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A. Policy Statement

The Office of Mental Health (OMH) is committed to providing a safe workplace at all of its work locations (i.e., Central Office, Field Offices, and State operated facilities/program sites).

Chapter 82 of the Laws of 2006 created the NYS Workplace Violence Prevention Act for Public Employees. This law, codified at Section 27-b of the Labor Law, is intended to ensure that the risk of occupational assaults and homicides is evaluated by public employers and employees, and that workplace violence prevention programs are designed and implemented to prevent and minimize the hazard of workplace violence to public employees. Key to compliance with Section 27-b of the Labor Law (and implementing regulations at 12 NYCRR Part 800.6) is the development of a Workplace Violence Prevention Program.

The purpose of this policy directive is to provide guidance with respect to the development of such a program. This directive specifically addresses OMH's obligations with respect to its employees.


It should be noted that OMH's obligations relative to the provision of a safe and therapeutic environment for patients (as well as employees and visitors) is separately stated in PC-050, Safe and Therapeutic Environment Program. In this regard, State operated facilities may wish to utilize existing procedures and practices already incorporated within their Safe and Therapeutic Environment or Environment of Care Programs to fulfill various components of the Workplace Violence Prevention Plan required by this policy directive.

B. Applicability

This policy directive, which is effective immediately, is broadly applicable and includes all work locations of the Office of Mental Health, in both administrative and direct care settings.

C. Relevant Statutes and Standards

- OMH Official Policy Manual, Section PC-050: Safe and Therapeutic Environment Program
- OMH Official Policy Manual, Section QA-510: Clinical Risk Management and Incident Management Plans
- OMH Official Policy Manual Section QA-530: Reporting Requirements for Events Which May be Crimes
- Labor Law, Section 27-b
- 12 NYCRR Section 800.6
- The Joint Commissioner Hospital Environment of Care EC 02.01.01
- The Joint Commission Behavioral Health Standards Management of the Environment of Care EC 2.10

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- OSHA Guidelines for the Prevention of Violence to Healthcare Workers
- Collective Bargaining Agreements between the State of New York and:
 - Civil Service Employees Association Inc.
 - Council 82, AFSCME, AFL-CIO
 - New York State Correctional Officers & Police Benevolent Association, Inc.
 - New York Public Employees Federation, AFL-CIO


D. Definitions - For purposes of this Policy Directive:

1. “*Credible threat of violence*” means a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family.
2. “*Employee*” or “*staff*” means a person employed by the State of New York who is working for the Office of Mental Health.
3. “OMH” means the New York State Office of Mental Health.
4. “*Retaliatory action*” means the discharge, suspension, demotion, penalization, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.
5. “*Supervisor*” means any person within the Office of Mental Health who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
6. “*Workplace*” means any location away from an employee's residence, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by the Office of Mental Health.
7. “*Work Site*” means the general work location to which an employee is assigned to work, e.g., Central Office, a Field Office, or a State operated facility/program.
8. “*Workplace Violence*” means a physical assault or acts of aggressive or threatening behavior occurring where a public employee performs any work-related duty in the course of his or her employment.

E. Body of the Directive

This policy directive consists of 6 components:

- 1) **Typology of Workplace Violence**
- 2) **Workplace Violence Policy Statement**
- 3) **Workplace Violence Prevention Program**
- 4) **Information and Training**

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5) Recordkeeping and Recording of Workplace Violence Events


6) Employee Reporting Of Workplace Violence Prevention Concerns or Events

1) Typology of Workplace Violence:

- (a) A general workplace violence “typology” describes the relationship between the perpetrator and the target of workplace violence, which should be considered when developing a Workplace Violence Prevention Program. The appropriate response to an act of workplace violence may vary, depending upon the type of violence at issue:
- (1) Criminal Intent: Violent acts by persons who have no other connection with the workplace but enter for the purpose of committing a crime, such as robbery or homicide.
 - (2) Customer/client/patient: Violence directed at employees by customers, clients, patients, students, inmates, or any others to whom a public employer provides a service.
 - (3) Co-worker: Violence against co-workers, supervisor, or managers by a current or former employee.
 - (4) Personal: Violence in the workplace by someone who does not work there, but who has a personal relationship with an employee (e.g., domestic violence situations).
- (b) For purposes of this policy directive, “workplace violence” always includes violent acts, attempted violence, and threats of violence occurring in the context of the Criminal Intent, Co-Worker, and Personal Typologies.
- (c) With respect to the Customer/Client/Patient Typology, workplace violence includes those events reported by employees pursuant to OMH Official Policy Manual Section PC-050, Safe and Therapeutic Environment Program.
- (1) As appropriate, when these events occur, treatment related initiatives to limit patient aggression must be explored and encouraged (e.g., new medications, de-escalation techniques, practice guidelines, use of evidence based practices, etc.).
 - (2) Persons served by OMH are persons with severe and persistent mental illness, and certain symptomatic behaviors might otherwise constitute aggression or threats of workplace violence, as broadly defined in this policy directive. It is the philosophy of OMH that services are to be delivered in collaborative environments that are strength based, trauma informed, and evidence based. It is the expectation of OMH that staff will proactively work to facilitate a safe and therapeutic environment. Primary prevention strategies include the development of calm, nurturing, healing environments with staff who are caring and compassionate and who use active observing and listening to identify triggers for violence and adjust the environment to prevent it. Special provisions for assessing threats made by patients are set forth in Section E)6)d) of this policy directive.

