

CLIENT ALERTS

New Law Protecting Healthcare Workers on the Job Set to Take Effect March 5, 2024 – Is Your Facility Ready?

Client Alert

2.7.2024

On March 5, 2024, changes to the Michigan Penal Code^[1] take effect, which increase the penalties for crimes committed by any person (other than a patient) against a “health professional” or “medical volunteer” while providing direct or indirect patient care. Health facilities must be aware of this new law, as there are obligations placed on them to post notice of the enhanced penalties under the new laws.

The new laws, 2023 Public Act 271 and 2023 Public Act 272, were signed by Governor Whitmer on December 6, 2023, and take effect 90 days thereafter. Under these laws, any person who commits assault, aggravated assault or assault with a deadly weapon on a health professional or medical volunteer is subject to double the fines associated with these criminal acts. Specifically, for a simple assault or assault and battery, if convicted, the person would be subject to a term of imprisonment and/or fines of up to \$1,000. For aggravated assault, the fines increase to a maximum of \$2,000 and assault with a deadly weapon subjects the person to fines of up to \$4,000, as well as terms of imprisonment. These enhanced fines are not applicable to assaults committed by a patient receiving services, although they are still subject to the existing criminal penalties should they commit an assault on any healthcare worker.

While previous bills addressing ways to minimize assault on healthcare workers have failed, given the high incidence of assault on healthcare professionals—especially those in hospital emergency departments—and the state and national healthcare worker shortage, these new laws progressed quickly through the Legislature. The result is additional protection of the state’s medical professionals, including volunteers, while providing direct and indirect patient care services to their

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patients.

Provider obligations under the new laws.

While the laws extend protection to workers at health facilities and agencies, hospitals, psychiatric hospitals and health care providers' offices, it also places an obligation on state licensed facilities to make the public aware of the enhanced penalties. Under the new laws, notice of the enhanced penalties must be posted in a prominent and visible location at each health facility or agency, hospital or psychiatric hospital. The notice must advise its visitors (other than its patients) that they are subject to an enhanced fine for any of the above-referenced crimes on facility personnel. The notice must also advise patients that, while they are not subject to the enhanced penalties, they may still be subject to prosecution for their criminal conduct. Although the law does not provide for a penalty for a facility's failure to post the requisite notice, failing to do so may result in lower penalties for the aggressor. Since the obligation for notice is only imposed upon facilities licensed under the Public Health Code or the Mental Health Code, only time will tell if the licensing agency will modify their regulations to mandate compliance with the new laws. To ensure the protection afforded by these new laws, facilities should ensure the notice is posted by March 5, 2024. And while these laws do not necessarily mandate that physician offices post notice of the enhanced penalties, it is recommended that they do so to ensure that the enhanced penalties are applied to any perpetrator of assault against their workforce.

If you would like more information about the new laws or assistance preparing the required notice, please reach out to the authors of this Client Alert or your Butzel attorney.

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^[1] MCL §§ 750.81, 750.81a and 750.82.