



Maryland
Hospital Association

House Bill 289- Peace Orders - Workplace Violence

Position: *Support*

January 14, 2021

House Judiciary Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment in support of House Bill 289 - Peace Orders - Workplace Violence.

Hospitals are places of health and healing. Yet, violence occurs every day in health care settings. Of the 25,000 incidents reported across all workplaces annually, 75% occur in the health care or social service facilities, according to the Occupational Safety and Health Administration.ⁱ The risk of being a victim of workplace violence sadly is at least 20% higher for health care workers.ⁱⁱ COVID-19 is likely to worsen the problem due to the anxiety and fear it causes.

The pandemic is taking an emotional and physical toll on our health care heroes, who have been saving lives on the front lines of the COVID pandemic for nearly a year. Ninety-three percent of health care workers are stressed, according to 2020 Mental Health America study. Violence also strains individuals and communities. When that violence extends into the workplace, it leads to higher staff turnover, lost productivity, absenteeism, deterioration of employee morale, and burnout.^{iii,iv,v}

As among the largest employers in their communities, Maryland hospitals strive to ensure employees feel protected. Yet, hospitals are limited in how they can legally protect employees on and off their campuses. Many issue trespass notices to individuals, who cause harm and/or threaten to incite violence. Unfortunately, the notice only applies to the hospital grounds and may not result in an arrest by law enforcement if violated. Employees assaulted or threatened at work, who live in the same community as the perpetrator, often fear pursuing legal action. An employee could encounter this individual on public transportation or at the local grocery store.

HB 289 offers an essential tool to protect our health care heroes and their workplace from violent individuals who threaten to return to the hospital to cause harm. Health care workers are often reluctant to report cases of workplace violence, and even more reluctant to pursue legal action, such as petitioning for a peace order. By allowing the employer to petition on an employee's behalf, hospitals can better protect their employees. It is important to note that often incidents of violence in hospitals impact multiple employees. As an employer, our goal is to protect all employees affected by violence.

Maryland hospitals are committed to protecting our employees and providing safe havens for staff, patients, and the community. We look forward to working with the Committee to move this important legislation forward to address a long-standing challenge at this critical time. We appreciate the committee's past support on this legislation and ask for a favorable report.

For more information, please contact:
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ⁱ The Joint Commission. (April 17, 2018). Sentinel Event Alert: Physical and Verbal Violence Against Health Care Workers. https://www.jointcommission.org/-/media/tjc/idev-imports/topics-assets/workplace-violence-prevention-implementing-strategies-for-safer-healthcare-organizations/sea_59_workplace_violence_4_13_18_finalpdf.pdf

ⁱⁱ Ibid.

ⁱⁱⁱ Milliman Research Report. (July 26, 2017). Cost of Community Violence to Hospitals and Health Systems: Report for the American Hospital Association. <https://www.aha.org/system/files/2018-01/community-violence-report.pdf>

^{iv} Cleveland Clinic Journal of Medicine. (July 2020). Burnout of Healthcare Providers During COVID-19. <https://www.ccjm.org/content/early/2020/07/01/ccjm.87a.ccc051>

^v Annals of Emergency Medicine. (October 2020). Healing the Healer: Protecting Emergency Health Care Workers' Mental Health During COVID-19. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7196406/>

ISSUE BRIEF

Workplace Violence Prevention

Health, Hope & Healing: Prevent Violence Against Health Care Heroes

THE ISSUE:

Health care workers are bravely serving on the frontlines of the COVID-19 pandemic. Maryland's more than 117,000 hospital caregivers work 24/7 to keep their communities safe. Yet, they continue to face the threat of workplace violence.

COVID-19 presents unprecedented challenges for hospitals as their dedicated caregivers work tirelessly to save lives and keep Marylanders healthy and hopeful.¹

As hospitals work to keep their most valuable asset, their staff safe from the effects of this pandemic, a long-standing challenge remains. Changes in visitor access and limitations on elective procedures temporarily decreased the volume of violence because there were fewer patients. Serious incidents of violence continue at hospitals across the state.

Violence takes a toll on individuals and communities. When that violence extends into the workplace, it results in increased staff turnover, lost productivity, absenteeism, poor employee morale, and burnout.^{2,3}

*The rate of serious workplace violence incidents is **4x** greater in the health care field than in private industry.*

Violence in the Hospital: By the Numbers

The American College of Emergency Physicians 2018 Survey⁷

- 47%** Emergency physicians that have been physically assaulted at work
- 97%** Of assaults committed by patients; 28% also involved a patient's family member/friend
- 83%** Emergency physicians that say a patient threatened to return and harm them or others
- 71%** Emergency physicians have witnessed an assault at work

There are four types of workplace violence. The type is defined based on the relationship between the perpetrator and the victim:⁸

Type I: No legitimate relationship exists (criminal intent)

Type II: Visitor, family member or patient on worker

Type III: Worker on worker

Type IV: A personal relationship exists

88% of all hospital assaults were Type II— by patients against workers⁹

THE IMPACT:

Violence harms the physical and emotional well-being of staff, patients, visitors, and the community.

Workplace violence is more common in health care compared to other industries. Levels of violence within hospitals were near "epidemic" levels pre-COVID, and the combination of anxiety and fear associated with the pandemic could worsen the problem.

The pandemic is taking a toll on health care workers with some experiencing circumstances similar to a war zone.⁴ A 2020 Mental Health America study found that 93% of health care workers are stressed. Anxiety, emotional exhaustion, and burnout are also reported. Although stress and exhaustion are not new concerns for frontline health care workers, the pandemic accelerated the negative consequences on the workforce.^{5,6}

Hospitals use every tool possible to ensure a healing environment. In a 2019 MHA survey, 92% of hospitals reported spending more on security over the past five years. Many hired additional security officers for evening and weekend shifts, installed security cameras in key locations, and issued personal panic alarms to staff.

