Strategy 10

Protect nurses from violence in the workplace

Strategy 10.3 A neutral convener, such as the North Carolina Institute of Medicine in collaboration with the University of North Carolina at Chapel Hill School of Government, should facilitate a comprehensive review of the application and effectiveness of Session Law 2015-97. Perspectives should be gathered from health care providers (including nurses), people with disabilities, experts on the legal rights of people with disabilities, law enforcement, hospitals, other health care settings, and the North Carolina General Assembly.

i. This group should discuss concerns about nurses being discouraged by employers or law enforcement to pursue charges after an assault and instances when an assault was a manifestation of a disability or a result of the incongruence of aspects of treatment with disability needs.
ii. The North Carolina General Assembly should apply perspectives gathered from representatives listed above to ensure that when adjudicating assaults on health care workers, there is a process to determine whether the assault was a manifestation of a disability and establish guidelines for sentencing that require consideration of the result.
iii. The North Carolina General Assembly should consider expanding the settings that Session Law 2015-97 applies to.

Desired Result

Intentional assaults on health care professionals will be given appropriate attention by employers and law enforcement.

Why does the task force recommend this strategy?

Experiences of violence should not be dismissed as "part of the job" for nurses and other health care professionals and should be taken seriously by law enforcement when reported. Current law has increased penalties for those who assault hospital employees. It is not clear how the current law has been applied, including level of support from employers and law enforcement, as well as unintended impacts on people with disabilities and other groups who are disproportionately represented in the legal system. Nurses who work in non-hospital settings are eager to receive the same protections as their counterparts who work in hospitals. Evaluation of application of current state statutes is needed to ensure that any expansion of legal protections will meet the needs of nurses and avoid unintended consequences for their patients.

Context

See Strategies 10.1 & 10.2 on Page 68 for more information about the problem of violence in health care settings.

NORTH CAROLINA LAWS RELATED TO VIOLENCE AGAINST HEALTH CARE WORKERS

North Carolina General Statute § 14-34.6 was a legislative effort to address the rising incidences of violence against health care workers in hospital settings.[23] As of December 1, 2015, the law made it a felony to assault health care workers on hospital premises. This extended legal protection to all health care workers in the hospital setting, not just emergency personnel. While this law has prioritized legal implications for those who assault hospital employees, nurses and health care workers in other settings want to see their safety given equal consideration. Few details are publicly available about the application of this law currently, however the Fiscal Research Division of the North Carolina General Assembly noted in a report that "In CY 2022, 5 defendants were charged with violating G.S. 14-34.6(c). However, it is unknown which type of official these defendants were charged with assaulting....".[24]

New North Carolina legislation (House Bill 125) requires hospitals with emergency departments to have a law enforcement officer on site at all times unless local authorities sign off on an exemption. This new requirement will take effect October 1, 2024. The law also calls for hospitals to report violent incidents to the state, provide employees with violence-prevention training, conduct a security risk assessment, and create a detailed security plan.[25] Data reporting will begin October 1, 2025. The North Carolina Department of Health and Human Services, Division of Health Service Regulation will need to provide the General Assembly reports on:

i. "The number of assaults occurring in the hospital or on hospital grounds that required the involvement of law enforcement, whether the assaults involved hospital personnel, and how those assaults were pursued by the hospital and processed by the judicial system,
ii. The number and impact of incidences where patient behavioral health and substance use issues resulted in violence in the hospital and the number that occurred specifically in the emergency department, and
iii. The number of workplace violence incidences occurring at the hospital that were reported as required by accrediting agencies, the Occupational Safety and Health Administration, and other entities."

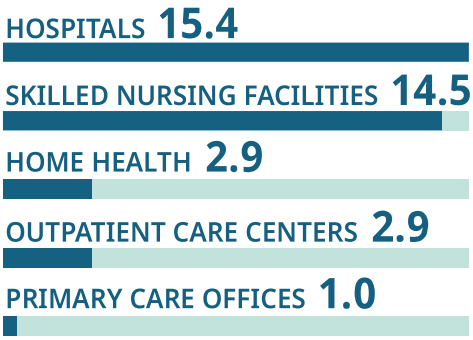
According to the legislation, results of those reports are meant to be used by the North Carolina Sheriffs' Association, the North Carolina Association of Chiefs of Police, and the North Carolina Emergency Management Association to "make recommendations to the Department [of Health and Human Services] to decrease the incidences of violence in hospitals and to decrease assaults on hospital personnel".[25]

EXPERIENCES OF VIOLENCE IN NON-HOSPITAL SETTINGS

While hospitals tend to have some of the highest rates of violence against health care workers of any health care setting, long-term care, home care, and other community-based settings also have risks for employees.

