphasizing leadership commitment, employee involvement, hazard prevention, and training to reduce workplace violence in the health care and social services sectors.

## Recent OSHA Penalties and Appellate Challenges

- In May 2024, OSHA cited a psychiatric facility for employees' exposure to patient violence, proposing penalties of over \$100,000.
- In September 2025, the Tenth Circuit heard oral arguments related to OSHA's authority under the General Duty clause to cite employers for failing to stop workplace violence by patients.



# CENTERS FOR MEDICARE AND MEDICAID (CMS) REQUIREMENTS

## 42 C.F.R. § 482.13 Condition of Participation: Patients' Rights

### (c) Standard: Privacy and Safety

- 2) The patient has the right to receive care in a safe setting.
- 3) The patient has the right to be free from all forms of abuse or harassment.

### (h) Standard: Patient visitation rights.

- 2) The patient has the right to receive the visitors he/she designates, subject to hospital's clinically necessary or reasonable restrictions.

# November 2022 Memorandum from CMS's Center for Clinical Standards and Quality

- Memorandum issued to State Survey Agency Directors, reiterating its expectation that both patients and staff “have an environment that prioritizes their safety to ensure effective delivery of healthcare.”
  - Cited to obligations under the Medicare Hospital Conditions of Participation (CoP) and Medicare Emergency Preparedness CoP:
    1. **42 C.F.R. § 482.13(c)(2) (Patient Rights: Privacy and Safety):** “The patient has a right to receive care in a safe setting.”
    2. **42 C.F.R. § 482.15(a) (Emergency Preparedness: Emergency Plan):** Medicare-certified hospitals are required to develop and maintain an emergency preparedness plan which is “based on, and include, a documented, facility-based and community-based risk assessment, utilizing an all-hazards approach.”
    3. **42 C.F.R. § 482.15(d)(1) (Emergency Preparedness: Training Programs):** Medicare-certified hospitals must also train staff and volunteer on their emergency preparedness policies and procedures.





# September 2025 Memorandum from CMS's Center for Clinical Standards and Quality

- Memorandum issued to State Survey Agency Directors with updates to Appendix A of the State Operations Manual, including revisions to the standards related to workplace violence prevention:
  1. **42 C.F.R. § 482.13(c)(2) (Patient Rights: Privacy and Safety):** The memorandum clarifies that the hospital must protect all vulnerable patients and clarifies that the term “vulnerable patients” includes the elderly.
    - Survey Procedures revised to include:
      - An expansive review of patient and staff incidents and accident reports if problems in maintaining a safe environment in the hospital suspected to be more widespread or pervasive.
      - Determination of whether hospital has policy for assessing and reassessing patients identified at risk for suicide or harm to self or others.
      - Review of policies and interview of staff to verify processes are established to protect vulnerable patients and ensure care is provided in a safe setting.
  2. **42 C.F.R. § 482.15(a) (Emergency Preparedness: Emergency Plan):** The memorandum clarifies that hospitals must develop and maintain a comprehensive emergency preparedness program that meets all applicable requirements and utilizes an “all-hazards approach.”





# May 2025 Advisory Bulletin from HHS Administration for Strategic Preparedness and Response

- ASPAR operates as part of HHS
- Advisory Bulletin included recommendations for preventing workplace violence in the health care sector, including:
  - Strengthening security protocols
  - Enhancing emergency preparedness
  - Supporting workforce mental health and retention
  - Promoting information sharing



