

2022 Regular Session

HOUSE BILL NO. 312

BY REPRESENTATIVE DUSTIN MILLER

HEALTH CARE/PROVIDERS: Enacts reforms to address workplace violence in healthcare settings

1 AN ACT

2 To amend and reenact the heading of Part XIII of Chapter 11 of Title 40 of the Louisiana

3 Revised Statutes of 1950 and R.S. 40:2199(A)(1) and to enact R.S. 40:2199.11

4 through 2199.19, relative to licensed healthcare facilities; to establish duties and

5 requirements of licensed healthcare facilities with respect to addressing and

6 preventing workplace violence; to require the posting of certain cautionary signage

7 at licensed healthcare facilities; to require and provide with respect to healthcare

8 workplace violence prevention plans; to require reporting of acts of workplace

9 violence occurring at licensed healthcare facilities; to prohibit retaliation by certain

10 employers in connection with reporting of healthcare workplace violence; to require

11 the Louisiana Department of Health to maintain on its website public information

12 regarding healthcare workplace violence; to authorize enforcement actions by the

13 department; to require promulgation of administrative rules; to provide for

14 definitions; to provide for organization and designation of laws by the Louisiana

15 State Law Institute; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. The heading of Part XIII of Chapter 11 of Title 40 of the Louisiana

18 Revised Statutes of 1950 and R.S. 40:2199(A)(1) are hereby amended and reenacted and

19 R.S. 40:2199.11 through 2199.19 are hereby enacted to read as follows:

1 PART XIII. ~~HEALTH CARE~~ PROVISIONS COMMON TO HEALTHCARE

2 FACILITIES AND SERVICES; ~~LICENSING ENFORCEMENT~~

3 §2199. Violations; penalties; fines; notice; hearings; appeal; licensed entities

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

11 * * *

12 §2199.11. Purpose

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

17 §2199.12. Definitions

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

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

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

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

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

27 (c) An end stage renal disease facility licensed in accordance with Part II-C
28 of this Chapter.

- 1 (d) An adult brain injury facility licensed in accordance with Part II-G of this
2 Chapter.
- 3 (e) An adult day health care provider licensed in accordance with Part II-H
4 of this Chapter.
- 5 (f) An ambulatory surgical center licensed in accordance with Part IV of this
6 Chapter.
- 7 (g) A facility licensed as a behavioral health services provider in accordance
8 with Part IV-A of this Chapter.
- 9 (h) A community-based care facility licensed in accordance with Part V of
10 this Chapter.
- 11 (i) An adult residential care provider licensed in accordance with Part V-A
12 of this Chapter.
- 13 (j) A trauma center licensed in accordance with Part VI of this Chapter.
- 14 (k) An outpatient abortion facility licensed in accordance with Part VI-A of
15 this Chapter.
- 16 (l) An intermediate care facility for people with developmental disabilities
17 licensed in accordance with Part VI-E of this Chapter.
- 18 (m) A crisis receiving center licensed in accordance with Part VI-F of this
19 Chapter.
- 20 (n) A free-standing birth center licensed in accordance with Part VI-G of this
21 Chapter.
- 22 (o) A hospice facility licensed in accordance with Part VII of this Chapter.
- 23 (p) A pediatric day health care facility licensed in accordance with Part VIII
24 of this Chapter.
- 25 (q) A federally qualified health center as defined in R.S. 40:1185.3.
- 26 (r) A rural health clinic licensed in accordance with Part XI-A of this
27 Chapter.
- 28 (s) A pain management clinic licensed in accordance with Part XII-A of this
29 Chapter.

1 (t) A pharmacy permitted in accordance with Part IV of Chapter 14 of Title
2 37 of the Louisiana Revised Statutes of 1950.

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

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

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

12 §2199.13. Licensed healthcare facilities; signage addressing workplace violence
13 required

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

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

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

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

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

25 §2199.14. Healthcare workplace violence; public information

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

28 B. The information provided by the department pursuant to this Section shall
29 include, at a minimum, all of the following:

1 (1) A listing of best practices, toolkits, and resources on the issue of
2 healthcare workplace violence from governmental and private authorities including,
3 without limitation, the Occupational Safety and Health Administration and the Joint
4 Commission.

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

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

11 §2199.15. Healthcare workplace violence prevention plans

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

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

16 (b) Resources for prevention of workplace violence.

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

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

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

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

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

29 (iii) How to report violent incidents to law enforcement.

1 (iv) Resources available to employees for coping with incidents of
2 workplace violence.

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

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

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

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

13 (iii) Job design, equipment, and facilities.

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

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

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

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

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

26 D. Each licensed healthcare facility shall maintain its workplace violence
27 prevention plan in effect at all times.

1 §2199.16. Acts of workplace violence at licensed healthcare facilities; reporting
2 required

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

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

9 §2199.17. Retaliation in connection with reporting healthcare workplace violence;
10 prohibition

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

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

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

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

25 §2199.18. Enforcement

26 A. The department may take action against any license it has issued to a
27 licensed healthcare facility or an owner of such a facility, up to and including license
28 revocation, to enforce the provisions of this Subpart.

1 B. With respect to enforcement of this Subpart, the department shall adopt
2 rules and regulations in accordance with the Administrative Procedure Act to provide
3 for all of the following:

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

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

7 (3) An informal reconsideration process.

8 (4) An appeal procedure including judicial review.

9 §2199.19. Rulemaking

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

13 Section 2.(A) The Louisiana State Law Institute is hereby directed to designate R.S.
14 40:2199 and 2199.1 as Subpart A of Part XIII of Chapter 11 of Title 40 of the Louisiana
15 Revised Statutes of 1950, and is further directed to apply to the Subpart the heading
16 "Licensing Enforcement".

17 (B) The Louisiana State Law Institute is hereby directed to designate R.S.
18 40:2199.11 through 2199.19, as enacted by Section 1 of this Act, as Subpart B of Part XIII
19 of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed
20 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:

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)