

Enrolled

House Bill 2022

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)

CHAPTER

AN ACT

Relating to health care employers; and declaring an emergency.

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

SECTION 1. { + Sections 2 to 7 of this 2007 Act are added to
and made a part of ORS 654.001 to 654.295. + }

SECTION 2. { + As used in sections 2 to 7 of this 2007 Act:

(1) 'Assault' means intentionally, knowingly or recklessly
causing physical injury.

(2) 'Health care employer' means:

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

(b) A hospital as defined in ORS 442.015.

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

SECTION 3. { + (1) A health care employer shall:

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

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

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

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

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

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

(3) An assault prevention and protection program developed and
implemented by a health care employer under subsection (1)(b) of

this section shall be based on an assessment conducted under subsection (1)(a) of this section and shall address security considerations related to the following:

- (a) Physical attributes of the health care setting;
- (b) Staffing plans, including security staffing;
- (c) Personnel policies;

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- (d) First aid and emergency procedures;
- (e) Procedures for reporting assaults; and
- (f) Education and training for employees.

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

- (A) General safety and personal safety procedures;
 - (B) Escalation cycles for assaultive behaviors;
 - (C) Factors that predict assaultive behaviors;
 - (D) Techniques for obtaining medical history from a patient with assaultive behavior;
 - (E) Verbal and physical techniques to de-escalate and minimize assaultive behaviors;
 - (F) Strategies for avoiding physical harm and minimizing use of restraints;
 - (G) Restraint techniques consistent with regulatory requirements;
 - (H) Self-defense, including:
 - (i) The amount of physical force that is reasonably necessary to protect the employee or a third person from assault; and
 - (ii) The use of least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, and any other methods of response approved by the health care employer;
 - (I) Procedures for documenting and reporting incidents involving assaultive behaviors;
 - (J) Programs for post-incident counseling and follow-up;
 - (K) Resources available to employees for coping with assaults;
- and

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

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

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

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

- (a) The name and address of the premises on which each assault

occurred;

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

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

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

(e) A description of the assaultive behavior as:

(A) An assault with mild soreness, surface abrasions, scratches or small bruises;

(B) An assault with major soreness, cuts or large bruises;

(C) An assault with severe lacerations, a bone fracture or a head injury; or

(D) An assault with loss of limb or death;

(f) An identification of the physical injury;

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(g) A description of any weapon used;

(h) The number of employees in the immediate area of the assault when it occurred; and

(i) A description of actions taken by the employees and the health care employer in response to the assault.

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

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

SECTION 5. { + If a health care employer directs an employee who has been assaulted by a patient on the premises of the health care employer to provide further treatment to the patient, the employee may request that a second employee accompany the employee when treating the patient. If the health care employer declines the employee's request, the health care employer may not require the employee to treat the patient. + }

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

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

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

(a) Was acting in self-defense in response to the use or imminent use of physical force;

(b) Used an amount of physical force that was reasonably necessary to protect the employee or a third person from assault;

and

(c) Used the least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, or other methods of response approved by the health care employer.

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

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

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

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

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

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

(b) Shall conform with state and federal laws relating to confidentiality and the protection of health information.

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

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

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

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

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

Passed by House February 20, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 24, 2007

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President of Senate

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Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State