



LPRO
LEGISLATIVE POLICY
AND RESEARCH OFFICE

Task Force on Improving the Safety of Behavioral Health Workers

November 14, 2024

Meeting #8: Adoption of Final Recommendations and Report

Roll Call

Please have camera on and microphone unmuted

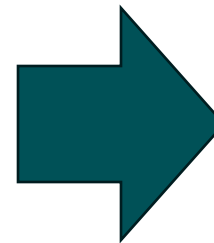
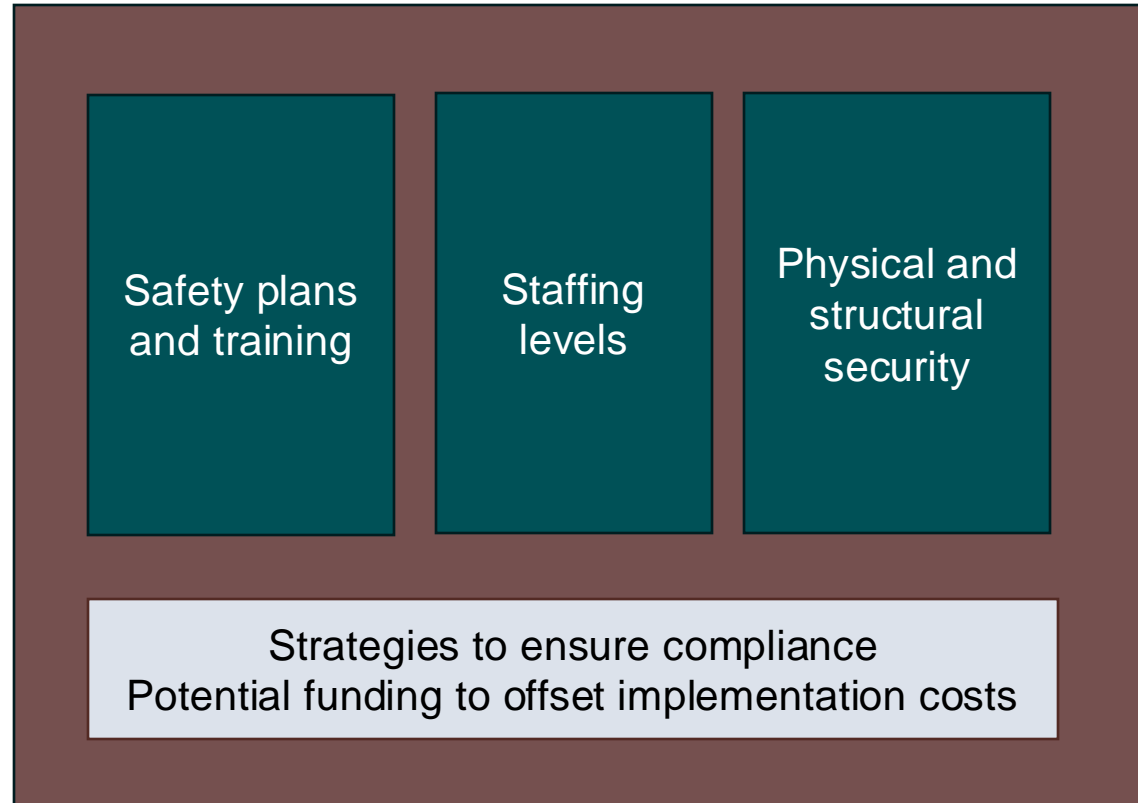


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Workplan and Agenda

LPRO Staff

Progress on Workplan



Draft Workplan	
Today	Scoping/Workplan
Aug 30 th	Safety Plans
Sept 10 th	Staffing Levels
Oct 3 rd	Structural Security
Oct 18 th	Draft Recommendations
Nov 7 th	Draft Report
<i>Today</i>	<i>Adopt Report</i>



Agenda for Today

November 14, 2024

- Finalize and adopt report
- Reflections
- Next steps



Work Session: Final Draft Recommendations

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Getting to the Final Report

October 18th

Consider recommendations

- Review list of policy concepts
- Discuss what should move forward as recommendations



November 7th

Finalize recommendations

- Review revised concepts
- Narrow to areas of agreement
- Finalize recommendations
- Review draft report



Today

Finalize report

- Review revised draft report
- Final feedback to staff
- Adopt report (with revisions as needed)



