2022 Council Resolution 35: Workplace Violence Towards Health Care Workers

Council Action: **AMENDED AND ADOPTED**

Board Action: **ADOPTED**

Status: **Ongoing**

SUBMITTED BY: Massachusetts College of Emergency Physicians

Purpose:

Advocate legislation at the state and federal level that includes clear penalty language outlining punishment and consequences for those who assault a healthcare worker while at work and delivering care.

Fiscal Impact:

Budgeted staff time and resources.

WHEREAS, Per the Bureau of Labor Statistics, workers in the healthcare and social service industries experience the highest rates of injuries caused by workplace violence and are five times as likely to get injured at work than workers overall1; and

WHEREAS, Staffing shortages throughout our healthcare workforce continue to decrease our ability to safely care for patients; and

WHEREAS, Safety concerns around workplace violence are a significant factor predicting who leaves the healthcare professions2; and

WHEREAS, Two states – Wisconsin and Utah – have been able to codify penalties against those who assault healthcare workers; and

WHEREAS, There are currently no federal laws penalizing violence against healthcare workers3; and

WHEREAS, The goal in codifying the consequent penalty for assaulting a healthcare worker is to increase workers' sense of safety and security in order to perform their jobs; therefore be it

RESOLVED, That ACEP advocate legislation at the state and federal level that includes clear penalty language outlining punishment and consequences for those who assault a healthcare worker who is at work and delivering care.

Background:

The resolution directs ACEP to advocate legislation at the state and federal level that includes clear penalty language outlining punishment and consequences for those who assault a healthcare worker while at work and delivering care.

ACEP has taken an active role in trying to address the problem of violence in the emergency department. A 2018 ACEP survey of more than 3,500 emergency physicians showed that nearly half had been physically assaulted at work, with the majority of those assaults occurring within the previous year. 49% of respondents also said that hospitals can do more by adding security guards, cameras, metal detectors and increasing visitor screening. ACEP recently completed a similar survey, intended to assess the effects of the COVID-19 pandemic

on violence against emergency physicians. The results of this survey are expected to be published sometime near the 2022 ACEP *Scientific Assembly.*

Workplace violence continues to be a top legislative priority for ACEP's federal advocacy efforts and was one of the three key advocacy priorities during the 2022 Leadership & Advocacy Conference in Washington, D.C. ACEP helped inform and supports the "Workplace Violence Prevention for Health Care and Social Service Workers," (H.R. 1195/S. 4182) ensuring that the legislation gives appropriate consideration to emergency department needs, and has advocated for this legislation for several years. The legislation, which would require OSHA to require health care employers to implement violence prevention programs, was passed in the House of Representatives in April 2021 and awaits further action in the Senate. ACEP's support for the legislation was also specifically noted during committee consideration of the bill and on the House floor during debate and final passage.

ACEP also helped inform and supports the "Safety from Violence for Healthcare Employees (SAVE) Act," (H.R. 7961), recently-introduced bipartisan legislation that would establish federal criminal penalties for violence against health care workers (as this resolution seeks to do), based on federal penalties that already exist for violence against airline and airport employees. This legislation is also supported by the American Hospital Association. ACEP president Gillian Schmitz, MD, FACEP, was quoted in the press release issued by the sponsors of the legislation on June 7, 2022.

In 2021, ACEP also provided input on The Joint Commission's "Workplace Violence Prevention" project and, as a result of that work, TJC announced in June new requirements for accredited hospitals to ensure safer work environments. The new and revised requirements that went into effect January 1, 2022 include directives for hospitals to have a workplace violence prevention program; conduct annual worksite analysis related to its workplace violence prevention program; establish a process to continually monitor, report, and investigate safety incidents including those related to workplace violence; and to provide training, education and resources to leadership, staff, and licensed practitioners to address prevention, recognition, response and reporting of workplace violence. The Workplace Violence Standards Fact Sheet provides an overview of the new standards.

In 2019, ACEP began a partnership with ENA to launch the "No Silence on ED Violence" campaign to draw more public attention to the problem of violence in the emergency department, to drive policymaker action to address the issue, and to provide resources and support to emergency physicians and emergency nurses. The campaign website, www.stopEDviolence.org, includes fact sheets and advocacy materials highlighting the severity of the issue, as well as resources for members seeking ways to reduce the incidence of violence in the ED. ACEP continues working closely with ENA on this issue. Additionally, ACEP has communicated with the American Nurses Association (ANA) and the National District Attorneys Association (NDAA) to gain a better understanding of the various issues that contribute to the current workplace violence landscape where violence against emergency physicians and other health care workers is either not reported or not prosecuted, and the College continues working to develop a better understanding of the patchwork of state laws related to health care workplace violence. In May 2022, No Silence on ED Violence Press Conference leaders and members of ENA and ACEP, together with Senator Tammy Baldwin (D-WI), held a press conference on Capitol Hill calling on Congress to pass legislation aimed at reducing violence against health care workers."

