

PUBLIC NOTICE

HEALTH

THE COMMISSIONER

HEALTH SYSTEMS BRANCH

DIVISION OF CERTIFICATE OF NEED AND LICENSING

Notice of Action on Petition for Rulemaking

General Licensure Procedures and Standards Applicable to All Licensed Facilities

Violence Prevention in Healthcare Facilities

N.J.A.C. 8:43E-11

Petitioner: Caleb L. McGillvary, Trenton State Prison.

Take notice that on July 24, 2026, the Department of Health (Department) received a petition for rulemaking from Caleb L. McGillvary, Trenton State Prison, Trenton, New Jersey. The Department filed a notice of receipt of the petition on August 3, 2026, which appears in the September 8, 2026 issue of the New Jersey Register at 58 N.J.R. 2130(a).

Take further notice that Dr. Raynard E. Washington, Commissioner of the Department, having duly considered the petition pursuant to law, has determined to deny the petition for the reasons stated below.

The petitioner requests that the Department promulgate a new rule at existing N.J.A.C. 8:43E-11 to require “enhanced workplace violence prevention measures designed to protect healthcare workers from physical assaults, threats, harassment, stalking, intimidation, and other forms of workplace violence.” The petitioner provided suggested text of a new rule at N.J.A.C. 8:43E-11.16.

In 2011, the Department promulgated N.J.A.C. 8:43E-11, Violence Prevention in Health Care Facilities, as new rules, to implement the Department's rulemaking obligation pursuant to the Violence Prevention in Health Care Facilities Act, N.J.S.A. 26:2H-5.16 et seq. (Act), specifically at N.J.S.A. 26:2H-5.23. See 43 N.J.R. 12(a); 2337(a). Existing N.J.A.C. 8:43E-11 establishes comprehensive violence prevention standards to which every health care facility that the Department licenses pursuant to the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., must adhere. N.J.A.C. 8:43E-11.3 requires all such facilities to establish a violence prevention program that includes the establishment of a violence prevention committee (committee). N.J.A.C. 8:43E-11.4 requires the committee membership to include representatives of the facility's health care worker community (whose appointment follows consultation with staff collective bargaining representatives, if applicable), meet at least quarterly, complete specific identified tasks, develop and maintain a detailed, written violence prevention plan that identifies workplace risks and provides specific methods to address them, conduct an annual violence risk assessment, and designate a coordinator or team to arrange violence prevention training. N.J.A.C. 8:43E-11.4.

N.J.A.C. 8:43E-11.11 requires each covered facility to implement the prevention and control measures that the committee's assessment identifies, conduct incident investigations, and prepare incident investigation reports. N.J.A.C. 8:43E-11.12 requires each facility to maintain records of acts of violence that occur within the facility and, pursuant to N.J.A.C. 8:43E-11.13, establish a post-incident response system. N.J.A.C. 8:43E-11.14 prohibits facilities from taking retaliatory action against a health care worker who reports an allegation of workplace violence. N.J.A.C. 8:43E-11.15

permits the Department to impose enforcement actions and penalties against a facility, as set forth at N.J.A.C. 8:43E-3.

The Department finds that the petitioner's stated broad interest in healthcare worker safety and the State healthcare system generally demonstrates no particular personal interest or subject matter expertise that would warrant the Department conferring special deference to the petitioner's opinion as to this issue.

The petitioner cites to a 2017 study that relies on the experience of healthcare workers in Ontario, Canada, as support for the general assertion that healthcare workers experience violence at a greater rate than other occupations. The Department does not dispute the accuracy of this general assertion; indeed, the Act "finds and declares" similar facts as to the enhanced susceptibility of healthcare workers to experiencing workplace violence. N.J.S.A. 26:2H-5.18. The petitioner states that the text he suggests, for codification at new N.J.A.C. 8:43E-11.16, would "strengthen New Jersey's existing Violence Prevention in Health Care Facilities Act ... and the implementing [rules] at N.J.A.C. 8:43E-11." The petitioner refers to "studies" and "[r]ecent data," without citations thereto, to support his assertion that "existing systems frequently fail." However, the petitioner cites to no authority demonstrating the factual accuracy of this statement with respect specifically to any ineffectiveness or inadequacy of the existing rules at N.J.A.C. 8:43E-11 to address health care facility workplace violence or how the suggested rule text would address any such weaknesses.

The petitioner's suggested rule text would oblige every health care facility within the Department's jurisdiction to implement specific prescribed changes, regardless of facility size, clientele served, or economic capacity to implement. In contrast, N.J.A.C.

8:43E-11.3, consistent with the Act, at N.J.S.A. 26:2H-5.20, requires a covered facility, through its committee, to establish a violence prevention program that is customized to that facility, based on the concerns of the constituencies represented on its committee. While certain requirements that the petitioner suggests might be worthy of a committee's consideration in developing its violence prevention program, the imposition of "one-size-fits-all" requirements on every facility would contravene the specific ability the Act delegates to each health care facility to design and implement a workplace violence prevention program that is customized to its particular needs and capacities, pursuant to N.J.S.A. 26:2H-5.20, thereby indicating that the rulemaking the petitioner requests might exceed the Department's rulemaking authority pursuant to the Act.

For the foregoing reasons, the Department does not find that the petition identifies any basis warranting the Department's promulgation of the new rule at N.J.A.C. 8:43E-11.16 that the petitioner requests. Therefore, the petition is denied.

A copy of this notice has been mailed to the petitioner as required by N.J.A.C. 1:30-4.2.