Written Safety Plans

November 7 Version	Revised Version
1.1) Behavioral health employers should be required to develop a written safety plan. This requirement should apply to traditional settings as well as shelters and mobile crisis units. Safety plans should be tailored to the employer's specific context and easily accessible by staff. Employers should be required to provide a copy of the written plan to new workers upon hire.	No change
1.2) OHA should offer noncompetitive grants to behavioral health employers to support risk assessments (see #3.1) that inform timely development of written safety plans. Grants should be offered up-front to cover employer costs to conduct risk assessments and engage technical advisors as needed. OSHA should work with OHA and ODHS to advertise to behavioral health providers that free consultation and training on safety planning are available to them.	No change
1.3) There should be enhanced penalties for employers if, during an investigation, OSHA determines that an employer was not in compliance with requirements related to a written safety plan.	Removed from recommendations. Rationale: Current statute requires OSHA to apply sanctions, which can include penalties at agency discretion, upon first violation. OSHA already applies enhanced penalties where employers knowingly or willfully violate regulations.

Safety Training – What, When, How

November 7 Version

1.4) Behavioral health employers should be required to provide:

- **basic safety training** addressing common risks and the written safety plan (distinct from de-escalation). The training should include add-on components for specific settings and levels of care. One add-on should be field safety training for mobile crisis.
- **de-escalation training** when a new worker is hired and periodically thereafter.
- **training on workers' rights and reporting options** when they are concerned about workplace safety including working alone. Training must include information about retaliation protections, how to report concerns to the Bureau of Labor Industries or Oregon OSHA, etc.

Hazard-related trainings should be provided to new hires prior to performing work duties that could expose them to violence. Other trainings should be completed within 90 days of hire. The requirement should apply to traditional behavioral health settings as well as shelters and mobile crisis units. De-escalation training must be delivered by live instructors, in-person or virtually, with interactive elements. To the extent practicable, other trainings should also be delivered by live instructors, in-person or virtually, and incorporate interactive elements. Employers should minimize reliance on prerecorded content. OHA and ODHS should develop a curriculum and/or list of third-party training curricula that may be used for basic safety training, de-escalation, and workers' rights. OHA and ODHS should employ trainers that can provide these trainings on an ongoing basis for employers who are unable to offer their own trainings to new hires within 90 days.

Revised Version

1.4) Behavioral health employers should be required to provide:

- *[no change to bulleted content at left]*

The employer's written safety plan should identify which curricula are selected to meet these requirements, the timeline for a new employee to complete the training, and how often the trainings should be renewed or refreshed for existing workers.

The following content should be provided to new hires at onboarding prior to performing work duties that could expose them to violence: emergency procedures, an overview of the written safety plan, emergency communications/devices, and how to report a safety concern or violation. Other trainings should be completed within 90 days of hire.

[...]

OHA and ODHS shall develop a list of approved third-party training curricula that may be used for basic safety training, de-escalation, and workers' rights. The list should include a schedule of training recurrence based on the recommendation of the curriculum developer, but no less than every three years. OHA and ODHS may also develop curricula. OHA and ODHS should employ trainers that can provide these trainings on an ongoing basis for employers who are unable to offer their own trainings to new hires within 90 days.

Safety Training – Record Keeping

1.5) OSHA should require employers to document that new workers complete required trainings within 90 days. Employers should be required to lead workers in practice or “drills” of training content. Oregon OSHA should impose penalties when employers do not comply.

No change



Agency Rules Alignment

November 7 Version	Revised Version
1.6) OSHA, OHA, and ODHS should review information from providers about perceived tensions between agency rules for client and worker safety. The agencies should review rules regarding client neglect or abuse and identify where specific guidance is missing related to 1) assaultive behaviors toward workers, and 2) assaultive behaviors between clients. The agencies should use this review to develop guidance on how employers can comply with rules. The agencies should provide a report on these activities to the Legislative Assembly by August 31, 2026.	<p>Add: The Legislative Assembly should amend ORS 654.423 to apply to the following facilities, in addition to those named in ORS 654.412(3): residential treatment facilities (ORS 443.400), secure RTF (ORS 443.465), health care facilities (ORS 442.015), sobering facilities, detox centers and halfway houses (ORS 430.306), mobile crisis (OAR 309-072-0110), and emergency shelters. This change is intended to permit workers in these settings to use physical force as self-defense against assault without fear of disciplinary action.</p> <p>[Note: this recommendation does <u>not</u> propose to expand the settings subject to ORS 654.412 through 654.421]</p>
1.7) OSHA, OHA, and ODHS should be directed to increase coordination during 1) enforcement of regulations related to safety of clients and workers, and 2) investigation of incidents involving violence between a client and worker. The agencies should develop a process for providers to seek guidance when they perceive tension between safety requirements of the agencies.	No change
1.8) OHA rules should permit a provider to consider a client's full history when determining suitability for admission. The agency should not limit the lookback period to 14 days.	No change