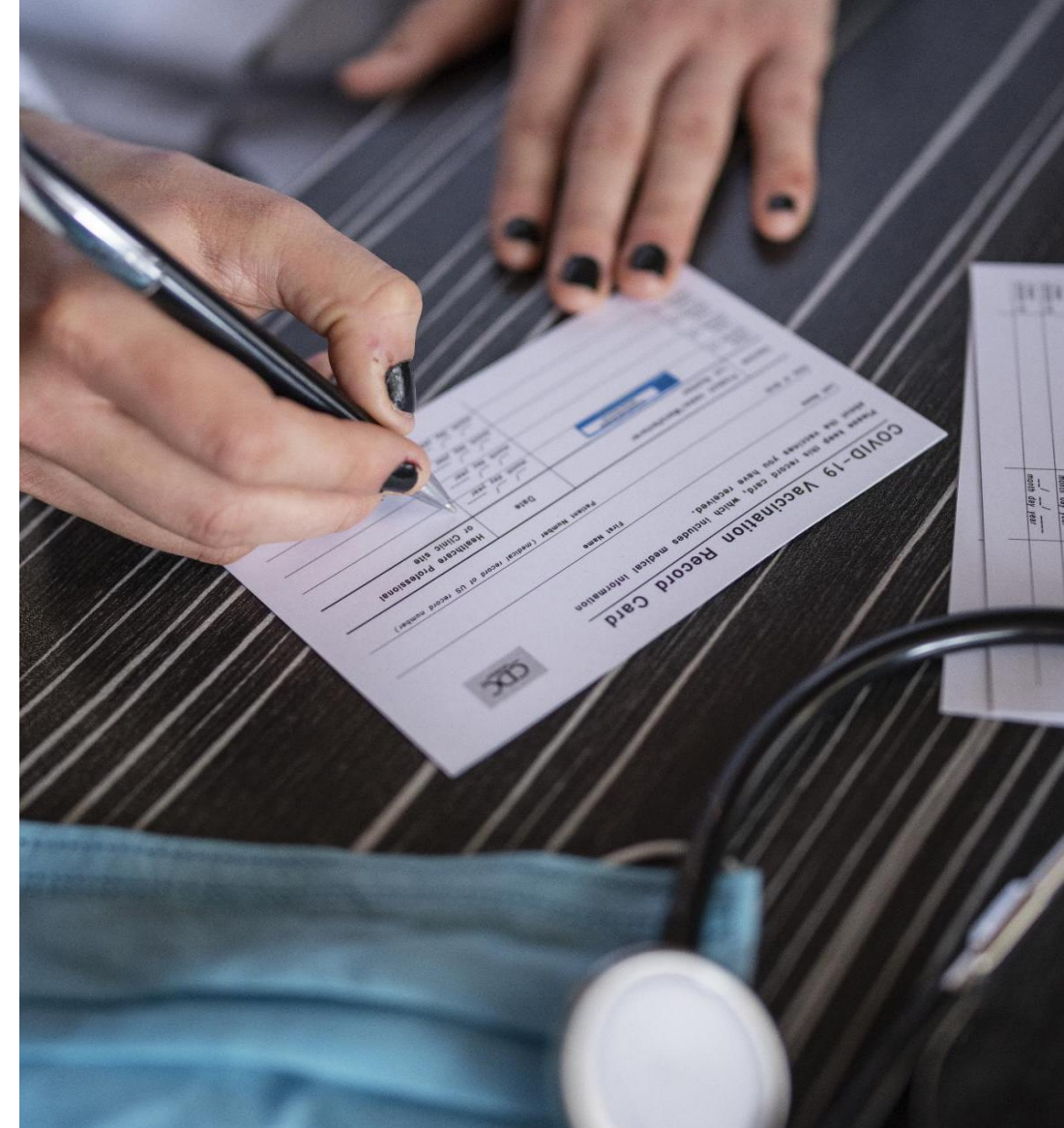
# Legislative Efforts

# FEDERAL LEGISLATIVE EFFORTS

## Lack of Existing Federal Law

## Proposed Federal Legislation

1. **Workplace Violence Prevention for Health Care and Social Service Workers Act:** This bill mandates issuance of an occupational safety and health standard that requires covered employers in health care and social service industries to develop a comprehensive workplace violence prevention plan.
2. **Save Healthcare Workers Act:** This bill proposes criminal penalties for assaulting hospital personnel.



