STANDARDIZATION AND POLICY CHANGE: KEY STRATEGIES FOR REDUCING VIOLENCE IN HEALTHCARE

*By: Madisyn Schmitz**

I. INTRODUCTION

It was like any other day working as a nurse in the emergency department. While on shift, a nurse was in the triage room with a patient and a security guard. Unbeknownst to the nurse, the patient struggles with mental health issues that are exacerbated by the stress the patient experiences from housing insecurity. The nurse began her assessment of the patient noting that the patient was visibly anxious and agitated. Despite this, the patient spoke clearly and nicely to the nurse. The nurse determined the best form of treatment was to give the patient a shot of anti-anxiety medication. After the patient consented, the nurse began the standard process of administering the shot. However, before the shot was administered, the patient became aggressive and threatening, suddenly hitting the nurse. As the syringe flew into the air, hitting a wall, security personnel and more nurses rushed into the room and restrained the patient. This is just one of many stories of violence that healthcare workers experience.[1]

Violence in healthcare is on the rise.[2] Violence against workers is five times more likely to occur in a healthcare setting as compared to non-healthcare workplace settings.[3] "Nearly every healthcare worker has been a victim or knows a coworker

* Madisyn graduated from the University of Kansas Medical Center in 2020 with a Bachelor of Science in Health Information Management. She earned her registered health information administrator credential shortly after. She graduated from the University of Kansas Medical Center in 2024 with a Masters in Health Services Administration. Additionally, she graduated from the University of Kansas School of Law in 2024. She passed the bar in 2024 and currently practices law at Marting Law where she continues to advocate for health policy change. She would like to thank Richelle Marting for her mentorship and guidance in helping her find her career path and passion for healthcare advocacy. She would also like to thank Joyce Rosenberg for her mentorship and guidance in the development of this article.

[1] Patrick Skerrett, *Choked, Punched, Bitten: Nurses Recount Attacks by Patients*, STAT (Nov. 20, 2015), https://www.statnews.com/2015/11/20/nurses-patient-violence/ [https://perma.cc/G88Q-A2WB].

[2] *See NNU Report Shows Increased Rates of Workplace Violence Experienced by Nurses,* NAT'L NURSES UNITED (Feb. 5, 2024), https://www.nationalnursesunited.org/press/nnu-report-shows-increased-rates-of-workplace-violence-experienced-by-nurses#:~:text=Survey%20results%20reveal%20majority%20of,during%20the%20Covid%2D19%20pandemic [https://perma.cc/W5VJ-B6LT].

[3] Chris Calderone, *Healthcare Industry Violence: Causes, Impact, and Prevention*, GHX (July 5, 2023), https://www.ghx.com/the-healthcare-hub/violence-healthcare/ [https://perma.cc/9W4U-PF4Y].

who has been a victim of workplace violence."[4] There has also been an increase in verbal abuse towards healthcare workers since the COVID-19 pandemic.[5] As a result of violence, many individuals now avoid seeking care in hospitals because they are concerned they will encounter individuals who become violent.[6]

Kansas healthcare workers also experience high rates of violence.[7] In Kansas, 46.2 percent of hospitals report instances of workplace violence.[8] The University of Kansas Health System documented 353 physical assaults in the 2022 fiscal year.[9] Similarly, a hospital in Wichita, Kansas reported 378 incidents of violence from January 2022 to November 2022.[10] Action is rarely taken in reported incidents of violence and even when action is taken, the penalties are minimal.[11]

Violence in healthcare settings is a multifaceted, critical challenge that negatively impacts healthcare professionals and undermines the overall quality of patient care. This Article scrutinizes the effectiveness of current laws and regulations in addressing and preventing violence within healthcare environments. This Article then makes suggestions for reform to make healthcare workplaces less violent.

II. BACKGROUND

Healthcare and violence are complex issues. This section aims to provide context regarding the healthcare environment by defining violence and discussing where violence occurs in healthcare, risk factors for violence, and the culture of underreporting.

A. Violence Defined

Workplace violence in healthcare encompasses a broad continuum of behaviors.[12] Violence includes both verbal and nonverbal behavior as well as physical behaviors that could threaten or actually cause harm.[13] In addition, violence

---

[4] *Violence in Healthcare Part 1: Risk Factors and Warning Signs*, THE SULLIVAN GRP., https://blog.thesullivangroup.com/rsqsolutions/violence-in-healthcare-risk-factors-warning-signs [https://perma.cc/7ZNP-CN99].

[5] *See* Chris Ciabarra, *Five Innovations Healthcare Facilities Can Use to Combat Workplace Violence*, FORBES (June 14, 2023, 10:00 AM), https://www.forbes.com/sites/forbestechcouncil/2023/06/14/five-innovations-healthcare-facilities-can-use-to-combat-workplace-violence/?sh=103e5a43535b [https://perma.cc/6HRB-XQYA].

[6] Calderone, *supra* note 3.

[7] *See Kansas Advocacy Issue: Addressing Workplace Violence*, KANSAS HOSP. ASS'N (Mar. 5, 2024), https://www.kha-net.org/Advocacy/AdvocacyIssues/163171.aspx [https://perma.cc/USM9-2C3V].

[8] *Id.*

[9] Tim Carpenter, *Kansas Hospital Officials Say New Criminal Penalties Needed to Deter Patient, Visitor Violence*, KAN. REFLECTOR (Apr. 20, 2023, 10:35 AM), https://kansasreflector.com/2023/04/20/kansas-hospital-officials-say-new-criminal-penalties-needed-to-deter-patient-visitor-violence/ [https://perma.cc/KF2C-8PHE].

[10] *Id.*

[11] For example, an assailant in Topeka was only charged with a misdemeanor and released seventeen hours after violently attacking a nurse. *Id.*

[12] Nicole Dailey, Note, *Prevention and Surveillance of Violence Against Minnesota Healthcare Workers*, 41 MITCHELL HAMLINE L.J. PUB. POL'Y & PRAC. 51, 53–54 (2020).

[13] *Id.* at 54.

can include non-physical behaviors.[14] Non-physical behaviors include things like threats, yelling, biting, or urinating.[15] Non-physical behaviors are more difficult to define because they are dependent on the subjective perceptions an individual has of certain actions. For example, one person might perceive a patient raising their voice as a form of non-physical violence and another person might not. These subjective perceptions can vary not only from person to person but can also depend on workplace culture.[16]

According to one study, "[80] percent of serious, violence-related injuries in healthcare settings were caused by patients."[17] Typically, most individuals would assume that violence implies that an individual has intent behind their behavior.[18] However, intent is not always present in healthcare workplace violence because patients may act violently without having the capacity to understand the consequences of their actions.[19] This kind of violence may be caused by an involuntary response that stems from the patient's condition—which may be the reason the patient is seeking healthcare treatment in the first place.[20] It follows that unintentional violence by patients could make up the majority of workplace violence in healthcare.[21]

B. Where Violence Occurs

Violence against healthcare workers occurs in all healthcare settings with some healthcare settings being at higher risk for violence.[22] Examples of high-risk healthcare environments include acute psychiatric facilities, long-term care facilities, and high-volume urban emergency departments.[23] Additionally, hospitals in general present a unique range of risks of violence.[24] Some of the areas in a hospital where violence is more likely to occur include the hospital lobby, emergency department, and psychiatric units.[25] Recognition of threatening individuals and prevention of violent episodes are difficult due to hospitals being readily accessible to the general public.[26] Violent incidents in emergency

---

[14] Dailey, *supra* note 12, at 54.
[15] *Id.*
[16] *Id.* at 54, 56.
[17] Beth A. Lown & Gary S. Setnik, *Utilizing Compassion and Collaboration to Reduce Violence in Healthcare Settings,* 7 ISR. J. HEALTH POL'Y RSCH. 39 (2018).
[18] Sharon Peters, Lewis Brisbois, & Allison Hay Petersen, *Ensuring Safety and Compliance During Difficult Patient Encounters*, 20180205 AHLA SEMINAR PAPERS 11 (2018).
[19] *See id.*
[20] Dailey, *supra* note 12, at 54.
[21] *See id.*; OCCUPATIONAL SAFETY & HEALTH ADMIN., *Workplace Violence in Healthcare: Understanding the Challenge* 2 (2015).
[22] Dailey, *supra* note 12, at 56.
[23] *Id.*
[24] Peters et al., *supra* note 18.
[25] *Id.*
[26] *Id.*

departments may be high because many high-risk[27] patients are initially treated in the emergency department.[28] Similarly, psychiatric units account for the most assault cases in hospitals due to a heightened risk of exposure to patients who act violently as a result of the patients' mental health disorder(s).[29]

C. Risk Factors

Several risk factors increase the likelihood of violence occurring in healthcare. This article will view these risk factors through a four-category framework of environmental factors, organizational factors, patient factors, and external factors.

