

Senate Bill 823

Sponsored by COMMITTEE ON HEALTH CARE

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 **as introduced**.

Makes it unlawful employment practice for health care employer to retaliate against employee who makes good faith report of assault that occurred on premises of health care provider or in home of patient receiving home health care services.

Requires health care employer to hire security personnel to provide security services, at all times, in emergency care department of hospital.

Requires health care employer to generate and make available to public annual report that summarizes records of assaults committed against employees. Requires health care employer to submit report to Director of Department of Consumer and Business Services no later than December 31 of each year.

Requires health care employer that has information regarding assault committed by patient on premises of health care employer to include in patient's medical record description of assault and any other information relating to patient's high risk for assaultive behavior.

A BILL FOR AN ACT

1
2 Relating to violence against health care employees; creating new provisions; and amending ORS
3 654.414, 654.416 and 654.418.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 654.412 to**
6 **654.423.**

7 **SECTION 2. It is an unlawful employment practice for a health care employer to retaliate**
8 **or in any way discriminate against an employee with regard to promotion, compensation or**
9 **other terms, conditions or privileges of employment for the reason that the employee has in**
10 **good faith reported an assault that occurred on the premises of the health care employer**
11 **or in the home of a patient receiving home health care services.**

12 **SECTION 3. ORS 654.414 is amended to read:**

13 654.414. (1) A health care employer shall:

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

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

18 (c) Provide assault prevention and protection training on a regular and ongoing basis for
19 employees[.]; **and**

20 **(d) Hire security personnel to provide security services, at all times, in an emergency**
21 **department of a hospital.**

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

24 (a) A measure of the frequency of assaults committed against employees that occur on the
25 premises of a health care employer or in the home of a patient receiving home health care services

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 during the preceding five years or for the years that records are available if fewer than five years
2 of records are available; and

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

4 (3) An assault prevention and protection program developed and implemented by a health care
5 employer under subsection (1)(b) of this section shall be based on an assessment conducted under
6 subsection (1)(a) of this section and shall address security considerations related to the following:

7 (a) Physical attributes of the health care setting;

8 (b) Staffing plans, including security staffing;

9 (c) Personnel policies;

10 (d) First aid and emergency procedures;

11 (e) Procedures for reporting assaults; and

12 (f) Education and training for employees.

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

15 (A) General safety and personal safety procedures;

16 (B) Escalation cycles for assaultive behaviors;

17 (C) Factors that predict assaultive behaviors;

18 (D) Techniques for obtaining medical history from a patient with assaultive behavior;

19 (E) Verbal and physical techniques to de-escalate and minimize assaultive behaviors;

20 (F) Strategies for avoiding physical harm and minimizing use of restraints;

21 (G) Restraint techniques consistent with regulatory requirements;

22 (H) Self-defense, including:

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

25 (ii) The use of least restrictive procedures necessary under the circumstances, in accordance
26 with an approved behavior management plan, and any other methods of response approved by the
27 health care employer;

28 (I) Procedures for documenting and reporting incidents involving assaultive behaviors;

29 (J) Programs for post-incident counseling and follow-up;

30 (K) Resources available to employees for coping with assaults; and

31 (L) The health care employer's workplace assault prevention and protection program.

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

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

37 **SECTION 4.** ORS 654.416 is amended to read:

38 654.416. (1) A health care employer shall maintain a record of assaults committed against em-
39 ployees that occur on the premises of the health care employer or in the home of a patient receiving
40 home health care services. The record shall include, but need not be limited to, the following:

41 (a) The name and address of the premises on which each assault occurred;

42 (b) The date, time and specific location where the assault occurred;

43 (c) The name, job title and department or ward assignment of the employee who was assaulted;

44 (d) A description of the person who committed the assault as a patient, visitor, employee or
45 other category;

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

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

13 **(3)(a) Each health care employer shall generate and make available to the public an an-**
 14 **nu****al report summarizing the information maintained in the record described under sub-**
 15 **section (1) of this section, except that the report may not disclose any personally identifiable**
 16 **information of any employee who was assaulted or person who committed an assault.**

17 **(b) No later than December 31 of each year, the health care employer shall submit the**
 18 **annual report generated under paragraph (a) of this subsection to the Director of the De-**
 19 **partment of Consumer and Business Services.**

20 ~~[(3)]~~ (4) The director *[of the Department of Consumer and Business Services]* shall adopt by rule
 21 a common recording form for the purposes of this section.

22 **SECTION 5.** ORS 654.418 is amended to read:

23 654.418. (1) **If a health care employer has a record of an assault committed by a patient**
 24 **on the premises of the health care employer, the health care employer shall include a de-**
 25 **scription of the assault, and any other information relating to the patient’s high risk for**
 26 **assaultive behavior, in the patient’s medical record.**

27 (2) If a health care employer directs an employee who has been assaulted by a patient on the
 28 premises of the health care employer to provide further treatment to the patient, the employee may
 29 request that a second employee accompany the employee when treating the patient. If the health
 30 care employer declines the employee’s request, the health care employer may not require the em-
 31 ployee to treat the patient.

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