2) Workplace Violence Policy Statement:


- (a) A written policy statement must be developed that identifies workplace violence prevention program goals and objectives.

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- (b) This policy statement must be posted in a conspicuous location where employee notices are routinely posted.
- (c) The Workplace Violence Policy Statement should:
 - (1) briefly summarize OMH's commitment to staff safety and health;
 - (2) identify the goals and objectives of the Workplace Violence Prevention Program;
 - (3) inform employees how and to whom to report an occurrence of workplace violence; and
 - (4) identify the process OMH will use to include employee and union participation in the development of the Workplace Violence Prevention Program.

3) Workplace Violence Prevention Program:

- (a) Risk Assessment: Each work site must be evaluated to determine the presence of factors which may place employees at risk of workplace violence.
 - (1) Factors which might place an employee at risk include, but are not limited to:
 - i) working in public settings;
 - ii) working alone or in small numbers;
 - iii) working in a location with uncontrolled public access to the workplace; or
 - iv) areas of previous security problems.
 - (2) The risk assessment should include review of records of occupational injuries/illnesses over the past year that concern workplace violence to identify patterns or trends and the types, causes, and severities of injuries.
 - (3) The risk assessment should also include a physical workplace evaluation and review of existing policies.
 - (4) The risk assessment should include participation by unions, may include the use of staff surveys and/or focus groups and, when appropriate, solicitation of input from patients.
- (b) Hazard Prevention and Control: The data obtained from the risk assessment must inform identification of control measures intended to prevent or reduce workplace violence.
 - (1) Feasible control measures should be implemented as soon as reasonably possible after identification, taking into consideration fiscal or long term planning implications.
 - (2) Control measures include engineering controls (controls that eliminate hazards through substitution or design, such as increased lighting), administrative or work practice controls (controls that eliminate or reduce hazards by changing organizational policies and procedures), or Personal Protective Equipment (PPE), such as gloves.

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(c) Written Workplace Violence Prevention Program: Upon completion of the Risk Assessment and Hazard Prevention and Control reviews, a written Workplace Violence Prevention Program must be developed which includes:

- (1) a description of the risk assessment and evaluation process and a list of risk factors identified after evaluating the workplace;
- (2) control methods available at the work site to prevent the risk of workplace violence;
- (3) a copy of the policy statement;
- (4) a description of the assistance that is available to affected staff;
- (5) a description of how workplace violence events are reported and how the data is maintained and analyzed; and
- (6) a description of training programs that are provided to employees that address workplace violence.


(d) The principles outlined in the written Workplace Violence Prevention Program must be implemented and fairly enforced at the work site.

(e) The written Workplace Violence Prevention Program must be made available to employees, their union representatives, and the Department of Labor upon request. Copies of the risk assessments should also be made available, provided, however, that any information protected as confidential under State or federal law or that is legally privileged must be redacted prior to disclosure.

4) Information and Training:

(a) All employees must be trained on the requirements of the Workplace Violence Prevention Law and the risk factors that are identified in that law and workplace violence prevention measures.

- (1) This training must be provided at the time of job assignment and annually thereafter.
- (2) The following issues should be addressed in the training:
 - i) What is workplace violence?
 - ii) What is management's commitment to preventing and minimizing the hazards of workplace violence?
 - iii) What are some techniques on how to recognize and avoid workplace violence situations?
 - iv) What are the high risk occupations?
 - v) How should a workplace violence occurrence be reported?
 - vi) How / when will workplace violence events be investigated by the employer?


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vii) Where can employees go for assistance?

- (b) All employees must receive training on Domestic Violence consistent with the Domestic Violence and the Workplace Policy, developed by the OMH Center for Human Resources Management, and requirements of the Office for the Prevention of Domestic Violence.
- (c) Such training shall include identification of risk factors in the workplace, measures that can be taken by employees to protect themselves from the identified risks, and how to obtain a copy of the written Workplace Violence Prevention Program.
- (d) OMH employees should be informed of the Safety and Health Resource website which provides information, tools, resources, and best practices relating to health and safety initiatives and programs available through the agency.
- (e) Employees should be informed and reminded of the availability of the Employee Assistance Program and other resources that are available to help them deal with stressful situations in their personal or work lives that may contribute to the potential for workplace violence.

