AN ACT

To amend and reenact the heading of Part XIII of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 and R.S. 40:2199(A)(1) and to enact R.S. 40:2199.11 through 2199.19, relative to licensed healthcare facilities; to establish duties and requirements of licensed healthcare facilities with respect to addressing and preventing workplace violence; to require the posting of certain cautionary signage at licensed healthcare facilities; to require and provide with respect to healthcare workplace violence prevention plans; to require reporting of acts of workplace violence occurring at licensed healthcare facilities; to prohibit retaliation by certain employers in connection with reporting of healthcare workplace violence; to require the Louisiana Department of Health to maintain on its website public information regarding healthcare workplace violence; to authorize enforcement actions by the department; to require promulgation of administrative rules; to provide for definitions; to provide for organization and designation of laws by the Louisiana State Law Institute; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The heading of Part XIII of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 and R.S. 40:2199(A)(1) are hereby amended and reenacted and R.S. 40:2199.11 through 2199.19 are hereby enacted to read as follows:
PART XIII. HEALTH CARE PROVISIONS COMMON TO HEALTHCARE FACILITIES AND SERVICES; LICENSING ENFORCEMENT

§2199. Violations; penalties; fines; notice; hearings; appeal; licensed entities

A.(1) For purposes of this Part Subpart, "facility" shall mean any one or more of the following: an adult day health care facility, substance abuse/addiction treatment facility, ambulatory surgery center, case management facility, urine drug screening facility, mobile cholesterol screening facility, end stage renal disease facility, supplier of portable X-ray services, home health agency, hospice, hospital, ICF/DD facility, outpatient abortion facility, or any other healthcare provider licensed or certified by the Louisiana Department of Health.

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§2199.11. Purpose

The purpose of this Subpart is to protect public health and safety by establishing policies and practices through which incidents of workplace violence in healthcare settings can be properly addressed, mitigated, and, wherever possible, prevented.

§2199.12. Definitions

As used in this Subpart, the following terms have the meaning ascribed to them in this Section:

(1) "Department" means the Louisiana Department of Health and any healthcare professional licensing board transferred to and placed within the department pursuant to R.S. 36:259(A).

(2) "Licensed healthcare facility" means any of the following facilities:

(a) A hospital licensed in accordance with Part II of this Chapter and any clinic or other offsite patient care facility thereof;

(b) A nursing home licensed in accordance with R.S. 40:2009.1 et seq.;

(c) An end stage renal disease facility licensed in accordance with Part II-C of this Chapter.
(d) An adult brain injury facility licensed in accordance with Part II-G of this Chapter.

(e) An adult day health care provider licensed in accordance with Part II-H of this Chapter.

(f) An ambulatory surgical center licensed in accordance with Part IV of this Chapter.

(g) A facility licensed as a behavioral health services provider in accordance with Part IV-A of this Chapter.

(h) A community-based care facility licensed in accordance with Part V of this Chapter.

(i) An adult residential care provider licensed in accordance with Part V-A of this Chapter.

(j) A trauma center licensed in accordance with Part VI of this Chapter.

(k) An outpatient abortion facility licensed in accordance with Part VI-A of this Chapter.

(l) An intermediate care facility for people with developmental disabilities licensed in accordance with Part VI-E of this Chapter.

(m) A crisis receiving center licensed in accordance with Part VI-F of this Chapter.

(n) A free-standing birth center licensed in accordance with Part VI-G of this Chapter.

(o) A hospice facility licensed in accordance with Part VII of this Chapter.

(p) A pediatric day health care facility licensed in accordance with Part VIII of this Chapter.

(q) A federally qualified health center as defined in R.S. 40:1185.3.

(r) A rural health clinic licensed in accordance with Part XI-A of this Chapter.

(s) A pain management clinic licensed in accordance with Part XII-A of this Chapter.
(t) A pharmacy permitted in accordance with Part IV of Chapter 14 of Title 37 of the Louisiana Revised Statutes of 1950.

(u) Any primary care clinic, pediatric clinic, urgent care clinic, or physician’s office at which patients are treated that is not licensed by the state but is owned wholly or in part by a licensee of a healthcare professional licensing board created in Title 37 of the Louisiana Revised Statutes of 1950.

(v) Any other facility licensed by the department which has as its primary purpose the delivery of health services to patients or clients.

(3) "Workplace violence" means violent acts, including physical assaults and threats of assaults, directed toward persons at work or on duty with their employment.

§2199.13. Licensed healthcare facilities; signage addressing workplace violence required

A. Each licensed healthcare facility shall display at its premises at least one sign that conforms with the specifications of Subsection B of this Section and indicates that abuse or assault of healthcare staff will not be tolerated and could result in a felony conviction under R.S. 14:38 or other applicable criminal laws.

