

AN ACT

RELATING TO CRIMINAL PENALTIES; ADDING A PENALTY FOR ASSAULT  
OR BATTERY ON A HEALTH CARE WORKER.

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

Section 1. A new Section 30-3-9.2 NMSA 1978 is enacted  
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 or infirmary. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding, but "health facility" does not include a skilled nursing facility, a nursing facility or other long-term residential care facility;

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

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

B. Assault upon a health care worker consists of:

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

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

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

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

(1) unlawfully assaulting or striking at a health care worker with a weapon while the health care worker is in the lawful discharge of the health care worker's duties; or

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

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

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

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

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

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

F. Aggravated battery upon a health care worker consists of the unlawful touching or application of force to the person of a health care worker with intent to injure that health care worker while the health care worker is in the lawful discharge of the health care worker's duties.

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

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

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