Nonfatal intentional injuries by another person in health care setting

Incident rates per 10,000 full-time workers:



Source: Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating state agencies. 2022. https://www.bls.gov/iif/nonfatal-injuries-and-illnesses-tables.htm#dafw

CONCERNS ABOUT REPORTING

There is a prevailing concern among nurses that employers and law enforcement officials are not supportive of efforts to report assaults from patients and visitors. Nurses share experiences and perceptions of being discouraged from pressing charges when assaulted. This contributes to a culture of silence around workplace violence, leaving nurses to face physical and psychological harm without the feeling that they have recourse. This problem reflects a broader systemic issue within health care settings, where there is a culture or belief that the safety of staff is secondary to patient care priorities. Underreporting of assaults skews the true extent of workplace violence against nurses and impedes the development of effective strategies to combat it. More work is needed to ensure that health care organizations and law enforcement agencies recognize the prevalence of health care workplace violence and the impact it has on nurses, and that they uphold the rights of nurses to seek justice both internally and externally.

Research on Reporting Violence in the Health Care Workplace

"In health care, various reasons for underreporting WPV have included lack of injury or time lost, time-consuming incident reporting procedures, lack of supervisory or coworker support, fear of reprisal or blame, belief that reporting will not lead to any positive changes, and the common perception among health care workers that violence is simply 'part of the job.' Varying definitions of violence among employees and within organizations can also affect reporting behavior... Physical assaults by patients, relatively common in emergency, psychiatric, and geriatric departments, may not be reported if staff perceive that the aggressive behavior was unintentional, that is, related to the patient's illness. "*

"The most frequent reason cited for not reporting violent events was 'nobody was hurt'; no respondents cited 'would be perceived as weak by peers' as a reason for not reporting. Respondents were also allowed to provide 'other' reasons for not reporting in an open text box. Of these responses, 'not needed—normal patient behavior' (n = 12) and 'lack of knowledge' (n = 10) emerged as additional reasons for not reporting."**

"Of the 2,098 workers who experienced a type II [(patient/visitor-on-worker)] violent event, 75% indicated they reported. Reporting patterns were disparate including reports to managers, co-workers, security, and patients' medical records—with only 9% reporting into occupational injury/safety reporting systems. Workers were unclear about when and where to report, and relied on their own 'threshold' of when to report based on event circumstances."***

** Arnetz JE, Hamblin L, Ager J, Luborsky M, Upfal MJ, Russell J, Essenmacher L. Underreporting of Workplace Violence: Comparison of Self-Report and Actual Documentation of Hospital Incidents. Workplace Health Saf. 2015 May;63(5):200-10. doi: 10.1177/2165079915574684. Epub 2015 May 22. PMID: 26002854; PMCID: PMC5006066.*

*** Copeland D, Henry M. Workplace Violence and Perceptions of Safety Among Emergency Department Staff Members: Experiences, Expectations, Tolerance, Reporting, and Recommendations. J Trauma Nurs. 2017 Mar/Apr;24(2):65-77. doi: 10.1097/JTN.0000000000000269. PMID: 28272178.*

**** Pompeii LA, Schoenfisch A, Lipscomb HJ, Dement JM, Smith CD, Conway SH. Hospital workers bypass traditional occupational injury reporting systems when reporting patient and visitor perpetrated (type II) violence. Am J Ind Med. 2016 Oct;59(10):853-65. doi: 10.1002/ajim.22629. Epub 2016 Jul 13. PMID: 27409575.*

CONCERNS ABOUT REPORTING AND ENFORCEMENT

There is significant concern about the impact that involvement of the legal system and law enforcement may have on people with disabilities, particularly those who may behave aggressively as a result of a mental or behavioral health condition, reaction to a treatment process or environment, and/or challenges with communicating. A bipartisan bill introduced, though not yet passed, in Congress to make assault on hospital staff a federal crime (known as the Safety from Violence for Healthcare Employees Act, S.2768) has a provision for "reasonable defense if assault is performed by people with physical, mental or intellectual disabilities and the behavior is directly linked to such disability".[26]

All legislation related to law enforcement in health care settings should carefully consider unintended consequences for people with disabilities, as well as people of color and people with lower incomes, who may face disproportionate application and impacts of such laws. The demographics of both victims and perpetrators of workplace violence should be reviewed after implementation of these laws to identify any patterns that might indicate unequal application.

"While nobody thinks that violence in a health care setting is appropriate or acceptable, we have to be cautious that we don't create a system that punishes people for seeking the care they need," Dunn said.

She pointed out that frequently people who are involuntarily committed to psychiatric treatment will languish in emergency departments for days and sometimes weeks, which can create an explosive situation.

"People are staying in crisis longer because we are not able to get them the supports they need," she said. "We are confining people in, for example, emergency departments, where they are deprived of natural light and fresh air in the name of waiting for a bed. We're setting people up to fail as a system."

-Excerpt of article, quotes by Corye Dunn, policy director for Disability Rights North Carolina, NC Health News. Cursed at. Shoved. Punched. Bitten. Violence against doctors and nurses is rising. A new N.C. law aims to help protect them. https://www.northcarolinahealthnews.org/2023/11/06/violence-against-doctors-nurses-is-rising-new-law-aims-to-help-protect-them/

KEY RESOURCE NEEDS

Funding will be needed to support the work of conducting a comprehensive review of the application and effectiveness of Session Law 2015-97.