ACEP has additional resources and policies specifically addressing violence in the emergency department. The policy statement "Protection from Violence and the Threat of Violence in the Emergency Department" calls workplace violence "a preventable and significant public health problem" and calls for increased safety measures in all emergency departments. It outlines nine measure hospitals should take to ensure the safety and security of the ED environment. Violence in the ED is one of the 13 topic areas that link from the ACEP website, and the link leads to a page with a wealth of resources entitled "Violence in the Emergency Department: Resources for a Safer Workplace." The site includes links to information papers on the "Risk Assessment and Tools for Identifying Patients at High Risk for Violence and Self-Harm in the ED and "Emergency Department Violence: An Overview and Compilation of Resources."

Stragegic Plan Reference:

Advocacy – ACEP fights for your rights across all landscapes and levels, including federal, state, local, facility and administrative.

Career Fulfillment – ACEP supports you in addressing your career frustrations and seeking avenues for greater career fulfillment, and commits to addressing tough issues head on.

Prior Council Action:

Resolution 55(17) Workplace Violence adopted. Directed ACEP to develop actionable guidelines and measures to ensure safety in the emergency department, work with local, state and federal bodies to provide appropriate protections and enforcement to address workplace violence and create model state legislation/regulation.

Resolution 37(13) Establishing Hospital-Based Violence Intervention Programs adopted. This resolution called for ACEP to promote awareness of hospital-based violence intervention programs as evidence-based solutions for violence reduction and coordinate with relevant stakeholders to provide resources for those who wish to establish hospital-based violence intervention programs.

Amended Resolution 34(10) Violence Prevention in the Emergency Department adopted. Directed ACEP to increase awareness of violence against healthcare providers , advocate for a federal standard mandating workplace violence protections in the ED setting and for state laws that maximize the criminal penalty for violence against healthcare workers in the ED.

Amended Resolution 17(08) Felony Conviction for Assaulting Emergency Physicians adopted. It directed ACEP to work with appropriate governmental agencies to enact federal law, making it a felony to assault any emergency physician, on-call physician, or staff member working in a hospital's emergency department.

Amended Resolution 26(93) Violence in Emergency Departments adopted. It directed ACEP to develop training programs for EPs aimed at increasing their skills in detecting potential violence and defusing it, to develop recommendations for minimum training of ED security officers, to investigate the appropriateness of mandatory reporting and appropriate penalties for perpetrators of violence against emergency personnel, and to support legislation calling for mandatory risk assessments and follow up plans to address identified risks.

Amended Resolution 44(91) Health Care Worker Safety adopted. Directed ACEP to develop a policy statement promoting health care worker safety with respect to violence in or near the emergency department.

Prior Board Action:

June 2022, approved the revised policy statement "Protection from Violence and the Threat of Violence in the Emergency Department;" revised and approved with the title "Protection from Violence in the Emergency Department" April 2016; revised and approved June 2011; revised and approved with the title "Protection from Physical Violence in the Emergency Department Environment" April 2008; reaffirmed October 2001 and October 1997; originally approved October 1997.

Resolution 55(17) Workplace Violence adopted.

May 2016, reviewed the information paper "Emergency Department Violence: An Overview and Compilation of Resources."

November 2015, reviewed the information paper, "Risk Assessment and Tools for Identifying Patients at High Risk for Violence and Self-Harm in the ED."

August 2014, reviewed the information paper "Hospital-Based Violence Intervention Programs."

Resolution 37(13) Establishing Hospital-Based Violence Intervention Programs adopted.

Amended Resolution 34(10) Violence Prevention in the Emergency Department adopted.

Amended Resolution 17(08) Felony Conviction for Assaulting Emergency Physicians adopted.

Amended Resolution 26(93) Violence in Emergency Departments adopted.

Amended Resolution 44(91) Health Care Worker Safety adopted.

Council Action:

Reference Committee B recommended that Amended Resolution 35(22) be adopted.

RESOLVED, That ACEP advocate **for** legislation at the state and federal level that includes clear ~~penalty~~ language outlining ~~punishment and~~ consequences for those who assault a healthcare worker **at the workplace** ~~who is at work and delivering care~~.

The Council adopted Amended Resoluion 35(22) on September 30, 2022.