Critical Incident Logs

November 7 Version	Revised Version
1.9) OSHA should develop a critical incident template for use by behavioral health providers to track “near misses”. The form should include a standard definition of “near misses” that is developed with provider input. The form should be simple to fill out and designed to complement an assault log.	1.9) OSHA should develop minimum standards for employers to track “near miss” critical incidents. The agency should develop a sample log for provider use that includes a standard definition of “near misses” developed with provider input. The form should be simple to fill out and designed to complement an assault log.
1.10) Behavioral health employers should be required to <ul style="list-style-type: none">• maintain a log of critical incidents that meet the OSHA definition of a “near miss,”• Permit employees to log other incidents that do not meet the definition of a “near miss” but caused worker concern for safety;• hold “after action meetings” following a critical incident, and• review critical incidents and assault logs when developing an employer’s written safety plan.	1.10) Behavioral health employers should be required to <ul style="list-style-type: none">• maintain a log of critical incidents that meet the OSHA definition of a “near miss,” using either the OSHA-developed template or the provider’s own template that meets minimum standards;• Permit employees to log other incidents that do not meet the definition of a “near miss” but caused worker concern for safety;• hold “after action meetings” following a critical incident, and• review critical incidents and assault logs when developing an employer’s written safety plan.
1.11) OHA should permit residential or in-home providers to issue a notice to a client when personal belongings are creating a safety hazard for workers and formally request the resident make changes.	1.11) OHA and ODHS should study whether federal rules and Oregon’s Medicaid waivers permit residential or in-home providers to issue a notice to a client when personal belongings are creating a safety hazard for workers and formally request the resident make changes. If this is permissible, the agencies should update rules to permit this.

Retaliation

The Bureau of Labor and Industries may require the reinstatement of an employee as part of a Final Order when there is a finding that an employer has unlawfully discriminated and retaliated against an employee due to opposition and complaints related to the Oregon Safe Employment Act (OSEA).

No change



Lone Worker Protections

- 2.1) Behavioral health employers should be required to either 1) offer a communication device to any employee who may be alone with a client, or 2) allow workers to require a second staff member be present before working with a client.
- 2.2) As part of a written safety plan, behavioral health employers should be required to assess situations where a worker may be alone with clients on the job. The plan should address 1) how the employer will provide communication devices to workers, and 2) when and how workers can request another staff member be present when working alone with a client.

No change



OHA Rates

November 7 Version	Revised Version
<p>2.3) OHA should engage an actuary to gather information from providers to:</p> <ul style="list-style-type: none">• model the cost to raise the minimum staffing requirement for behavioral health facilities to two workers.• model the cost of structural security elements or safety planning policies recommended by the Task Force. <p>This cost information should inform the agency’s rate updates for behavioral health providers. The agency should study:</p> <ul style="list-style-type: none">• potential pathways to secure federal approval and financial participation (i.e. Medicaid match) for enhanced staffing or structural requirements, and• options for providers to be reimbursed if a second worker must be present to ensure safety of a lone worker. <p>Findings should be reported to the legislative assembly by December 1, 2025.</p>	No change
<p>2.4) OHA should reduce the processing time for providers to request a rate exception and develop a fast-track option for emergent situations where a residential client’s behavior rapidly changes.</p>	No change

OHA Payment Methodologies

November 7 Version	Revised Version
2.5) OHA should require CCOs to implement payment models for outpatient mental health providers that are adjusted for client acuity.	No change
2.6) OHA should require CCOs to use prospective payment models that support two-person mobile crisis teams. Payments should be population- or retainer-based (e.g. a “firehouse model”) to ensure all areas of the state maintain ongoing mobile crisis capacity.	2.6) The Legislative Assembly should direct and provide resources to OHA to: a) require CCOs to use prospective payment models that support two-person mobile crisis teams. b) Provide funding to mobile crisis providers for services to people without behavioral health coverage. Payments should be population- or retainer-based (e.g. a “firehouse model”) to ensure all areas of the state maintain ongoing mobile crisis capacity.
N/A	NEW) The Department of Consumer and Business Services should study options to require commercial carriers to include mobile crisis intervention as a covered service in commercial health plans. Coverage of mobile crisis services should be offered without cost sharing or co-pays. The agency should report findings to the Legislative Assembly by December 1, 2025.

