

A-Engrossed House Bill 2022

Ordered by the House February 12
Including House Amendments dated February 12

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Task Force on Nurses Workplace Violence)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires health care employers to address assaults of employees.
Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to health care employers; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 7 of this 2007 Act are added to and made a part of ORS 654.001**
5 **to 654.295.**

6 **SECTION 2. As used in sections 2 to 7 of this 2007 Act:**

7 (1) **"Assault" means intentionally, knowingly or recklessly causing physical injury.**

8 (2) **"Health care employer" means:**

9 (a) **An ambulatory surgical center as defined in ORS 442.015.**

10 (b) **A hospital as defined in ORS 442.015.**

11 (3) **"Home health care services" means items or services furnished to a patient by an**
12 **employee of a health care employer in a place of temporary or permanent residence used as**
13 **the patient's home.**

14 **SECTION 3. (1) A health care employer shall:**

15 (a) **Conduct periodic security and safety assessments to identify existing or potential**
16 **hazards for assaults committed against employees;**

17 (b) **Develop and implement an assault prevention and protection program for employees**
18 **based on assessments conducted under paragraph (a) of this subsection; and**

19 (c) **Provide assault prevention and protection training on a regular and ongoing basis for**
20 **employees.**

21 (2) **An assessment conducted under subsection (1)(a) of this section shall include, but**
22 **need not be limited to:**

23 (a) **A measure of the frequency of assaults committed against employees that occur on**
24 **the premises of a health care employer or in the home of a patient receiving home health**
25 **care services during the preceding five years or for the years that records are available if**
26 **fewer than five years of records are available; and**

27 (b) **An identification of the causes and consequences of assaults against employees.**

28 (3) **An assault prevention and protection program developed and implemented by a health**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 care employer under subsection (1)(b) of this section shall be based on an assessment con-
2 ducted under subsection (1)(a) of this section and shall address security considerations re-
3 lated to the following:

- 4 (a) Physical attributes of the health care setting;
- 5 (b) Staffing plans, including security staffing;
- 6 (c) Personnel policies;
- 7 (d) First aid and emergency procedures;
- 8 (e) Procedures for reporting assaults; and
- 9 (f) Education and training for employees.

10 (4)(a) Assault prevention and protection training required under subsection (1)(c) of this
11 section shall address the following topics:

- 12 (A) General safety and personal safety procedures;
- 13 (B) Escalation cycles for assaultive behaviors;
- 14 (C) Factors that predict assaultive behaviors;
- 15 (D) Techniques for obtaining medical history from a patient with assaultive behavior;
- 16 (E) Verbal and physical techniques to de-escalate and minimize assaultive behaviors;
- 17 (F) Strategies for avoiding physical harm and minimizing use of restraints;
- 18 (G) Restraint techniques consistent with regulatory requirements;
- 19 (H) Self-defense, including:

20 (i) The amount of physical force that is reasonably necessary to protect the employee or
21 a third person from assault; and

22 (ii) The use of least restrictive procedures necessary under the circumstances, in ac-
23 cordance with an approved behavior management plan, and any other methods of response
24 approved by the health care employer;

- 25 (I) Procedures for documenting and reporting incidents involving assaultive behaviors;
- 26 (J) Programs for post-incident counseling and follow-up;
- 27 (K) Resources available to employees for coping with assaults; and
- 28 (L) The health care employer's workplace assault prevention and protection program.

29 (b) A health care employer shall provide assault prevention and protection training to a
30 new employee within 90 days of the employee's initial hiring date.

31 (c) A health care employer may use classes, video recordings, brochures, verbal or writ-
32 ten training or other training that the employer determines to be appropriate, based on an
33 employee's job duties, under the assault prevention and protection program developed by the
34 employer.