5) Recordkeeping and Recording of Workplace Violence Events:

- (a) Each work site shall implement reporting systems for occurrences of workplace violence. (Reporting systems developed and implemented to meet other federal, state or local regulations, laws or ordinances will meet this requirement if they cover, or are modified to cover, the information required by the Workplace Violence Prevention Law.) These provisions do not supersede or supplant an employee's responsibility for reporting incidents in accordance with OMH Official Policy Manual Section QA-510: Clinical Risk Management and Incident Management Plans.
- (b) Work sites that experience a developing pattern of workplace violence events which may involve criminal conduct or a serious injury shall attempt to develop a protocol with the District Attorney or Police to insure that violent crimes committed against employees in the workplace are promptly investigated and prosecuted as appropriate. Information on such protocols and contact information shall be provided to employees who wish to file a criminal complaint after a workplace violence incident, consistent with the provisions of OMH Official Policy Manual Section QA-530: Reporting Requirements for Events Which May be Crimes.
- (c) Each worksite must ensure that it maintains a Workplace Violence Report that can be in any format but, at a minimum, shall contain the following relating to the event being reported:
 - (1) workplace location where event occurred;
 - (2) time of day/ shift when event occurred;
 - (3) a detailed description of the occurrence, including events leading up to the occurrence and how the occurrence ended;
 - (4) names and job titles of involved employees;
 - (5) name or other identifier of other individual(s) involved;

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(6) nature and extent of injuries arising from the event; and

(7) names of witnesses.

(d) The Workplace Violence Report must be maintained for use at each worksite in annual program review and updates.

(e) Each worksite, with the participation of union representatives, shall conduct a review of the statistical data contained in the Workplace Violence Reports at least annually to identify trends in the types of events in the workplace and review of the effectiveness of the mitigating actions taken.

6. Employee Reporting Of Workplace Violence Prevention Concerns or Events:


(a) A safe workplace is in the best interests of all persons at a given work site, and good communication can be key in preventing areas of concern from becoming more serious problems. It is therefore the expectation of OMH that supervisors should ensure that the channels of communication with employees are open, such that they can relay their concerns and/or report troubling incidents observed in the workplace, without fear of retaliation. It is also the expectation of OMH that notice of possible serious violations of the workplace violence prevention program, the existence of a situation that creates a risk of workplace violence, or an imminent risk of workplace violence, be verbally conveyed by employees to supervisors or other appropriate parties, to enable the matter to be promptly assessed and appropriate action taken when possible.

(b) Any employee or union representative who believes that a serious violation of the workplace violence prevention program exists, or that a situation exists that creates a reasonably possible risk of workplace violence, shall bring such matter to the attention of a supervisor in the form of a written notice and shall afford the facility, office, or work site a reasonable opportunity to assess and correct such activity, policy or practice, as appropriate.

(c) Written notice shall not be required where an imminent risk of workplace violence exists to a specific employee or to the general health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action, and there is no other appropriate party to whom a verbal report can be made.

(d) Assessing apparent threats of violence made by patients¹: Although threats made by patients should always be evaluated from a clinical perspective, some credible threats of violence made by patients could constitute workplace violence events under this policy directive. To determine what constitutes a credible threat of violence made by a patient, employees and supervisors should evaluate the patient's behavior in the context of the patient's mental illness, utilizing

¹ The provisions of this subdivision apply only to declarations made by patients that are directed at OMH employees. For declarations made by co-workers, personal contacts, or persons who have no other connection with the workplace but enter for the purpose of committing a crime, the intent to follow through with the acts contained in their declarations shall be presumed for purposes of completing a Workplace Violence Reporting Form.

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appropriate risk of violence screening assessment tools in accordance with Joint Commission requirements.

- (1) A declaration of intent by a patient to cause injury to an employee may not constitute a credible threat of violence when the patient lacks capacity, or for other reasons, has no actual intent, or ability, to perform the acts contained in the declaration.
- (2) A Workplace Violence Reporting Form should be completed:
 - (i) any time an employee believes that a declaration made by a patient and directed toward the employee constitutes a credible threat of violence. No employee shall ever be prevented from completing a workplace violence reporting form by OMH supervisory or administrative staff when that employee believes he or she has been subject to a credible threat of violence; or
 - (ii) when an employee's supervisor evaluates the patient's declaration in the context of his or her mental illness and determines that the patient had the required intent to perform the acts contained in the declaration.
- (e) If, following a referral of a matter to an employee's supervisor's attention and after providing a reasonable opportunity to correct the matter, it remains unresolved, or if an imminent risk of danger exists that has not been addressed, the employee may request an inspection by giving notice to the Commissioner of the NYS Department of Labor, provided, however, that any information that tends to identify a patient or patients shall not be disclosed except in accordance with federal and state confidentiality laws governing the disclosure of protected health information.
 - (1) In cases where the work site is a facility, the employee shall notify the Facility Workplace Violence Prevention Liaison that the referral to the Department of Labor has been made. Central Office employees shall notify the Agency Workplace Violence Prevention Liaison when a referral to the Department of Labor has been made.
 - (2) The Commissioner of the NYS Department of Labor is authorized to inspect premises pursuant to an employee complaint of a violation of the Workplace Violence Prevention Program.
- (f) The current PESH administrative plan will be used to satisfy compliance with the Workplace Violence Prevention Law (Section 27-b of the Labor Law), including a general schedule of inspections, which provides a rational administrative basis for such inspection.
- (g) OMH shall not take retaliatory action against any employee because the employee exercises his or her rights established in Section 27-b of the Labor Law.