1. Environmental Factors

Environmental factors are factors based on the structure of the work area in healthcare settings. Some factors in this category include the layout, design, and amenities of the physical workspace.[30] Design flaws like hallways and rooms with bad lighting, reduced visibility of patient care areas, and minimal means of escape when a patient or family member becomes violent, can increase the risk of injury.[31]

2. Organizational Factors

Organizational risk factors are factors that relate to how a healthcare entity is organizationally structured. For instance, some healthcare entities lack policies and staff training for recognizing and de-escalating potentially violent situations.[32] Other examples of organizational factors include understaffing, insufficient mental health and security staff, long wait times, overcrowding, uncomfortable accommodations such as hard seating, noisy rooms, lack of access to outlets for chargers etc., and workers transporting or working alone with patients.[33] Organizational risk factors also encompass workplace culture characteristics such as careless management and staff attitudes toward workplace violence prevention, and a tendency to want to retaliate against those who do make reports.[34] Lastly, inadequate security procedures

---

[27] High-risk patients as used here refers to individuals who may experience mental health crises or experience other social risk factors such as insecure housing, lack of access to food, live in violent areas, etc. Consider the patient discussed in the anecdote at the beginning of this article. The patient's mental health issues and lack of secure housing could cause the patient to become agitated more quickly from the added stress of these experiences as compared to an individual without these experiences. *See* Juli Carrere, Hugo Vásquez-Vera, Alba Pérez-Luna, Ana M. Novoa, & Carme Borrell, *Housing Insecurity and Mental Health: The Effect of Housing Tenure and the Coexistence of Life Insecurities*, 99 J. URB. HEALTH 268, 269 (2022).

[28] THE SULLIVAN GRP., *supra* note 4.

[29] *See id.*

[30] *See* Peters et al., *supra* note 18.

[31] Dailey, *supra* note 12, at 56–57.

[32] *Id.* at 57.

[33] *Id.* at 56–57.

[34] Nat'l Institute for Occupational Safety & Health, *Organizational Risk Factors*, CDC (May 16, 2024), https://wwwn.cdc.gov/WPVHC/Nurses/Course/Slide/Unit3_9 [https://perma.cc/DA5V-N3J3]; Peters et al, *supra* note 18.

and protocols, and cumbersome or nonexistent policies for reporting and managing crises fall under the organizational category.[35]

3. Patient Factors

Patients sometimes have characteristics from a diagnosis or other behavior that indicate a greater likelihood of violence. These are what this Article will refer to as patient factors. Patients who have a diagnosis that involves altered mental status due to dementia, delirium, intoxication, and mental illness most frequently possess characteristics associated with perpetrators of violence in healthcare settings.[36] Some other risk factors in patients that may increase the likelihood of impending violence include inappropriate laughter, extreme physical agitation, hitting walls or other items, and excessive sarcasm.[37] Other indicators of violence include a prior history of violence, poor impulse or anger control, substance use, acute psychosis, mania, head injury, metabolic disorders, and seizures.[38]

4. External Factors

External risk factors impact violence from a broader societal perspective. Some of the external risk factors include the prevalence of handguns and other weapons available to the general public, increased use of the hospital by law enforcement and the criminal justice system for criminal patient holds, increased number of mentally ill patients released from inpatient stays without outpatient follow-up, availability of drugs, and the amount of wealth in a community.[39] External risk factors also encompass socioeconomic factors.[40] Socioeconomic risk factors include a high concentration of poverty, high levels of family disruption, low community participation, social and cultural norms that encourage violence, and broader policies that help perpetuate current economic or social inequities between various groups in society.[41] The broader context of pervasive inequities along with the complexity of the healthcare system create a confluence of stressors and negative feelings that contribute to acts of violence.[42]

---

[35] Nat'l Institute for Occupational Safety & Health, *supra* note 34.
[36] *See* Lown & Setnik, *supra* note 17.
[37] THE SULLIVAN GRP., *supra* note 4.
[38] *Id.*
[39] *Id.*
[40] *See* Nat'l Institute for Occupational Safety & Health. *Social and Economic Risk Factors*, CDC (May 16, 2024), https://wwwn.cdc.gov/WPVHC/Nurses/Course/Slide/Unit3_10 [https://perma.cc/7BHW-WNKB].
[41] *Id.*
[42] Lown & Setnik, *supra* note 17. From a general societal level there are various inequities amongst different populations of people. *See id.* In addition, the healthcare system is disjointed and complex. *See id.* Individuals navigating the complexity alone is difficult. *See id.* Adding the extra layer of socioeconomic factors can create more stress and negative feelings that may be targeted at the healthcare system. *Id.* These feelings can increase the number of individuals perpetuating violence against those who work in the healthcare system. *See id.*

D. Underreporting and Healthcare Culture

The culture of healthcare workers is to be compassionate in the care provided to patients.[43] Caregivers feel a professional and ethical duty to do no harm and put their safety at risk to treat a violent patient because violent behavior by a patient may often be unintentional.[44] Healthcare workers are reluctant to blame patients for violence because it would stigmatize patients and their mental illnesses or impairments.[45] As a result, healthcare workers are reluctant to report violence.[46]

Healthcare workers underreport occurrences of violence.[47] At times, healthcare workers tolerate verbal abuse from each other, which can lead to workers feeling they must also accept verbal abuse from patients.[48] Consequently, healthcare workers may underreport due to a belief that violence is just part of the job.[49] Additionally, healthcare workers may feel reporting is not worth their time because reporting does not result in meaningful change and because healthcare workers do not have additional time in their workday to complete a report.[50] Other reasons for the lack of reporting include fear of retribution by supervisors, a lack of management accountability, and a belief that many patients who exhibit violent behaviors are not fully in control of themselves due to their underlying conditions.[51] "Lack of reporting makes it difficult to assess workplace violence prevalence and the effectiveness of interventions to reduce it."[52]

III. CURRENT POLICY

The healthcare landscape is regulated at many levels. Healthcare organizations must follow federal and state policy as well as comply with other private regulations to remain in business.[53] This article argues that most of these laws and policies have been ineffective at preventing workplace violence. While individuals who commit violence in healthcare workplaces are subject to criminal prosecution, prosecution is not an effective deterrent in most cases, and the culture of underreporting renders it difficult to enforce some of these laws or assess the effectiveness of policy interventions.[54] The following section analyzes the relevant laws and policies regulating healthcare organizations.

---

[43] *See* Ciabarra, *supra* note 5.
[44] Peters et al., *supra* note 18.
[45] *Id.*
[46] Ciabarra, *supra* note 5.
[47] OCCUPATIONAL SAFETY & HEALTH ADMIN., *supra* note 21.
[48] Dailey, *supra* note 12, at 57.
[49] *Id.*; Peters et al., *supra* note 18.
[50] Dailey, *supra* note 12, at 57.
[51] Lown & Setnik, *supra* note 17.
[52] *Id.*
[53] Robert I. Field, *Why is Health Care Regulation So Complex?*, 33 PHARMACY AND THERAPEUTICS 607, 607 (2008).
[54] *See infra* Section III.B.3.