B. Each sign displayed in accordance with the requirements of this Section shall conform with all of the following specifications:

(1) The sign shall be posted in a conspicuous location in a publicly accessible area of the facility.

(2) The sign shall be at least eighteen inches tall and eighteen inches wide.

(3) The sign shall be written in the English language in letters not less than one square inch in size.

§2199.14. Healthcare workplace violence; public information

A. The department shall develop, publish, and maintain public information regarding the issue of healthcare workplace violence on its website.

B. The information provided by the department pursuant to this Section shall include, at a minimum, all of the following:
(1) A listing of best practices, toolkits, and resources on the issue of healthcare workplace violence from governmental and private authorities including, without limitation, the Occupational Safety and Health Administration and the Joint Commission.

(2) Actions that healthcare facilities can take and policies that such facilities can adopt to prevent, respond to, report, and mitigate healthcare workplace violence.

C. The website on which the department publishes information regarding healthcare workplace violence shall include a downloadable example of text that complies with the provisions of R.S. 40:2199.13(A) relative to signage required to be displayed at licensed healthcare facilities.

§2199.15. Healthcare workplace violence prevention plans

A. (1) Each licensed healthcare facility shall develop and maintain a workplace violence prevention plan that includes, at minimum, all of the following resources:

   (a) Resources for ongoing education on the issue of workplace violence.

   (b) Resources for prevention of workplace violence.

   (c) Resources on responding to incidents of workplace violence and debriefing with respect to such incidents and responses thereto.

   (2) Each healthcare workplace violence prevention plan developed pursuant to this Section shall address and encompass all of the following:

      (a) Personnel education and policies requiring all healthcare workers who provide direct care to patients to receive, at least annually, education and training in a format that provides an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training delivered pursuant to a workplace violence prevention plan shall cover topics including but not limited to all of the following:

         (i) How to recognize the potential for violence to occur.

         (ii) When and how to seek assistance to prevent or respond to violence.

         (iii) How to report violent incidents to law enforcement.
(iv) Resources available to employees for coping with incidents of workplace violence.

(b) A system for responding to and investigating violent incidents and situations involving violence.

(c) A system for regularly, and not less than annually, assessing and improving upon factors that may contribute to or help in preventing workplace violence. This system shall address, without limitation, all of the following aspects of the workplace:

(i) Staffing, including staffing patterns that may contribute to, or be insufficient to address, the risk of violence.

(ii) Sufficiency of security systems including alarms, emergency response systems, and availability of security personnel.

(iii) Job design, equipment, and facilities.

(iv) Security risks associated with particular units of the workplace, areas of the facility with uncontrolled access, late night or early morning shifts, and areas surrounding the facility such as employee parking areas.

(d) A requirement that the licensed healthcare facility maintain and make available to its employees a written safety and security plan.

B.(1) The department may prescribe additional required content beyond the material required by Subsection A of this Section for workplace violence prevention plans.

(2) The department shall promulgate in rule the content requirements for the healthcare workplace violence prevention plans required by this Section.

C. Each licensed healthcare facility shall orient all permanent and temporary employees of the facility to the workplace violence prevention plan of the facility.

D. Each licensed healthcare facility shall maintain its workplace violence prevention plan in effect at all times.
§2199.16. Acts of workplace violence at licensed healthcare facilities; reporting required

A. Each licensed healthcare facility shall report to the proper authority any instance of workplace violence that occurs on its property.

B. If an instance of workplace violence at a Medicare- or Medicaid-certified facility results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of facility personnel, the facility shall report the incident within twenty-four hours.

§2199.17. Retaliation in connection with reporting healthcare workplace violence; prohibition

A. No licensed healthcare facility shall take any retaliatory action against a person who, in good faith, reports an instance of workplace violence.

B. No Medicare- or Medicaid-certified facility shall prohibit an employee from, or take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

C. No licensed healthcare facility shall discharge, demote, suspend, threaten, or harass an employee, or discriminate against an employee in the terms and conditions of his employment, because of any lawful act engaged in by the employee, or taken on behalf of the employee, in reporting to law enforcement a crime involving workplace violence at the facility.

D. The employee protections provided for in this Section shall be in addition to, and shall not replace, any protections conferred by the provisions of Title 23 of the Louisiana Revised Statutes of 1950.

§2199.18. Enforcement

A. The department may take action against any license it has issued to a licensed healthcare facility or an owner of such a facility, up to and including license revocation, to enforce the provisions of this Subpart.
B. With respect to enforcement of this Subpart, the department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for all of the following:

   (1) Penalties associated with violations of particular provisions of this Subpart.

   (2) Notice to a licensed healthcare facility of a violation.

   (3) An informal reconsideration process.

   (4) An appeal procedure including judicial review.

§2199.19. Rulemaking

The department shall promulgate in accordance with the Administrative Procedure Act all such rules as are necessary to implement the provisions of this Subpart.