35 **SECTION 4.** (1) A health care employer shall maintain a record of assaults committed
36 against employees that occur on the premises of the health care employer or in the home
37 of a patient receiving home health care services. The record shall include, but need not be
38 limited to, the following:

- 39 (a) The name and address of the premises on which each assault occurred;
- 40 (b) The date, time and specific location where the assault occurred;
- 41 (c) The name, job title and department or ward assignment of the employee who was
42 assaulted;
- 43 (d) A description of the person who committed the assault as a patient, visitor, employee
44 or other category;
- 45 (e) A description of the assaultive behavior as:

- 1 (A) An assault with mild soreness, surface abrasions, scratches or small bruises;
- 2 (B) An assault with major soreness, cuts or large bruises;
- 3 (C) An assault with severe lacerations, a bone fracture or a head injury; or
- 4 (D) An assault with loss of limb or death;
- 5 (f) An identification of the physical injury;
- 6 (g) A description of any weapon used;
- 7 (h) The number of employees in the immediate area of the assault when it occurred; and
- 8 (i) A description of actions taken by the employees and the health care employer in re-
- 9 sponse to the assault.

10 (2) A health care employer shall maintain the record of assaults described in subsection
11 (1) of this section for no fewer than five years following a reported assault.

12 (3) The Director of the Department of Consumer and Business Services shall adopt by
13 rule a common recording form for the purposes of this section.

14 **SECTION 5.** If a health care employer directs an employee who has been assaulted by a
15 patient on the premises of the health care employer to provide further treatment to the pa-
16 tient, the employee may request that a second employee accompany the employee when
17 treating the patient. If the health care employer declines the employee's request, the health
18 care employer may not require the employee to treat the patient.

19 **SECTION 6.** (1) An employee who provides home health care services may refuse to treat
20 a patient unless accompanied by a second employee if, based on the patient's past behavior
21 or physical or mental condition, the employee believes that the patient may assault the em-
22 ployee.

23 (2) An employee who provides home health care services may refuse to treat a patient
24 unless the employee is equipped with a communication device that allows the employee to
25 transmit one-way or two-way messages indicating that the employee is being assaulted.

26 **SECTION 7.** (1) A health care employer may not impose sanctions against an employee
27 who used physical force in self-defense against an assault if the health care employer finds
28 that the employee:

- 29 (a) Was acting in self-defense in response to the use or imminent use of physical force;
- 30 (b) Used an amount of physical force that was reasonably necessary to protect the em-
31 ployee or a third person from assault; and
- 32 (c) Used the least restrictive procedures necessary under the circumstances, in accord-
33 ance with an approved behavior management plan, or other methods of response approved
34 by the health care employer.

35 (2) As used in this section, "self-defense" means the use of physical force upon another
36 person in self-defense or to defend a third person.

37 **SECTION 8.** A health care employer that is required to conduct a periodic security and
38 safety assessment under section 3 of this 2007 Act shall conduct its first assessment no later
39 than April 1, 2008.

40 **SECTION 9.** Section 4 of this 2007 Act applies only to assaults occurring on or after the
41 operative date specified in section 11 of this 2007 Act.

42 **SECTION 10.** (1) No later than January 31, 2009, each health care employer shall provide
43 to the Director of the Department of Consumer and Business Services data from the record
44 of assaults compiled under section 4 of this 2007 Act for assaults occurring in 2008.

45 (2) The director shall adopt rules for the reporting of data under subsection (1) of this

1 **section. The rules:**

2 (a) **May not require health care employers to report the names of employees who have**
3 **been assaulted or the names of patients who have committed assaults; and**

4 (b) **Shall conform with state and federal laws relating to confidentiality and the pro-**
5 **tection of health information.**

6 (3) **No later than April 30, 2009, the director shall analyze the data received under sub-**
7 **section (1) of this section and report the findings to the Seventy-fifth Legislative Assembly.**

8 (4) **Nothing in this section restricts the director's access to or use of information or re-**
9 **records otherwise required or permitted under the Oregon Safe Employment Act.**

10 **SECTION 11. Except as provided in section 12 of this 2007 Act, sections 2 to 7 of this 2007**
11 **Act become operative on January 1, 2008.**

12 **SECTION 12. The Director of the Department of Consumer and Business Services may**
13 **take any action before the operative date of sections 2 to 7 of this 2007 Act that is necessary**
14 **to enable the director to exercise, on and after the operative date of sections 2 to 7 of this**
15 **2007 Act, all the duties, functions and powers conferred on the director by this 2007 Act.**

16 **SECTION 13. This 2007 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
18 **July 1, 2007.**

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