A. Federal Laws and Policies

Federal laws and policies directly addressing violence against healthcare workers have been unsuccessful so far. The latest attempt at federal legislation addressing violence against healthcare workers came from the introduction of two bills: the Workplace Violence Prevention for Health Care and Social Service Workers Act and the Safety from Violence for Healthcare Employees Act (SAVE Act).[55] While neither bill gained traction in Congress, there is potential that these bills could address the issue of violence in healthcare.

1. The Workplace Violence Prevention for Health Care and Social Service Workers Act

The Workplace Violence Prevention for Health Care and Social Service Workers Act ("the Act") was first introduced in February 2021.[56] In 2021, the Act passed in the House but did not receive further action in the Senate after it was referred to the Committee on Health Education, Labor, and Pensions.[57] The Act was reintroduced in both the House and the Senate in April 2023 and referred to the Committee on Education and Workforce but has received no further action.[58] The Act would direct the Secretary of Labor to issue an occupational safety and health standard that requires covered employers within the healthcare and social service industries to develop and implement comprehensive workplace violence prevention plans.[59]

Requiring healthcare organizations to implement violence prevention plans would help address organizational risk factors.[60] This is because the Act has specific provisions that require violent incident investigations with documentation, training and education, annual reporting and evaluation of the plan, and implementation of an anti-retaliation policy.[61] By requiring healthcare entities to address some of the organizational risk factors and help increase reports of violence, occurrences of violence could be decreased.[62]

---

[55] *See* H.R. 1195, 117th Cong. (2021); S.2768, 118th Cong. (2023).
[56] *See* H.R. 1195, 117th Cong. (2021).
[57] *Id.*
[58] *See* H.R. 1195, 117th Cong. (2021); H.R. 2663, 118th Cong. (2023).
[59] S. 1176, 118th Cong. (2023). The Act defines covered employers as "a person (including a contractor, a subcontractor, a temporary service firm, or an employee leasing entity) that employs an individual to work at a covered facility or to perform covered services." § 102(3)(A). The Act also defines covered services to include home health, home based hospice, home based social work, and emergency services, amongst others. *See* § 102(2)(A).
[60] *See id.*
[61] *See id.* at § 103.
[62] *See generally* OCCUPATIONAL SAFETY AND HEALTH ADMIN., *supra* note 47 (outlining five key components of a workplace violence prevention program).

2. The Safety from Violence for Healthcare Employees Act (SAVE Act)

The SAVE Act was first introduced in the House of Representatives in June 2022[63] and reintroduced in the Senate in September 2023.[64] This bill did not gain traction in Congress despite widespread support from healthcare workers and hospital associations.[65] The SAVE Act mirrors protection for aircraft and airport workers[66] to create stronger penalties for individuals who assault or harass hospital workers, and includes a defense for patients who are mentally incapacitated due to illness or substance use.[67]

The SAVE Act would be limited in its ability to address violence. The SAVE Act would apply only to people who *knowingly* assault a healthcare worker.[68] As stated earlier, patients perpetrate most incidents of violence, and many of those patients do not intend to cause violence.[69] The SAVE Act, rightfully, provides an exception of fault for patients with a physical, mental, or intellectual disability when their conduct is a clear and direct manifestation of their disability.[70] However, this exception could be problematic because of its lack of definition; it is unclear what constitutes a disability in this context and what exactly a clear and direct manifestation is.[71] Subjecting unintentional acts of violence in the healthcare system to criminal prosecution is problematic because this could impact how and if patients can even receive the care they need. To remedy the issue of intent for purposes of criminal prosecution, Congress could look to the Americans with Disabilities Act for a definition of disability.[72] Additionally, Congress could clarify the "clear and direct manifestation" standard by explicitly requiring a nexus between the perpetrator's claimed disability and the violent act. For example, if a person has a diagnosis of schizophrenia, the violent act of the patient with schizophrenia must relate to a symptom of schizophrenia such as having a hallucination at the time of the violent act.[73]

The SAVE Act is limited in other ways. It would likely take time before this bill would be effective at preventing violence. It can take years for someone to go through the judicial system[74] and most individuals would likely be unaware of the

---

[63] H.R. 7961, 117th Cong. (2022).
[64] S. 2768, 118th Cong. (2023).
[65] Susanna Vogel, *Lawmakers Introduce Bipartisan Legislation Addressing Workplace Violence in Hospitals—Again,* HEALTHCARE DIVE (Sept. 13, 2023), https://www.healthcaredive.com/news/lawmakers-introduce-bipartisan-legislation-addressing-workplace-violence-in/693547/ [https://perma.cc/B5L7-E23F].
[66] *Compare* 49 U.S.C § 46504, *with* S. 2768 § 120(a).
[67] Vogel, *supra* note 65.
[68] S. 2768 § 120(a).
[69] *See supra* Section II.A.
[70] S. 2768 § 120(c)(1).
[71] *See id.* at § 120(d) (containing no definition for "disability" or "clear and direct manifestation").
[72] *See* 42 U.S.C. § 12102(1) (defining disability with a focus on how an individual's impairment impacts major life activities).
[73] *See generally Schizophrenia*, CLEVELAND CLINIC (June 28, 2023), https://my.clevelandclinic.org/health/diseases/4568-schizophrenia [https://perma.cc/83P3-55G4].
[74] *See, e.g., United States v. Keith*, 61 F.4th 839, 842–44 (10th Cir. 2023) (chronicling one criminal defendant's case from 2018–2021 at the trial court level).

penalties involved in this bill.[75] Until examples have been made, it is doubtful most individuals would think about penalties for committing violence in healthcare entities.[76] Additionally, since this bill would react to violence that has already occurred, it would not directly address the issue of underreporting.[77] This can create a circular problem. If individuals are not reporting violence, then there would be no penalty to enforce on perpetrators of violence.[78]

B. Kansas Laws and Policies

Kansas law has the potential to provide some protections for healthcare workers through workers compensation, common law civil liability principles, and criminal law.[79] However, common law civil liability principles are currently largely unavailable due to Kansas workers compensation rules.[80] In addition, Kansas licensing requirements and regulations for hospitals do not currently address the issue of workplace violence. [81]

1. Kansas Workers' Compensation

Kansas created its workers compensation program in 1911.[82] The law was enacted to protect employees impacted by workplace accidents by creating a no-fault system to provide injured workers with compensation while simultaneously protecting employers from civil litigation.[83] Kansas workers compensation law covers nearly all employers.[84] Workers compensation rules only apply if the employer's behavior is negligent and not willful.[85] In addition, if employers fail to

---

[75] Many Americans are unaware of the rights guaranteed by the First Amendment of the U.S. Constitution, let alone the contents of federal laws. *See Many Don't Know Key Facts About U.S. Constitution, Annenberg Civics Study Finds*, PENN TODAY (Sept. 13, 2023), https://penntoday.upenn.edu/news/many-dont-know-key-facts-about-us-constitution-annenberg-civics-study-finds [https://perma.cc/W3VZ-9TCL].

[76] *See generally* NAT'L INST. OF JUST., *Five Things About Deterrence,* U.S. DEP'T OF JUST. (May 2016), https://nij.ojp.gov/topics/articles/five-things-about-deterrence [https://perma.cc/C2GK-GL7D].

[77] *See* S. 2768 (containing no provisions to address underreporting of violence against healthcare workers).

[78] Healthcare workers are best positioned to alert authorities when a patient has "knowingly" assaulted an employee within the SAVE Act's meaning. *See id.*

[79] *See infra* Sections II.B.1–3.

[80] *See* The Kansas Workers Compensation Act, KAN. STAT. ANN. § 44-501–5,127.

[81] *See infra* Section II.B.4.

[82] CHRIS LEWIS, REBECCA VRBAS, GARRETT HAMMAN, & ALLIE SANFORD, 49TH ANNUAL 2023 STATISTICAL REPORT: WORKERS COMPENSATION DIVISION, KAN. DEP'T OF LAB. 6 (2023).

