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HOUSE BILL 305

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Jane E. Powdrell-Culbert

AN ACT

RELATING TO CRIMINAL PENALTIES; AMENDING THE DEFINITION OF
"HEALTH FACILITY"; IMPOSING PENALTIES FOR ASSAULT OR BATTERY ON
HEALTH CARE WORKERS IN NURSING AND OTHER FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-3-9.2 NMSA 1978 (being Laws 2006,
Chapter 27, Section 1) is amended to read:

"30-3-9.2. ASSAULT--BATTERY--HEALTH CARE PERSONNEL.--

A. As used in this section:

(1) "health facility" means a public or
private hospital, outpatient facility, diagnostic and treatment
center, rehabilitation center, skilled nursing facility,
nursing facility, other long-term residential care facility or
infirmary. "Health facility" also includes those facilities
that, by federal regulation, must be licensed by the state to

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1 obtain or maintain full or partial, permanent or temporary
2 federal funding [~~but "health facility" does not include a~~
3 ~~skilled nursing facility, a nursing facility or other long-term~~
4 ~~residential care facility~~];

5 (2) "health care worker" means an employee of
6 a health facility or a licensed emergency medical technician;
7 and

8 (3) "in the lawful discharge of the health
9 care worker's duties" means engaged in the performance of the
10 duties of a health care worker.

11 B. Assault upon a health care worker consists of:

12 (1) an attempt to commit a battery upon the
13 person of a health care worker who is in the lawful discharge
14 of the health care worker's duties; or

15 (2) any unlawful act, threat or menacing
16 conduct that causes a health care worker who is in the lawful
17 discharge of the health care worker's duties to reasonably
18 believe that the health care worker is in danger of receiving
19 an immediate battery.

20 Whoever commits assault upon a health care worker is
21 guilty of a misdemeanor.

22 C. Aggravated assault upon a health care worker
23 consists of:

24 (1) unlawfully assaulting or striking at a
25 health care worker with a weapon while the health care worker

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1 is in the lawful discharge of the health care worker's duties;
2 or

3 (2) willfully and intentionally assaulting a
4 health care worker who is in the lawful discharge of the health
5 care worker's duties with intent to commit any felony.

6 Whoever commits aggravated assault upon a health care
7 worker is guilty of a third degree felony.

8 D. Assault with intent to commit a violent felony
9 upon a health care worker consists of assaulting a health care
10 worker who is in the lawful discharge of the health care
11 worker's duties with intent to kill the health care worker.

12 Whoever commits assault with intent to commit a violent
13 felony upon a health care worker is guilty of a second degree
14 felony.

15 E. Battery upon a health care worker is the
16 unlawful, intentional touching or application of force to the
17 person of a health care worker who is in the lawful discharge
18 of the health care worker's duties, when done in a rude,
19 insolent or angry manner.

20 Whoever commits battery upon a health care worker is
21 guilty of a fourth degree felony.

22 F. Aggravated battery upon a health care worker
23 consists of the unlawful touching or application of force to
24 the person of a health care worker with intent to injure that
25 health care worker while the health care worker is in the

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1 lawful discharge of the health care worker's duties.

2 Whoever commits aggravated battery upon a health care
3 worker, inflicting an injury to the health care worker that is
4 not likely to cause death or great bodily harm but does cause
5 painful temporary disfigurement or temporary loss or impairment
6 of the functions of any member or organ of the body, is guilty
7 of a fourth degree felony.

8 Whoever commits aggravated battery upon a health care
9 worker, inflicting great bodily harm or does so with a deadly
10 weapon or in any manner whereby great bodily harm or death can
11 be inflicted, is guilty of a third degree felony.

12 G. A person who assists or is assisted by one or
13 more other persons to commit a battery upon a health care
14 worker who is in the lawful discharge of the health care
15 worker's duties is guilty of a fourth degree felony."

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