Section 2.(A) The Louisiana State Law Institute is hereby directed to designate R.S. 40:2199 and 2199.1 as Subpart A of Part XIII of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed to apply to the Subpart the heading "Licensing Enforcement".

(B) The Louisiana State Law Institute is hereby directed to designate R.S. 40:2199.11 through 2199.19, as enacted by Section 1 of this Act, as Subpart B of Part XIII of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed to apply to the Subpart the heading "Healthcare Workplace Violence Prevention".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 312 Original 2022 Regular Session Dustin Miller

Abstract: Establishes duties and requirements of licensed healthcare facilities and the La. Department of Health with respect to addressing and preventing healthcare workplace violence.

Proposed law provides that, for its purposes, "licensed healthcare facility" means any of the following facilities which are licensed by the state pursuant to applicable provisions of present law or otherwise defined or recognized in present law:

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
A hospital and any clinic or other offsite patient care facility thereof; a nursing home; an end stage renal disease facility; an adult brain injury facility; an adult day health care provider; an ambulatory surgical center; a facility licensed as a behavioral health services provider; a community-based care facility; an adult residential care provider; a trauma center; an outpatient abortion facility; an intermediate care facility for people with developmental disabilities; a crisis receiving center; a free-standing birth center; a hospice facility; a pediatric day health care facility; a federally qualified health center; a rural health clinic; a pain management clinic; a pharmacy; any primary care clinic, pediatric clinic, urgent care clinic, or physician's office at which patients are treated that is not licensed by the state but is owned wholly or in part by a licensee of a healthcare professional licensing board created in present law; and any other facility licensed by the La. Department of Health which has as its primary purpose the delivery of health services to patients or clients.

Proposed law provides that, for its purposes, "workplace violence" means violent acts, including physical assaults and threats of assaults, directed toward persons at work or on duty with their employment.

Proposed law requires every licensed healthcare facility to display at its premises at least one sign which indicates that abuse or assault of healthcare staff will not be tolerated and could result in a felony conviction under present law, R.S. 14:38 or other applicable criminal laws. Requires that each such sign shall conform with the following specifications:

1. The sign shall be posted in a conspicuous location in a publicly accessible area of the facility.
2. The sign shall be at least 18 inches tall and 18 inches wide.
3. The sign shall be written in the English language in letters not less than one square inch in size.

Proposed law requires the La. Department of Health (LDH) to develop, publish, and maintain public information regarding the issue of healthcare workplace violence on its website. Provides that such information shall include, at a minimum, all of the following:

1. A listing of best practices, toolkits, and resources on the issue of healthcare workplace violence from governmental and private authorities including, without limitation, the Occupational Safety and Health Administration and the Joint Commission.
2. Actions that healthcare facilities can take and policies that such facilities can adopt to prevent, respond to, report, and mitigate healthcare workplace violence.

Proposed law requires every licensed healthcare facility to develop and maintain a workplace violence prevention plan. Provides specifications for elements and minimum content of such plans. Authorizes LDH to prescribe additional required content for such plans beyond the material specifically required by proposed law. Requires the department to promulgate in rule the content requirements for such plans.

Proposed law requires every licensed healthcare facility to maintain its workplace violence prevention plan in effect at all times, and to orient all of its permanent and temporary employees to its plan workplace violence prevention plan.

Proposed law requires every licensed healthcare facility to report to the proper authority any instance of workplace violence that occurs on its property.
Proposed law prohibits licensed healthcare facilities from taking any retaliatory action against a person who, in good faith, reports an instance of workplace violence. Provides that no Medicare- or Medicaid-certified facility shall prohibit an employee from, or take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

Proposed law prohibits licensed healthcare facilities from discharging, demoting, suspending, threatening, or harassing an employee, or discriminating against an employee in the terms and conditions of his employment, because of any lawful act engaged in by the employee, or taken on behalf of the employee, in reporting to law enforcement a crime involving workplace violence at the facility. Stipulates that the employee protections provided for in proposed law shall be in addition to, and shall not replace, any protections conferred by present law relating to labor and employment.

Proposed law authorizes LDH to take action against any license it has issued to a licensed healthcare facility or an owner of such a facility, up to and including license revocation, to enforce the provisions of proposed law. Provides that with respect to enforcement of proposed law, LDH shall adopt administrative rules and regulations to provide for all of the following:

1. Penalties associated with violations of particular provisions of proposed law.
2. Notice to a licensed healthcare facility of a violation.
3. An informal reconsideration process.
4. An appeal procedure including judicial review.

(Amends the heading of Part XIII of Chapter 11 of Title 40 of the La. Revised Statutes of 1950 and R.S. 40:2199(A)(1); Adds R.S. 40:2199.11-2199.19)