[83] *Id.*

[84] *Id.*

[85] *Can I Sue my Employer if I Get Injured at Work in Kansas?*, PALMER L. GRP. (July 17, 2024), https://www.jpalmerlaw.com/can-i-sue-my-employer-if-i-get-injured-at-work-in-kansas/#:~:text=Work%20Injury%20Compensation%20in%20Kansas&text=According%20to%2

carry workers compensation insurance, then injured employees are allowed to sue the employer for work injuries under civil liability principles rather than through the rules of workers compensation.[86]

While employers are required to get workers compensation insurance for their employees, that is not necessarily the case for independent contractors.[87] Often times hospitals will need travel clinicians, like travel nurses, to fill in when there are staffing shortages.[88] These clinicians are often independent contractors rather than employees, meaning that hospitals often do not have to include them in their workers compensation policy.[89]

If an employee is employed by a covered business, then the employee can receive workers compensation benefits like payment for medical treatment, two-thirds of lost wages, compensation for permanent disability, etc.[90] While these benefits may be helpful, actually recovering these benefits may be challenging.[91] The back and forth with insurance companies and the court process can render "the workers[] compensation process [to be] insurmountable."[92] While Kansas has recently increased the amount individuals can recover from a workers compensation claim, Kansas is one of the few states that puts a cap on benefits as compared to forty-four states who do not.[93] Based on these considerations, workers compensation can help provide some form of recovery for workers but is limited in who it applies to and how much they can recover.

2. Kansas Common Law Principles

In the rare instance that workers compensation rules do not apply, healthcare workers are protected by common law principles such as negligence.[94] A claim of negligence requires four main elements: duty, breach of duty, causation, and damages.[95] In healthcare settings, healthcare entities owe healthcare workers a duty of care to take reasonable measures to protect workers from harm—including violence that may occur on-site.[96] However, this duty is limited because of its

---

0workers'%20comp%20rules,claim%20would%20also%20be%20appropriate. [https://perma.cc/QMW6-H5E3].

[86] *Can I Sue my Employer if I Get Injured at Work in Kansas?*, *supra* note 85.

[87] *Workers' Comp for Travel Nurses*, WAX & WAX (Oct. 11, 2022), https://www.waxlawfirm.com/blog/2022/october/workers-comp-for-travel-nurses/ [https://perma.cc/XW88-VSHH].

[88] *Id.*

[89] *Id.*

[90] KAN. STAT. ANN. § 44-501(f).

[91] Shawn Loging, *Sweeping Changes Coming to State's Workers' Compensation Law*, 12NEWS (Apr. 12, 2024, 6:44 PM), https://www.kwch.com/2024/04/12/sweeping-changes-coming-states-workers-compensation-law/ [https://perma.cc/E34K-TMS7].

[92] *Id.*

[93] *Id.*

[94] *See* Kelly Tomaszewski, *Navigating the Legal Landscape of On-site Violence in Hospitals and Medical Clinics*, 65 NO. 8 DRI FOR DEF. 33, 33–34 (2023) (discussing negligence claims brought against hospitals).

[95] *See* LEGAL INFO. INST., *Negligence*, CORNELL L. SCH., https://www.law.cornell.edu/wex/negligence [https://perma.cc/VM7W-XH9D]; Shirley v. Glass, 308 P.3d 1, 6 (Kan. 2013).

[96] Tomaszewski, *supra* note 94, at 34.

dependency on concepts of foreseeability and causation.[97] To satisfy foreseeability, a healthcare entity must be able to reasonably predict that a violent act could occur.[98] Causation requires the entity's action or lack thereof to lead directly to violence against the healthcare worker.[99] For instance, if a hospital fails to implement adequate security measures and a worker is assaulted on site, foreseeability considers whether the hospital should have anticipated the incident due to lack of security and causation considers whether the assault was a direct result of the hospital failing to implement sufficient security measures.[100]

A healthcare worker may find relief from pursuing a personal injury action against their employer.[101] A healthcare entity's liability is largely based on the duty of care the entity owes its employees to ensure they have a safe working environment free from harm or threats of violence.[102] To avoid liability, healthcare entities then need to implement adequate security measures, provide training to staff on handling potentially violent situations, and establish protocols for responding to incidents of violence.[103] While this common law principle can help workers in some ways, logical considerations of power and financial inequity support a conclusion that it is unlikely many healthcare workers would want to bring a claim against their employer. Further, the culture of healthcare workers to be compassionate and to see violence as just part of the job supports the idea that these workers are not inclined to engage in litigation.[104] Due to these inherent limitations, it seems the effectiveness of the negligence principle is dependent on how risk-averse a given healthcare entity is. The more risk-averse a healthcare entity is, the more likely it is for the entity to put in safeguards to prevent litigation. Putting in safeguards to prevent litigation would in theory also help decrease violence.

3. Kansas Criminal Law

Kansas has several criminal laws that could be enforced against a violent person in a healthcare setting. These include assault, disorderly conduct, unlawful interference with an emergency medical service provider, and battery.[105]

---

[97] Tomaszewski, *supra* note 94, at 34.
[98] *Id.*
[99] *Id.*
[100] *Id.*
[101] Sydney Goldstein, *Workplace Violence,* LAWINFO (July 10, 2024), https://www.lawinfo.com/resources/employment-law-employee/workplace-violence-law/ [https://perma.cc/4TGA-JB2J].
[102] *See id.* (explaining that failure to provide a safe workplace free of hazards may constitute legal liability).
[103] *Id.*
[104] Ciabarra, *supra* note 5; Cheryl B. Jones, Zoe Sousane, Sarah E. Mossburg, *Addressing Workplace Violence and Creating a Safer Workplace*, DEP'T OF HEALTH AND HUM. SERVS., (Oct. 30, 2023), https://psnet.ahrq.gov/perspective/addressing-workplace-violence-and-creating-safer-workplace [https://perma.cc/85PW-4FTL].
[105] KAN. STAT. ANN. § 21-5412 (2023); KAN. STAT. ANN. § 21-6203 (2023); KAN. STAT. ANN. § 21-6326 (2023); KAN. STAT. ANN. § 21-5413 (2023).

Assault and disorderly conduct in Kansas are considered class C misdemeanors.[106] In Kansas, assault is defined as "knowingly placing another person in reasonable apprehension of immediate bodily harm."[107] Disorderly conduct is an act that a:

> person knows or should know will alarm, anger, or disturb others, or provoke an assault or other breach of peace which may include: (1) brawling or fighting; (2) disturbing an assembly, meeting, or processional . . . ; or (3) using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.[108]

In Kansas, a class C misdemeanor may result in confinement in county jail for not more than one month[109] and a fine of not more than $500.[110]

Unlawful interference with an emergency medical service provider is a class B misdemeanor.[111] The Kansas statute states that

> (a) [u]nlawful interference with an emergency medical service provider is knowingly: (1) interfering with an emergency medical service provider while engaged in the performance of such emergency service provider's duties; or (2) obstructing, interfering with, or impeding the efforts of any emergency medical service provider to reach the location of an emergency.[112]

An emergency medical service provider is either "an emergency medical responder, advanced emergency medical technician, emergency medical technician, or paramedic certified by the emergency medical services board."[113] In Kansas, a class B misdemeanor may result in confinement in county jail for not more than six months[114] and a fine of not more than $1,000.[115]

Kansas passed legislation in May 2023 that increased the penalty for battery against a healthcare worker to a class A misdemeanor.[116] Battery against a healthcare worker is battery "committed against a healthcare provider while the provider is engaged in the performance of such provider's duty."[117] A healthcare provider is defined as "an individual who is licensed, registered, certified, or otherwise authorized by the state of Kansas to provide healthcare services in the state."[118] Battery is defined as "(1) knowingly or recklessly causing bodily harm to another person; or (2) knowingly causing physical contact with another person when done in a rude, insulting, or angry manner."[119] In Kansas, a class A misdemeanor may