# TRENDING STATE LEGISLATION



## **Adoption of a Workplace Violence Prevention Program**

- AZ, CA, CT, KY, LA, MD, MA, MN, MO, NV, NH, NJ, NY, NC, OH, OR, TX, VT, VA, WA, and WV

## **Employers Permitted to Seek TROs, Protective Orders, or Injunctions if Employee was a Victim**

- AZ, AR, CA, GA, IN, IL, NV, RI, TN, and UT

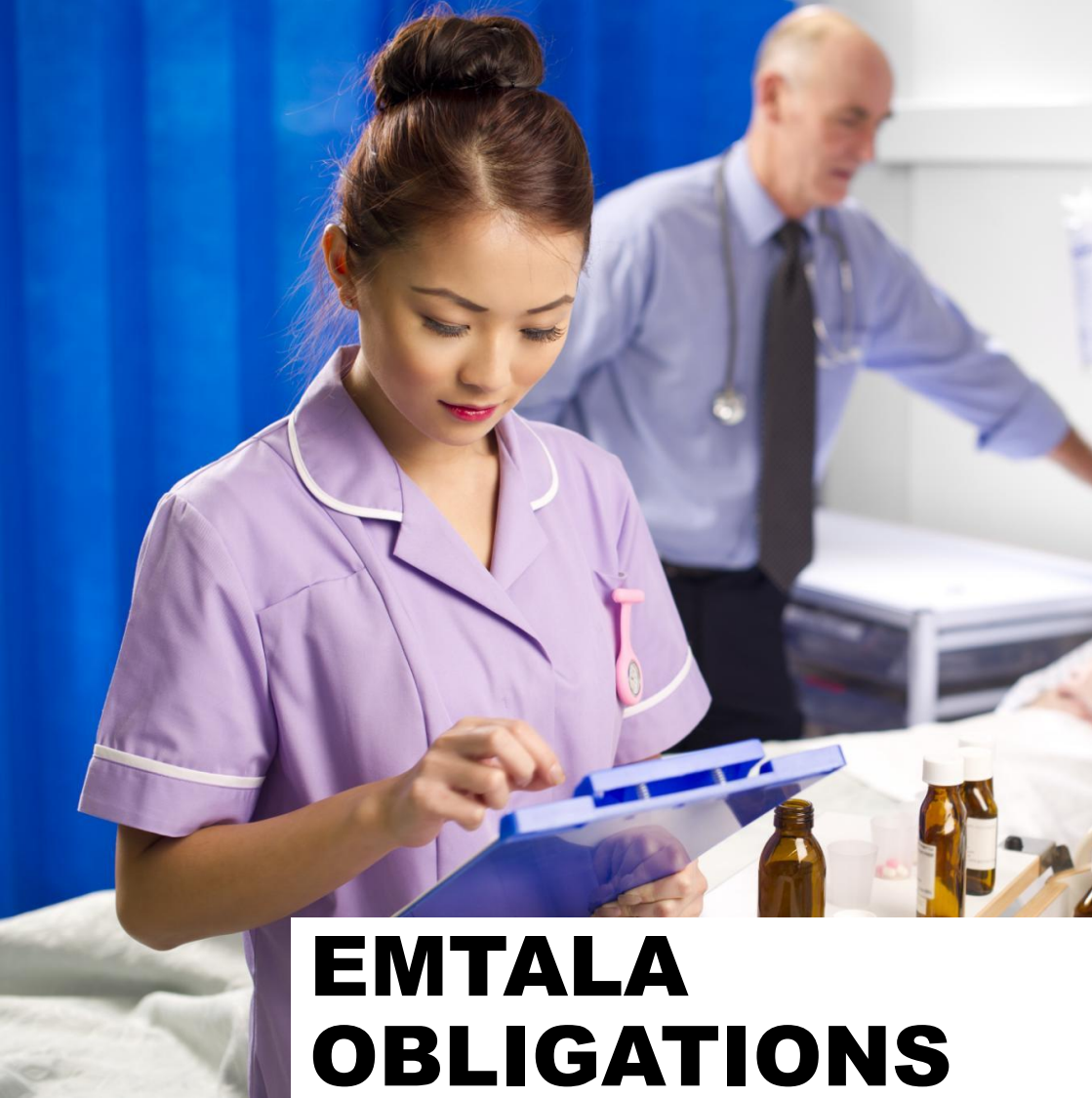
## **Employers and Health Care Facilities Post Notices Warning**

- AK, MI, NJ, OH, and NE





# **Risks, Liability, and Legal Exposure**



# EMTALA OBLIGATIONS AND RISKS

## Recent Data (ACEP Poll, Jan. 2024) <sup>2</sup>

- 91% of emergency physicians: threatened or attacked in past year
  - 2/3 said employers' responses were inadequate

## EMTALA Obligations

- Screening exam required for all patients, even violent ones, who come to ER seeking medical assistance
- Provide stabilizing treatment and/or transfer

## Consequences of Noncompliance with EMTALA

- Civil monetary penalties possible for both physician and hospital
- Risk of exclusion from federal health care programs

# OTHER LEGAL RISKS FROM WORKPLACE VIOLENCE

- **Negligence & Workers' Comp Claims** – injuries to staff or others
- **Discrimination Claims** – harassment, disruptive, or violent behavior by:
  - Employees
  - Patients
  - Visitors
  - Vendors
- **Employer Duty** – failure to take reasonable preventive or corrective action may lead to liability under **state & federal discrimination laws**



# OTHER LEGAL RISKS FROM WORKPLACE VIOLENCE

- **Retaliation Claims**—Under whistleblower protection statutes
  - E.g., Charge Nurse initiated a lawsuit against her former employer, alleging retaliation for reporting *inadequate staffing and security gaps* and sought **\$810,000 in damages**.
- **Wrongful Termination Lawsuits**—Tied to workplace violence concerns
  - E.g., Claims Manager filed suit, alleging **wrongful termination** for complaining about former employer's failure to follow OSHA guidelines
  - **Court Ruling:** Complaint stated valid claim under Tennessee Public Protection Act for “insufficient safeguards against violence by patients against employees.”



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# Operational and Workforce Challenges

# FINANCIAL AND STAFFING IMPACTS



## Financial Costs of Violence

Violence in health care caused hospitals \$18.27 billion in 2023, including injury treatment, equipment/infrastructure repairs, productivity loss due to staff turnover. <sup>3</sup>

## Employee Absenteeism

Around 69% of workplace violence incidents in 2021 and 2022 led to employees missing work. <sup>4</sup>

## Staff Turnover and Morale

Annual nurse turnover rates due to violence range from 15% to 36%, affecting morale and patient care quality. <sup>5</sup>

# UNDERREPORTING AND UNIONIZATION



## **Workplace Violence Underreporting**

Fear of retaliation and skepticism that it will result in meaningful change prevent employees from reporting, further perpetuating unsafe conditions.