Physical/Structural Security

November 7 Version	Revised Version
<p>3.1) As part of a written safety plan, behavioral health employers should be required to assess the built environment and how it may support or impede self-defense by a worker who is being assaulted. The built environment may include facilities, vehicles, and other physical locations where work is performed on an ongoing basis. The written safety plan should indicate how workers can report structural security hazards, and the intended time frame for the employer to respond.</p> <p>OSHA should develop a timeline to phase in this requirement over time, with provider input. OSHA and OHA should publish suggested resources or support options for providers seeking expert consultation on assessments.</p>	<p>No change</p>
<p>3.2) The legislative assembly should:</p> <ul style="list-style-type: none">• Appropriate general funds and direct OHA to offer grants to behavioral health providers who have completed risk assessments to retrofit or otherwise enhance existing work settings (e.g. facilities and/or vehicles) with physical safety enhancements such as keyless entries (e.g. fobs or biometric scanners), communication devices, panic buttons, software, etc.• Require that any newly constructed behavioral health facilities receiving public funding must complete a physical and structural security assessment and include elements to enhance worker safety in the facility's design.	<p>3.2) The legislative assembly should:</p> <ul style="list-style-type: none">• Direct OHA to consider physical and structural security elements that promote worker safety and incorporate these in agency rules for behavioral health facilities.• Appropriate general funds and direct OHA to offer grants to behavioral health providers who have completed risk assessments to retrofit or otherwise enhance existing work settings (e.g. facilities and/or vehicles) with physical safety enhancements such as keyless entries (e.g. fobs or biometric scanners), communication devices, panic buttons, software, etc.• Require that any newly constructed behavioral health facilities receiving public funding must complete a physical and structural security assessment and include elements to enhance worker safety in the facility's design.

Discussion

- Do these changes reflect your intent?
- Are any *technical* changes needed to ensure the language reflects intent, as discussed last time?
 - *Note: avoid new or substantively revised concepts at this stage due to inability for other members to review in advance or discuss with their constituencies prior to vote*



Vote: Adoption of Recommendations

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1. Vote on Recommendations and Final Report

Significance of **voting in favor**:



A member's "aye" vote signifies that the proposed report reflects the findings and recommendations agreed upon by the majority of Task Force members.

An "aye" vote does not mean that the member agrees with each individual finding or recommendation.

Significance of **voting against**:



A member's "no" vote signifies that the member does not agree that the report reflects the findings and recommendations agreed upon by the majority of Task Force members.

A "no" vote will be noted within the report with a link to the member's statement of explanation, to be provided within 24 hours of the vote and posted to OLIS.



Approval of Task Force Recommendations



Possible Motion: I move to adopt the Task Force Recommendations as presented

Possible Motion: I move to adopt Task Force Recommendation ____ (specific recommendation)



Work Session: Submission of Report

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DRAFT version of Final Report



- Drafted by LPRO staff with Chair direction
- Prepared for Interim Legislative Committees on Health
- Addresses required domains in HB 4002 (2024) and conforms with ORS 192.245
- Presents the Task Force's recommendations along with
 - Select background and data to provide context
 - Member considerations
 - Stated goals for implementation
- No new information



DRAFT Report Contents

*See Nov 14th meeting
materials for final draft
report*

Section 1 – Task Force Process

- Charge and background
- Needs assessment
- Workplan and meeting materials
- Overview of preliminary report (September)

Section 2 – Analysis of Policy Options

- Domain 1 – safety plans and protocols (*presenters, data, discussion*)
- Domain 2 – Safe staffing levels
- Domain 3 – Physical and structural security

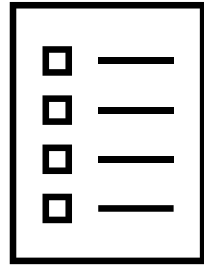
Section 3 – Recommendations



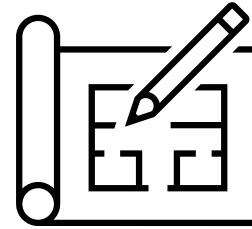
Finalizing the Report



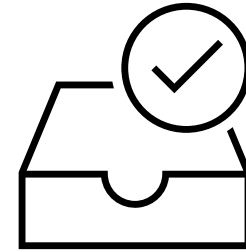
Discuss any final technical fixes



Members adopt 1) recommendations, and 2) report TODAY (with any remaining changes)



Staff revise report to reflect final recommendations; post adopted report to OLIS



Submitted to Interim Legislative Committees by December 1



Vote: Submission of Report

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Submission of Task Force Report



Possible Motion: I move that the Joint Task Force on Improving the Safety of Behavioral Health Workers submit its final report to the Legislature