---

[106] KAN. STAT. ANN. § 21-5412(e)(1); § 21-6203(b).
[107] KAN. STAT. ANN. § 21-5412(a).
[108] KAN. STAT. ANN. § 21-6203(a)(1)–(3).
[109] KAN. STAT. ANN. § 21-6602(a)(3) (2023).
[110] KAN. STAT. ANN. § 21-6611(b)(3) (2023).
[111] KAN. STAT. ANN. § 21-6326(b) (2023).
[112] § 21-6326(a)(1)–(2).
[113] KAN. STAT. ANN. § 65-6112(h) (2023).
[114] § 21-6602(a)(2).
[115] § 21-6611(b)(2).
[116] 2023 Kan. Sess. Laws Ch. 94 (S.B. 174).
[117] KAN. STAT. ANN. § 21-5413(g) (2023).
[118] § 21-5413(i)(12).
[119] § 21-5413(a)(1)–(2).

result in confinement in county jail for not more than one year[120] and a fine of not more than $2,500.[121]

Overall, these penalties have not been very effective to date.[122] These penalties require a worker to not only report incidents of violence but also have the willingness to cooperate during the judicial process. Individuals often do not have the time, energy, or resources to engage in the judicial system.[123] Additionally, criminal penalties do not do much to benefit the provider who experienced the violence other than being able to see the perpetrator of the violence punished.[124] Lastly, these remedies are all retroactive.[125] While they might help punish individuals who commit violent acts, the penalty for doing so is relatively small in comparison to the harm that some workers face from the perpetrator's violence. Moreover, having a penalty does not necessarily prevent violence from occurring in the first place, rather the risk of being caught is what deters perpetrators.[126]

4. Kansas Licensing Regulations

Kansas licensing standards and regulations are silent regarding violence in the workplace.[127] However, Kansas does have regulations relating to risk management and incident reporting.[128] These regulations only require these management tools and reporting mechanisms in cases relating to clinical care for patients and do not include incidents that may happen to staff.[129] The Kansas licensing regulations do not offer any specific protections for staff.[130]

---

[120] KAN. STAT. ANN. § 21-6602(a)(1) (2023).
[121] KAN. STAT. ANN. § 21-6611(b)(1) (2023).
[122] *See* KAN. HOSPITAL ASS'N, *supra* note 7 (calling for increased penalties to counter increasing violence in Kansas health care settings, despite already existing penalties).
[123] Susan Buckner, *10 Common Fears About Lawsuits*, FINDLAW (May 3, 2024), https://www.findlaw.com/litigation/filing-a-lawsuit/ten-things-to-think-about-lawsuits.html [https://perma.cc/7UWL-CF6R].
[124] *See generally* Lenore Anderson, *The People Most Ignored by the Criminal-Justice System*, The Atlantic (Oct. 31, 2023), https://www.theatlantic.com/ideas/archive/2023/10/violent-crime-victims-criminal-justice-reform/675673/ (last visited Sep. 23, 2024).
[125] *See* § 21-6602(b) (requiring conviction to enforce penalty); § 21-6611(b) (requiring conviction to enforce penalty).
[126] *See* NAT'L INST. OF JUST., *supra* note 76.
[127] *See generally Code of Federal Regulation Appendices*, KAN. DEP'T OF HEALTH & ENV'T, https://www.kdhe.ks.gov/1892/Code-of-Federal-Regulation-Appendices [https://perma.cc/5XF6-T3D6] (compiling federal regulations, none of which mention violence in the workplace).
[128] *See generally* KAN. ADMIN. REGS. § 28-52 (1987).
[129] *Id.* (citing KAN. STAT. ANN. § 65-4921(f) (2018).
[130] *See Code of Federal Regulation Appendices, supra* note 127 (compiling sources, none of which mention protection for staff).

C. Hospital Regulations

Some of the main regulatory bodies that healthcare organizations are accountable to include the Occupational Safety and Health Administration,[131] the Center for Medicare and Medicaid Services,[132] and the Joint Commission.[133]

1. Occupational Safety and Health Administration (OSHA)

OSHA is a regulatory body that is the part of the U.S. Department of Labor tasked with assuring workers have a safe and healthy working environment.[134] OSHA does not have a specific standard for workplace violence prevention but still holds employers accountable for violence.[135] Under the General Duty Clause of the Occupational Safety and Health Act of 1970, employers must provide each worker with a place of employment that is free from recognized hazards that are causing or are likely to cause serious physical harm or death.[136] The General Duty Clause was applied to a healthcare employer in 2019 when the Occupational Safety and Health Review Commission upheld a citation after an employee was fatally stabbed by a mentally ill patient.[137] The Commission upheld the citation because incidents of workplace violence can fall under an employer's obligation under the General Duty Clause.[138]

Recognizing the significant number of violent incidents that take place in healthcare, OSHA created resources to help healthcare entities build and implement a comprehensive workplace violence program.[139] These resources help promote OSHA's new focus on workplace violence in healthcare—especially since OSHA has indicated its intent to move toward rulemaking[140] for a workplace violence

---

[131] OCCUPATIONAL SAFETY & HEALTH ADMIN., https://www.osha.gov/ [https://perma.cc/S8X9-4EQS].

[132] CTRS. FOR MEDICARE & MEDICAID SERVS., https://www.cms.gov/ [https://perma.cc/9CYN-62VA].

[133] THE JOINT COMM'N, https://www.jointcommission.org/ [https://perma.cc/52WL-5B3T].

[134] OCCUPATIONAL SAFETY & HEALTH ADMIN., *About OSHA,* U.S. DEP'T OF LAB., https://www.osha.gov/aboutosha [https://perma.cc/U5EN-MEA8]; 29 U.S.C. § 651.

[135] *See* 29 U.S.C. § 654; *see, e.g.,* Integra Health Mgmt., Inc., No. 13-1124, 2019 WL 1142920, at *1 (OSHRC Mar. 4, 2019) (relying on the General Duty Clause of the Occupational Safety and Health Act to affirm a citation against an employer).

[136] 29 U.S.C. § 654(a)(1); *see also* Nat'l Institute for Occupational Safety & Health, *OSHA's General Duty Clause*, CDC (May 16, 2024), https://wwwn.cdc.gov/WPVHC/Nurses/Course/Slide/Unit5_4#:~:text=The%20General%20Duty%20Clause%20from,a%20recognized%20hazard%20within%20the [https://perma.cc/QM6Z-5T56].

[137] Integra Health Mgmt., Inc., No. 13-1124, 2019 WL 1142920, at *2, *4.

[138] *Id*. at *14.

[139] OCCUPATIONAL & SAFETY & HEALTH ADMIN., *Worker Safety in Hospitals: Caring for our Caregivers*, U.S. DEP'T OF LAB., https://www.osha.gov/hospitals/workplace-violence [https://perma.cc/FZ8Z-TRQJ].

[140] Rulemaking is the process of making policy by the Executive Branch and Independent agencies of the Federal government to create rules and regulations. *See Learning About the Regulatory Process*, REGULATIONS.GOV, https://www.regulations.gov/learn [https://perma.cc/3YZR-6SSF]. Rulemaking is governed by administrative law. *Id.* OSHA rules are one example of regulations created in the rulemaking process. *See generally* Occupational Safety and Health Standards, 29 C.F.R. §§ 1910.1–1200.

standard in the healthcare industry.[141] The resources identify risk factors for violence and provide elements of an effective violence prevention program.[142]

According to OSHA, an effective violence prevention program consists of managerial commitment and employee participation, worksite analysis, hazard prevention and control, safety and health training, and recordkeeping and program evaluation.[143] Additionally, "program[s] should have clear goals and objectives" that are "suitable for the size and complexity of operations" and should be "adaptable to specific situations and specific facilities or units."[144] Programs should also be evaluated and reassessed regularly.[145]

OSHA's suggestions and resources for a violence prevention program could be effective. The resources provide comprehensive examples and a general template of how to keep records of incidents.[146] Aside from in-depth guidance on each part of what it believes makes an effective program, OSHA provides a quick checklist to look at risk factors for violence.[147] Overall, the OSHA resources could be very helpful optional tools for healthcare entities to use to prevent and report violence. However, OSHA could bolster its focus on preventing violence in the workplace if it promulgated a standard for healthcare entities to adhere to using its rulemaking authority.[148]

2. Centers for Medicare and Medicaid Services (CMS)

CMS is a federal agency that provides health coverage for many Americans through government insurance programs like Medicare and Medicaid.[149] CMS

---

[141] OCCUPATIONAL & SAFETY & HEALTH ADMIN., *Workplace Violence SBREFA*, U.S. DEP'T OF LAB., https://www.osha.gov/workplace-violence/sbrefa [https://perma.cc/X5FQ-ZTUD].