## **Union Organizing**

Disengaged employees support unionization to advocate for better safety, staffing, and protections at work.

## **Improving Safety and Communication**

Open communication and employer action are essential to address concerns and improve workplace safety.





# **Practical Steps to Address Workplace Violence**



# **BUILDING A SAFE ENVIRONMENT**

## **Understanding Legal Obligations**

Employers must understand federal, state, and local laws along with accreditation standards for workplace violence prevention.

## **Multidisciplinary Prevention Teams**

Legal, risk management, security and HR teams should lead violence prevention strategies in healthcare organizations.

## **Developing Prevention Plans**

Create a workplace violence prevention plan aligned with OSHA guidelines and other sources. Include a workplace hazard analysis to identify risks specific to your organization.

## **Training and Communication**

Implement training programs to educate employees and maintain open communication channels that encourage threat reporting.



## **KEY ACTION STEPS**

### **Policy Review and Improvement**

Regularly review policies and procedures to assess effectiveness and improve strategies for reducing legal and other risks and enhancing well-being.

### **Support Systems for Affected Individuals**

Employers should provide counseling and resources to support individuals impacted by workplace violence.

### **Monitoring and Precautionary Measures**

Track disruptive behavior by patients with a history of violence and implement precautionary steps to help prevent additional incidents.

### **Collaboration with Law Enforcement**

Proactively establish positive relationships with law enforcement and first responders to enable timely assistance during emergencies.

# Conclusion





# COMMITMENT TO SAFETY

## Workplace Violence Management

Health care employers have a legal and moral obligation to actively manage and reduce workplace violence risks to protect staff and patients.

## Benefits of Safety Commitment

Commitment to safety improves patient outcomes, patient satisfaction, employee morale, and reduces turnover and union organizing risks.

## Future Prevention Strategies

Organizations must adapt to new laws and regulations and continuously improve safety prevention strategies moving forward.

# Questions



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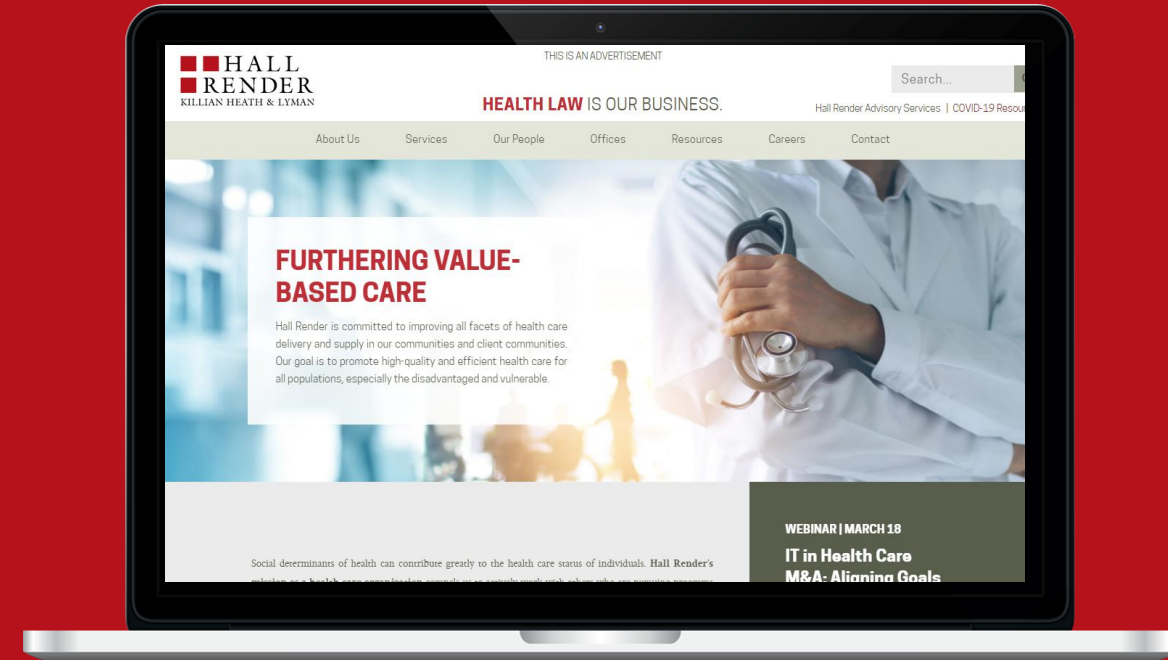
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