ISSUE BRIEF

Workplace Violence Prevention

THE RESPONSE:

Hospitals strive to maintain a safe and healing environment for patients, visitors and staff, but have limited access to legal remedies to protect their campuses.

Many Maryland hospitals have protocols and resources to identify and de-escalate potentially violent situations. Some use identifiers in the electronic medical record to ensure patients get specialized help and alert staff to take extra safety precautions.

Hospitals use symbols and signage within or outside of a patient's room to alert staff, so they engage appropriately and prevent escalation to the best of their ability. Hospitals encourage staff to report all incidents and promote a culture of zero tolerance.

However, hospitals are seriously limited in how they can legally protect their campuses. Many issue trespass notices to individuals who cause harm and/or threaten to return to incite violence. However, the notice only applies to the hospital and may not result in an arrest by law enforcement if violated.

Employees assaulted or threatened at work, who live in the same community as the perpetrator, often fear pursuing legal action. An employee could encounter this individual on public transportation or at the local grocery store. A trespass notice offers no protection outside of the hospital grounds.

SOLUTIONS:

Tackling workplace violence is a multi-stakeholder process. We need our partners—law enforcement, members of the legal system, elected officials, and others—to raise awareness and help us prevent and prevent workplace violence.

We need a legal remedy to keep hospital workers safe from those threatening to return and cause harm. These protections should extend outside of the workplace to protect employees who may be stalked or victimized.

Now is the time to pass legislation to help our health care heroes.

Impact of violence in one Maryland community hospital

Maryland Hospital Association Survey

181 Incidents of patient violence against hospital employees over two years

40% Occurred in the emergency department

Maryland Hospitals Keep Employees Safe

- **Identify high-risk individuals and establish a preventive plan of action**
- **Increase security coverage, especially at night and the weekends**
- **Reduce entry points and require visitor identification bands**
- **Modify unit layouts to better protect staff, provide clear lines of sight**
- **Build multi-disciplinary team responses to emergency codes**
- **Review each incidence of violence to determine contributing factors**
- **Establish and evaluate evidence-based quality improvement initiatives**
- **Train all staff in de-escalation, self-defense and active shooter**
- **Host community townhalls**
- **Create peer-to-peer support programs**
- **Use trespass notice as needed to warn individuals who may return to the hospital with the sole intent to cause harm**

For footnotes and sourcing: mhaonline.org/workplace-violence-issue-brief

Comparison: Current Peace Order Statute, Trespass Notices & 2021 Peace Order Bill

Current Law: An individual who does not meet specific relationship requirements under the domestic violence protective order statute, may file a petition for a peace order that alleges a specific act was committed against the petitioner by the respondent if the act occurred within 30 days of filing the petition. The acts include serious bodily harm, an act that places the petitioner in fear of imminent serious bodily harm, harassment, stalking, trespass, revenge porn, surveillance and malicious destruction of property. There are associated penalties for lack of compliance.

Proposed Legislation: The proposed legislation allows an employer to file a petition for a peace order on behalf of its employee if a specific act is committed against the employee *at the workplace*. Most of the bill's requirements parallel the current peace order statute. There are at least 10 states that make restraining orders available to employers.

Elements	Current Peace Order Statute	Trespass Notice	Peace Order Bill
Allows employer to petition on employees' behalf?	No	N/A. A trespass notice provides protection for the employer's property only.	Yes
Defines acts that entitle a person or employer to petition for relief?	Yes	N/A	Yes
Does not limit employee or employer from pursuing other available legal remedies?	N/A	N/A	Yes
Is protection limited to the health care or hospital setting?	No	No. A trespass notice provides protection for the employer's property only.	No
Who can file for these orders?	An individual who is not eligible for relief under section 4-501 under the Family Law Article	The owner/employer or the owner/employer's agent.	An individual who is not eligible for relief under section 4-501 of the Family Law article, including an employer
Who can these orders be filed against?	An individual alleged in a petition to have committed specified acts against a petitioner	An individual who enters or crosses over private property, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership (Crim Law 6-403)	An individual alleged in a petition to have committed specified acts, including against an employee at the workplace

Length of time of order	Six months with the option to seek an extension up to an additional six months	Time period is indefinite.	Six months with the option to seek an extension up to an additional six months
If granted, what relief can be provided?	<ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner - Refrain from contacting, attempting to contact or harassing the petitioner - Refrain from entering the home, school, place of employment or temporary residence of the petitioner 	- Removal from property if arrested.	<ul style="list-style-type: none"> - Refrain from committing or threatening to commit certain acts against the petitioner or petitioner's employee - Refrain from contacting, attempting to contact or harassing the petitioner or the petitioner's employee - Refrain from entering the home, school, place of employment or temporary residence of the petitioner or petitioner's employee
Allows employer to obtain interim, temporary and final order?	N/A	N/A	Yes
Are employers provided immunity from liability that may result from failure to file a petition?	N/A	N/A	Yes- "An employer shall be immune from any civil liability that may result from the failure of the employer to file a petition on behalf of an employee..."
Are employees provided with protection from retaliation from the employer for not participating in the process?	N/A	N/A	Yes- "An employer may not retaliate against an employee who does not provide information for or testify at a proceeding..."
Is employee required to provide an address?	N/A	No	Yes, but would shield the employee's address if disclosure would risk further harm
Does the employer have to obtain the consent of the employee to file a petition?	N/A	No	No, but an employer must provide notification to the employee before filing for a peace order