[142] U.S. DEP'T OF LAB., OCCUPATIONAL SAFETY & HEALTH ADMIN., GUIDELINES FOR PREVENTING WORKPLACE VIOLENCE FOR HEALTHCARE AND SOCIAL SERVICE WORKERS, U.S. DEP'T OF LAB. 3–5 (2016).

[143] *Id.* at 5.

[144] *Id.*

[145] *Id.*

[146] *Id.* at 9–10, 27–40.

[147] *Id.* at 30–40.

[148] Rulemaking is an essential power often used by administrative agencies. *See Learning About the Regulatory Process*, REGULATIONS.GOV, https://www.regulations.gov/learn [https://perma.cc/3YZR-6SSF]. Rulemaking is often easier to achieve because it takes less political capital compared to congressional legislation. *See* Mayburg v. Sec'y of Health & Hum. Servs., 740 F.2d 100, 104 (1st Cir. 1984) ("[G]iven the many stages through which a bill must pass before emerging from Congress, it is typically easier to halt legislation than to enact it."); *see also* Mass. Bldg. Trades Council v. United States DOL, 21 F.4th 357, 367 (6th Cir. 2021) (discussing OSHA's expedited rulemaking process during the COVID-19 Pandemic). In addition, rulemaking takes into account the public's comments on proposed rules before they are implemented and can therefore be better tailored to address the issue. *Learning About the Regulatory Process*, REGULATIONS.GOV, https://www.regulations.gov/learn [https://perma.cc/3YZR-6SSF].

[149] CTRS. FOR MEDICARE & MEDICAID SERVS., *About Us*, CMS.GOV, https://www.cms.gov/about-cms [https://perma.cc/P6HU-UW6Q].

"believes that healthcare workers have a right to provide care in a safe setting."[150] In accordance with this belief, Medicare-certified facilities are required to follow regulatory obligations known as Medicare Conditions of Participation (CoPs).[151] Some of these obligations are to care for patients in a safe setting and to have an emergency preparedness plan in place.[152]

To provide care in a safe setting, hospitals are expected to identify patients at risk for intentional harm to themselves or others and provide appropriate education and training for staff and volunteers.[153] CMS CoPs do not require all risks to be eliminated but hospitals are expected to demonstrate how they identify patients at risk of harm to others and what steps they are taking to minimize those risks based on nationally recognized standards and guidelines.[154] Essentially, hospitals are expected to implement a patient risk assessment strategy that can be tailored to the unique characteristics of each department.[155] Additionally, CMS expects that hospitals provide training to all new staff upon orientation and whenever policies and procedures change, and continued training at a minimum of every two years after initial training.[156]

CMS has issued citations to hospitals for failing to meet these obligations.[157] For example, one hospital failed to meet its obligations when one nurse was sexually assaulted by a behavioral health patient when working in a unit without adequate staff.[158] Other examples provided by CMS relate to injuries and death of patients.[159] In addition, if patients sustain injuries in the hospital as a result of violence, then CMS will not reimburse the hospital for the care provided for the extended stay.[160] This is because CMS also sets reimbursement standards with one of these standards being reduced or no reimbursement for hospital-acquired conditions.[161]

CMS regulations have potential to help in some ways with violence. CMS's required training and patient risk plans may be very beneficial for preventing violence.[162] However, CMS regulations and citations seem to focus more on the patient perspective. By focusing on the patient perspective, the regulations are not taking into account the workers' perspectives when providing care. As a result, the focus is only on the obligations the healthcare workers have and not on their

---

[150] Memorandum from Dirs., Quality, Safety, & Oversight Grp. (QSOG) and Surv. & Operations Grp. (SOG) to State Surv. Agency Dirs. (Nov. 28, 2022), https://www.cms.gov/files/document/qso-23-04-hospitals.pdf [https://perma.cc/8UWD-ALNR].
[151] *Id.*
[152] *Id.*
[153] *Id.*
[154] *Id.*
[155] *Id.*
[156] *Id.*
[157] *Id.*
[158] *Id.*
[159] *Id.* ("[A] patient who died after hospital staff and law enforcement performed a takedown that resulted in a hospital custodian holding the patient down on the floor with his knee against the patient's back, during which the patient stopped breathing and died; and a patient who was acting out and shot in his hospital room by off-duty police officers following the failure of hospital staff to perform appropriate assessment and de-escalation of the patient.").
[160] Dailey, *supra* note 12, at 61–62.
[161] *Id.*
[162] *See* U.S. DEP'T OF LAB., OCCUPATIONAL SAFETY AND HEALTH ADMIN., *supra* note 142, at 30–40.

protection. As a result, the regulations are not likely as effective for the prevention of violence against healthcare workers. This renders the current regulations only partially effective in helping healthcare workers from the standpoint that there is a trickle-down or indirect effect from the regulations that focus on patients. For example, by conducting an assessment to help with patient care the provider can also use that assessment to be more aware of whether the patient has risk factors for violence. CMS should consider creating additional conditions of participation that focus more on requiring hospitals to implement procedures to prevent violence against workers.

3. Joint Commission

The Joint Commission accredits and certifies many healthcare organizations in the U.S.[163] In 2022, the Joint Commission created new and revised workplace violence prevention standards.[164] These standards serve as a framework to develop "effective workplace violence prevention systems that include leadership oversight, policies and procedures, reporting systems, data collection and analysis, post-incident strategies, training, and education."[165]

As part of the environment of care, the Joint Commission requires hospitals to conduct annual worksite analysis related to its workplace prevention program so appropriate action to mitigate or resolve environmental risks can be taken.[166] Relatedly, hospitals must continually monitor, investigate, and internally report safety and security incidents involving patients, staff, or others in the facility including incidents involving workplace violence.[167] The Joint Commission also requires training, education, and resources that address violence prevention, recognition, response, and reporting.[168] Additionally, hospital leadership is held accountable to create and maintain a culture of safety and quality throughout the hospital.[169]

The Joint Commission has a sentinel event policy in which healthcare organizations are encouraged to report patient safety events to the Joint Commission.[170] This policy has the goal of addressing serious patient safety events

---

[163] *See* THE JOINT COMM'N, *Who We Are*, https://www.jointcommission.org/who-we-are/ [https://perma.cc/U2EP-YSA4].

[164] THE JOINT COMM'N, WORKPLACE VIOLENCE PREVENTION STANDARDS, 30 R3 REPORT 1 (June 18, 2021), https://www.jointcommission.org/-/media/tjc/documents/standards/r3-reports/wpvp-r3-30_revised_06302021.pdf [https://perma.cc/7MHD-8H29].

[165] *Id.*

[166] *Id.* at 2.

[167] *Id.*

[168] *Id.* at 4.

[169] *See id.* at 4–5 (requiring hospitals to have a leadership team in workplace violence prevention programs to promote accountability, safety, and quality).

