

D R A F T

SUMMARY

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;
3 and amending ORS 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**
6 **of ORS 654.412 to 654.423.**

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

1 **services.**

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

3 654.414. (1) A health care employer shall:

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

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

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

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

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

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

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

22 (3) An assault prevention and protection program developed and imple-
23 mented by a health care employer under subsection (1)(b) of this section shall
24 be based on an assessment conducted under subsection (1)(a) of this section
25 and shall address security considerations related to the following:

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

27 (b) Staffing plans, including security staffing;

28 (c) Personnel policies;

29 (d) First aid and emergency procedures;

30 (e) Procedures for reporting assaults; and

31 (f) Education and training for employees.

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

3 (A) General safety and personal safety procedures;

4 (B) Escalation cycles for assaultive behaviors;

5 (C) Factors that predict assaultive behaviors;

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

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

10 (F) Strategies for avoiding physical harm and minimizing use of re-
11 straints;

12 (G) Restraint techniques consistent with regulatory requirements;

13 (H) Self-defense, including:

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

16 (ii) The use of least restrictive procedures necessary under the circum-
17 stances, in accordance with an approved behavior management plan, and any
18 other methods of response approved by the health care employer;

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

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

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

23 (L) The health care employer's workplace assault prevention and pro-
24 tection program.

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

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

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

2 654.416. (1) A health care employer shall maintain a record of assaults
3 committed against employees that occur on the premises of the health care
4 employer or in the home of a patient receiving home health care services.
5 The record shall include, but need not be limited to, the following:

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

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

8 (c) The name, job title and department or ward assignment of the em-
9 ployee who was assaulted;

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

12 (e) A description of the assaultive behavior as:

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

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

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

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

19 (f) An identification of the physical injury;

20 (g) A description of any weapon used;

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

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

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

28 **(3)(a) Each health care employer shall generate and make available**
29 **to the public an annual report summarizing the information main-**
30 **tained in the record described under subsection (1) of this section, ex-**
31 **cept that the report may not disclose any personally identifiable**

1 **information of any employee who was assaulted or person who com-**
2 **mitted an assault.**

3 **(b) No later than December 31 of each year, the health care em-**
4 **ployer shall submit the annual report generated under paragraph (a)**
5 **of this subsection to the Director of the Department of Consumer and**
6 **Business Services.**

7 [(3)] (4) The director [*of the Department of Consumer and Business Ser-*
8 *vices*] shall adopt by rule a common recording form for the purposes of this
9 section.

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

11 **654.418. (1) If a health care employer has a record of an assault**
12 **committed by a patient on the premises of the health care employer,**
13 **the health care employer shall include a description of the assault, and**
14 **any other information relating to the patient's high risk for assaultive**
15 **behavior, in the patient's medical record.**

16 **(2) If a health care employer directs an employee who has been assaulted**
17 **by a patient on the premises of the health care employer to provide further**
18 **treatment to the patient, the employee may request that a second employee**
19 **accompany the employee when treating the patient. If the health care em-**
20 **ployer declines the employee's request, the health care employer may not**
21 **require the employee to treat the patient.**

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