Testimony:

Testimony was mixed. During asynchronous testimony, some comments suggested that the consequences for assaulting a health care worker should be clear and severe and that this resolution would be a strong step forward in fixing the problem of violence in the emergency department. Other comments noted doubts that such an approach would actually work to decrease the risk of violence against emergency physicians. During live testimony, comments were largely in support of the original resolution language, with several also suggesting the removal of references to penalties or punishment. One member noted that the resolution should not be limited to just those delivering care, and another noted that the resolution should be more broad to cover any health care worker at their workplace, including outside of the emergency department. The Reference Committee notes that ACEP is already actively advocating for legislation that would address violence against health care workers and that this resolution is duplicative; however, due to the overwhelming sentiment expressed during the live testimony, the resolution merits consideration by the Council.

Board Action:

The Board adopted Amended Resolution 35(22) on October 3, 2022.

RESOLVED, That ACEP advocate for legislation at the state and federal level that includes clear language outlining consequences for those who assault a healthcare worker at the workplace.

References:

1. https://www.bls.gov/iif/oshwc/cfoi/workplace-violence-healthcare-2018.htm
2. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6896814/, https://www.ajmc.com/view/violence-against-healthcare-workers-a-rising-epidemic, https://www.healthcaredive.com/news/threats-obscenities-homicide-healthcare-workers-pandemic/619971/
3. Current US 117th Congress (2021-2022): HR 1195 passed in House 4/2021; 4182 introduced 5/11/2022
   - No penalty language
   - Primarily asks employers to enact policies to prevent violence and protect workers; OSHA to enforce

Implementation Action:

Assigned to Advocacy & Practice Affairs staff for federal and state advocacy initiatives.

ACEP helped inform and supports the “Safety from Violence for Healthcare Employees (SAVE) Act,” (H.R. 7961), bipartisan legislation re-introduced into the 118th Congress by Madeleine Dean (D-PA-04) and Larry Buschon MD (R-IN-08) in April, 2023 that would establish federal criminal penalties for violence against health care workers (as this resolution seeks to do), based on federal penalties that already exist for violence against airline and airport employees. This legislation is also supported by the American Hospital Association. ACEP president Gillian Schmitz, MD, FACEP, was quoted in the press release issued previously by the sponsors of the legislation on June 7, 2022.

The “Safety from Violence for Healthcare Employees (SAVE) Act” was introduced in the Senate by Senators Marco Rubio (R-FL) and Joe Manchin (D-WV). The legislation establishes federal criminal penalties for individuals who assault health care workers and is modeled after existing protections for airline employees. This bill serves as the Senate companion to the previously-introduced House bill that ACEP advocated for during Hill visits at LAC23 in May. The Senate version is essentially identical in terms of the federal penalties language and who would be covered, but there are two key differences from the House version. The Senate bill strips out the grants for hospitals, and includes a new section requiring a GAO report on the effectiveness of criminal penalties and prosecutions for violence against health care workers. ACEP’s letter of support can be found here, and ACEP President Christopher Kang, MD, FACEP, was quoted in the press release.

ACEP co-hosted a congressional briefing on health care workplace violence and the SAVE Act with the American Hospital Association (AHA) on January 30, 2024. Another congressional briefing was held on March 22, 2024, and co-hosted with the Emergency Nurses Association (ENA) and the American Nurses Association (ANA).

The Board approved the legislative and regulatory priorities for the 2nd session of the 118th Congress in March 2024 that included continuing to advocate for passage of bills to address violence against health care workforce and for increased safety measures in the ED. Additionally, continue to follow-up with OSHA regarding the development of standards for workplace violence in health care that appropriately take into account the unique factors of dealing with violent episodes in the emergency department.

ACEP's legislative and regulatory priorities for the First Session of the 119th Congress included:

- Advocate for passage of bills to address violence against health care workforce and for increased safety measures in the ED and secure new congressional champions.
- Continue to follow-up with OSHA regarding the development of standards for workplace violence in health care that appropriately take into account the unique factors of dealing with violent episodes in the emergency department.
- Support legislation and identify new opportunities to promote comprehensive violence prevention and intervention efforts, such as hospital-based violence intervention programs, increased community-specific resources, research funding, and educational initiatives.

ACEP secured reintroduction of the legislative priorities we have developed and helped inform, including the bipartisan renamed "Save Healthcare Workers Act" (H.R. 3178/S. 1600), as well as the "Workplace Violence Prevention for Health Care and Social Service Workers Act" (H.R. 2531/S. 1232). ACEP federal advocacy staff continue to partner with relevant stakeholders and will resume its workplace violence prevention coalition efforts in the second half of the first session of the 119th Congress and beyond.

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