[170] THE JOINT COMM'N, SENTINEL EVENT POLICY, SE-1 (2024), https://www.jointcommission.org/-/media/tjc/documents/resources/patient-safety-topics/sentinel-event/camh_se_20230906_155314.pdf [https://perma.cc/DN78-ZG3R].

by healthcare organizations collaborating with the Joint Commission.[171] Sentinel events are patient safety events that are not primarily related to the natural course of a patient's underlying condition and result in severe harm or death of the patient.[172] The Joint Commission has a non-exhaustive list of sentinel events.[173] Included in this list is the physical assault that leads to death or severe harm to a staff member, visitor, or vendor while on-site at the organization or while providing care or supervision to patients.[174]

Joint Commission standards could help violence prevention and reporting. The standards the Joint Commission reviews address environmental and organizational risk factors.[175] These factors are what healthcare entities have more control over.[176] Additionally, having the sentinel event policy may help incentivize healthcare entities to report some of the more serious instances of violence. However, these standards and reporting policies would be stronger if they were mandatory rather than optional because it would require organizations to report in order to continue to be accredited by the Joint Commission. Overall, the above-listed standards and policies are likely somewhat effective but would be more successful if the standards were strictly applied and if reporting became mandatory.

IV. SUGGESTED REFORM

This section first discusses the reform suggestions and scholarship provided by consultants, healthcare providers, lawyers, and scholars. Next, this section provides additional suggestions for making the healthcare workplace a less violent environment through standardization and policy reform.

---

[171] THE JOINT COMM'N, *supra* note 170 at SE-2.
[172] *Id.*
[173] *Id.*
[174] *Id.* at SE-3.
[175] OCCUPATIONAL SAFETY AND HEALTH ADMIN., *supra* note 142, at 30–40.
[176] For example, healthcare entities can improve a hospital's infrastructure and internal environment with appropriate funding. *See* Mary Scott Nabers, *Funding is Flowing for Upgrades to America's Healthcare Infrastructure*, STRATEGIC P'SHIPS, INC. (Jan. 10, 2024), https://www.spartnerships.com/funding-is-flowing-for-upgrades-to-americas-healthcare-infrastructure/ [https://perma.cc/MXK2-K5FK].

A. Current Scholarship

While current policy creates some legal remedies and preventative measures, violence is still occurring.[177] Many individuals who interact with healthcare have made suggestions for reform.[178] Some of these individuals are consultants, healthcare providers, lawyers, and scholars.[179] The suggestions for the prevention of violence mostly relate to environmental and organizational risk factors.[180] This is likely because organizational risk factors can more easily be controlled as compared to the other risk factors.[181]

From an environmental risk factor perspective, most suggestions relate to security measures.[182] Suggested security measures include the use of alarm systems, panic buttons, hand-held alarms or noise devices, closed-circuit video recording for high-risk areas, employee safe rooms, and shatter-proof glass.[183] Another suggestion is to implement electronic boards that indicate approximate wait times for patients to prevent any aggression that may arise from long wait times.[184] Other suggestions include decreasing the number of public access points and introducing security teams to check identification of all visitors.[185] Additionally, de-escalation teams—teams of specially trained staff—could be used to respond quickly to incidents and threats.[186]

From an organizational perspective, industry recommendations focus on a proactive and multifaceted approach with a heavy emphasis on training.[187] Training helps staff practice identifying potential signs of violent behavior in patients and equips staff with strategies to protect themselves from violence.[188] For example, training might include recognizing behavioral cues and risk factors like agitation,

---

[177] *See NNU Report Shows Increased Rates of Workplace Violence Experienced by Nurses*, *supra* note 2.
[178] *See* Calderone, *supra* note 3; Dailey, *supra* note 12, at 67–74; Lown & Setnik, *supra* note 17; Peters et al., *supra* note 18.
[179] *See* Calderone, *supra* note 3 (written by a consultant); Dailey, *supra* note 12 (healthcare provider); Lown & Setnik, *supra* note 17 (healthcare providers and professors); Peters et al., *supra* note 18 (lawyers).
[180] *See, e.g.,* Calderone, *supra* note 3.
[181] For example, healthcare entities can reduce organizational risk factors by training in-house de-escalation teams to respond quickly to violent incidents. *See id.* But it is much harder to reduce patient and external risk factors. For example, healthcare entities with an emergency department cannot turn away patients suffering from an "emergency medical condition," regardless of patient and external risk factors that may be present. *See* The Emergency Medical Treatment and Labor Act (EMTALA) 42 U.S.C. § 1395dd (2020).
[182] *See, e.g.,* Calderone, *supra* note 3.
[183] Gabriele d'Ettore, Mauro Mazzotta, Vincenza Pellicani, & Annamaria Vullo, *Preventing and Managing Workplace Violence Against Healthcare Workers in Emergency Departments,* 89 Suppl. 4 ACTA BIOMEDICA 28, 33 (2018).
[184] *Id.*
[185] Calderone, *supra* note 3.
[186] *Id.*
[187] *See* d'Ettore et al., *supra* note 183, at 32 (discussing sources that focus on training to manage risks in healthcare environments).
[188] Tomaszewski, *supra* note 94.

verbal threats, or history of violence, as well as de-escalation techniques.[189] Other areas of opportunity for education include training on the importance of maintaining a safe physical environment such as staff members positioning themselves near an exit when dealing with a potentially violent patient and other physical self-defense techniques.[190] Some suggest interactive training and simulation exercises that focus on improving the workers' communication skills and accurately reporting each violent incident.[191]

Some suggest the overall goal should be to create a culture of safety where healthcare professionals feel equipped to handle challenging situations and are supported by their institutions when incidents do occur.[192] Techniques suggested to help cultivate a culture of safety include comprehensive procedures for reporting violent incidents, a clear de-escalation process, immediate response protocols, counseling services, peer support groups, and other resources aimed at helping victims of violence cope and recover.[193] Other suggested practices include recognizing staff for acts of caring and compassion and discussion forums.[194] These suggestions could be useful because compassionate practices offered by organizational leaders for healthcare workers have been associated with higher patient satisfaction ratings.[195] A culture of safety is supported when healthcare workers know reported incidents will be taken seriously.[196]

Not every incidence of violence can be prevented. In those instances, legal remedies become important. From a federal perspective, legislation addressing violence in healthcare does not seem to be a top priority.[197] However, Kansas has shown interest in addressing violence in healthcare through recently passed legislation increasing penalties for perpetrators of violence against healthcare workers.[198] The Kansas Hospital Association has suggested that Kansas can further bolster current legislation by reforming legislation to increase penalties so that all hospital workers, including volunteers, may pursue the enhanced penalty charge.[199] Additionally, "hospitals should be allowed to bring claims on behalf of staff so that workers do not have to go through the legal process alone."[200]

B. Suggestions to Reduce Violence

Standardization is the key to reducing violence in healthcare. From a broad perspective, federal law or regulations enforced through administrative agencies, like OSHA and CMS, may provide a wide-sweeping effect to help healthcare

---

[189] Tomaszewski, *supra* note 94.
[190] *Id.*
[191] *See* d'Ettore, et al., *supra* note 183, at 32.
[192] Tomaszewski, *supra* note 94.
[193] *Id.*
[194] *See* Lown & Setnik, *supra* note 17.
[195] *Id.*
[196] *See* Calderone, *supra* note 3 (discussing that "healthcare workers need to know that all reported acts and incidents will be taken seriously" to "create safer environments").
[197] *See supra* Section II.A.
[198] *See* 2023 Kan. Sess. Laws Ch. 94 (S.B. 174).
[199] *See Kansas Advocacy Issue: Addressing Workplace Violence*, *supra* note 7.
[200] *Id.*

entities.[201] For example, federal law could be introduced to provide funding to OSHA that OSHA can distribute to healthcare entities to implement violence prevention programs and reporting mechanisms. Without broad regulations like this, healthcare entities are essentially left to their own devices for how, or if, they have violence prevention programs or reporting mechanisms. Similarly, on a state level, Kansas could provide regulations to standardize how healthcare organizations address workplace violence and reporting by changing its licensing requirements.[202] Additionally, funding could be used in the form of grants to help train healthcare professionals on de-escalation techniques.[203]

Policy and cultural changes aimed at addressing external risk factors would also be useful. Some areas for policy change include poverty and economic disparities, education, employment, and substance abuse. Policies that address poverty and economic disparities may help individuals with stress and frustration because individuals will be more secure in having their basic human needs met.[204] Similarly, setting individuals up for success by providing high-quality and accessible education can help individuals reach their full potential.[205] Moreover, this could help individuals find employment opportunities.[206] This can help individuals feel less frustration and in return decrease the likelihood of violence.[207] Policies that provide real help for individuals who have issues with substance abuse to be able to recover could be largely beneficial because individuals with substance abuse issues are at a higher risk of being perpetrators of violence.[208]

Overall, broader policy changes can address more than just violence. Broader policy change can also help address social determinants of health. Social determinants of health are nonmedical factors that influence health outcomes.[209] These factors are conditions that shape the daily life of an individual.[210] These factors include where someone is born, grows, works, lives, and ages—which is

---

[201] *See supra* Sections II.C.1–2.
[202] *See supra* Section II.B.4.
[203] *See generally Get Ready for Grants Management*, U.S. DEP'T OF HEALTH & HUM. SERVS., https://www.hhs.gov/grants-contracts/grants/get-ready-for-grants-management/index.html [https://perma.cc/G86L-9UQX] (listing grant resources available to health entities).
[204] *See* Soomin Ryu & Lu Fan, *The Relationship Between Financial Worries and Psychological Stress Among U.S. Adults*, 44 J. FAM. & ECON. ISSUES 16, 24 (2022) (finding financial stress is significantly associated with psychological distress).
[205] *See* EMILIE BAGBY, NANCY MURRAY, EDITH FELIX, SARAH LIUZZI, JOSH MEUTH ALLDREDGE, NICK INGWERSON, PAOLO ABARCAR, & ALE APOINTE, EVIDENCE REVIEW: THE EFFECT OF EDUCATION PROGRAMS ON VIOLENCE, CRIME, AND RELATED OUTCOMES IV (2021).
[206] *Id.*
[207] *See* Steven Raphael & Rudolph Winter-Ebmer, *Identifying the Effect of Unemployment on Crime*, 44 J. L. & ECON. 259, 259 (2001).
[208] AMANDA ATKINSON, ZARA ANDERSON, KAREN HUGHES, MARK A. BELLIS, HARRY SUMNALL & QUTUB SYED, INTERPERSONAL VIOLENCE AND ILLICIT DRUGS 1 (2009).
[209] *Social Determinants of Health (SDOH)*, CTR. FOR DISEASE CONTROL & PREVENTION (Jan. 17, 2024), https://www.cdc.gov/about/priorities/why-is-addressing-sdoh-important.html [https://perma.cc/NH28-NUPR].
[210] *See id.*

influenced by economic policies, social norms and policies, political systems, etc.[211] Policy changes that address socioeconomic inequities can then also address social determinants of health. This is important because social determinants of health may account for differences in the quality of health outcomes an individual experiences.[212]

It is easy to imagine the life stressors the perpetrator in the anecdote at the beginning of this article was facing. They were experiencing housing insecurity; along with that likely came hunger, unemployment, social isolation, and exposure to violence.[213] Patients like this, as well as others in poverty, likely have serious difficulty obtaining needed healthcare.[214] They may come to the emergency room in desperation.[215] They may know that they cannot pay for the care they receive and may experience anxiety about those bills.[216] All of these factors combined add to the stress and frustration an individual feels, in addition to the acute condition that brought them to the hospital in the first place. It is a situation that can easily boil over into violence.

Broader policy changes could improve the situation for patients and their healthcare providers. These changes are often harder to pass because the discussion of policy reform is often politicized.[217] Without broader policy changes, however, there will likely always be individuals who face stressors like these. These stressors not only increase the likelihood of the individual becoming violent but also decrease

---

[211] *Social Determinants of Health (SDOH)*, *supra* note 209.

[212] *See Social Determinants of Health,* WORLD HEALTH ORG., https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1 [https://perma.cc/CDT7-D7KD] (explaining how social determinants of health, such as socioeconomic status, can negatively impact an individual's health).

[213] *See* Alexandra Ashbrook, *Food Insecurity and Housing Instability Are Inextricably Linked*, FOOD RSCH. & ACTION CTR. (Nov. 20, 2023), https://frac.org/blog/food-insecurity-and-housing-instability-are-inextricably-linked [https://perma.cc/M4FG-MPF7]; Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 0 SOC. PROBLEMS 1, 14 (2016); Marlee Bower; Monica Carvalheiro, Kevin Gournay, Janette Perz & Elizabeth Conroy, *When More Satisfying and Supportive Relationships Increase Loneliness: The Social Worlds of People with Lived Experience of Homelessness*, 2023 HEALTH & SOC. CARE IN THE CMTY. 1, 2 (2023); JL Heinze, *Addressing National Trends in Housing Insecurity*, NAT'L SEXUAL VIOLENCE RES. CTR. (Mar. 6, 2024), https://www.nsvrc.org/blogs/unhoused [https://perma.cc/K9P5-48NW].

[214] *See* OFF. OF DISEASE PREVENTION & HEALTH PROMOTION, *Housing Instability*, U.S. DEP'T OF HEALTH & HUM. SERVS., https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/housing-instability#cit1 [https://perma.cc/8ATV-NRN7].

[215] *See* Gabrielle Emanuel, *In Record Numbers, Families Without Shelter are Turning to Massachusetts Emergency Departments*, WBUR (Jan. 11, 2023), https://www.wbur.org/news/2022/12/22/family-shelter-emergency-room [https://perma.cc/2KG8-M2NY].

[216] *See* Trent Gillies, *Why Health Care Costs Are Making Consumers More Afraid of Medical Bills Than an Actual Illness*, CNBC (Apr. 22, 2018, 11:15 AM), https://www.cnbc.com/2018/04/22/why-health-care-costs-are-making-consumers-more-afraid-of-medical-bills-than-an-actual-illness.html [https://perma.cc/2UX6-WFWB].

[217] *See, e.g.,* Julie E. Lucero, *Understanding the Connection Between Political and Social Determinants of Health*, UNIV. OF UTAH HEALTH (Jan. 5, 2023), https://uofuhealth.utah.edu/notes/2023/01/political-and-social-determinants-of-health [https://perma.cc/L6L4-GV3Y] (discussing how policies and procedures impact population health by examining housing insecurity as a social determinate of health).

the quality of their health outcomes.[218] As a result, society is left with a sicker population that is prone to violence.

V. CONCLUSION

Violence in healthcare is a recognized problem with many layers that contribute to its complexity. Societal influences and socioeconomic factors create an environment that is ripe for individuals to become violent. Broader policy changes that address societal issues would likely have the greatest overall impact on reducing stress and frustration so that individuals become less violent. However, broader policies addressing changes in society are harder to pass due to political influences. As a result, violence will likely need to be addressed in other ways.

Currently available legal remedies are relatively small and usually limited to incidents that occur by individuals who intend to harm workers. Moreover, those workers must have the means and drive to go through the legal system to receive a remedy. This represents a very low number of workers who experience violence. Additionally, these remedies do not seem to be very helpful for these workers due to their retroactive nature and because the remedies do not necessarily address the underlying issues that cause violence.

As a result of legal remedies being limited in their effectiveness, policies focused on preventative measures seem to address workplace violence in healthcare in a better way. This is because it addresses all kinds of violence, especially violence caused by patients—the statistically highest category of perpetrators of violence in healthcare settings. However, the effectiveness of preventive measures is unknown due to a lack of reporting. Having better reporting requirements and mechanisms in place would help policymakers know where to target efforts to decrease violence. In the meantime, without standardization of preventative or reporting measures on a federal or state level, healthcare organizations can address violence by focusing on creating violence prevention programs. These programs should have a culture of safety where workers feel that reports are worth their time and action will be taken to address violent incidents.

---

[218] *See Social Determinants of Health (SDOH)*, *supra* note 209 (discussing how inequities in housing, education, wealth, and employment place individuals at higher risk of poor health).