

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) "Licensing board" means any board or commission that has the duty to
24 license a regulated entity as defined in this Section.

25 (3) "Regulated entity" means any licensed healthcare facility listed in R.S.
26 40:2006(A)(2), a federally qualified health center as defined in R.S. 40:1185.3, a
27 pharmacy permitted in accordance with Part IV of Chapter 14 of Title 37 of the
28 Louisiana Revised Statutes of 1950, and any healthcare provider's office at which
29 patients are treated that is not otherwise licensed by the state but provides healthcare

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 services delivered by a licensee of a healthcare professional licensing board created
2 in Title 37 of the Louisiana Revised Statutes of 1950.

3 (4) "Workplace violence" means violent acts, including battery or the
4 intentional placing of another person in reasonable apprehension of sustaining
5 battery, directed toward persons at work or on duty with their employment.

6 §2199.13. Licensed healthcare facilities; signage addressing workplace violence
7 required

8 A. Each regulated entity shall display at its premises at least one sign that
9 conforms with the specifications of Subsection B of this Section and indicates that
10 abuse of or workplace violence against healthcare staff will not be tolerated and
11 could result in a felony conviction under R.S. 14:38 or other applicable criminal
12 laws.

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

15 (1) The sign shall be posted in a conspicuous location in a publicly
16 accessible area of the regulated entity's facility.

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

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

20 §2199.14. Healthcare workplace violence; public information

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

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

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

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

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

7 §2199.15. Healthcare workplace violence prevention plans

8 A.(1) Each regulated entity shall develop and maintain a workplace violence
9 prevention plan that includes, at minimum, all of the following resources:

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

11 (b) Resources for prevention of workplace violence.

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

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

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

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

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

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

25 (iv) Resources available to employees for coping with incidents of
26 workplace violence.

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

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

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

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

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

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

13 (d) A requirement that the regulated entity maintain and make available to
14 its employees a written safety and security plan.

15 B. The department may prescribe additional required content beyond the
16 material required by Subsection A of this Section for workplace violence prevention
17 plans.

18 C. Each regulated entity shall orient all permanent and temporary employees
19 of the entity's facility to the workplace violence prevention plan of the entity.

20 D. Each regulated entity shall maintain its workplace violence prevention
21 plan in effect at all times.

22 §2199.16. Acts of workplace violence at licensed healthcare facilities; reporting
23 required

24 A. Each regulated entity shall report to the proper authority, as required by
25 the entity's workplace violence prevention plan, any instance of workplace violence
26 that occurs on its property.

27 B. If an instance of workplace violence at a regulated entity's facility results
28 in injury, involves the use of a firearm or other dangerous weapon, or presents an

1 urgent or emergent threat to the welfare, health, or safety of facility personnel, the
2 regulated entity shall report the incident within twenty-four hours.

3 §2199.17. Retaliation in connection with reporting healthcare workplace violence;
4 prohibition

5 A. No regulated entity shall take any retaliatory action against a person who,
6 in good faith, reports an allegation of or an instance of workplace violence.

7 B. No regulated entity shall prohibit an employee from, or take punitive or
8 retaliatory action against an employee for, seeking assistance and intervention from
9 local emergency services or law enforcement when a violent incident occurs.

10 C. No regulated entity shall discharge, demote, suspend, threaten, or harass
11 an employee, or discriminate against an employee in the terms and conditions of his
12 employment, because of any lawful act engaged in by the employee, or taken on
13 behalf of the employee, in reporting to law enforcement a crime or allegation
14 involving workplace violence at the regulated entity's facility.

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

18 §2199.18. Enforcement

19 A. The department or a licensing board may take action against any license
20 it has issued to a regulated entity or an owner of such an entity, up to and including
21 license revocation, to enforce the provisions of this Subpart. The department may
22 make appropriate referrals to other state or federal agencies and offices that may
23 have jurisdiction over workplace violence or retaliation allegations.

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

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

29 (2) Notice to a regulated entity of a violation.

1 (3) An informal reconsideration process.

2 (4) An appeal procedure including judicial review.

3 §2199.19. Rulemaking

4 The department and each licensing board shall promulgate in accordance with
5 the Administrative Procedure Act all such rules as are necessary to implement the
6 provisions of this Subpart.

7 Section 2.(A) The Louisiana State Law Institute is hereby directed to designate R.S.
8 40:2199 and 2199.1 as Subpart A of Part XIII of Chapter 11 of Title 40 of the Louisiana
9 Revised Statutes of 1950, and is further directed to apply to the Subpart the heading
10 "Licensing Enforcement".

11 (B) The Louisiana State Law Institute is hereby directed to designate R.S.
12 40:2199.11 through 2199.19, as enacted by Section 1 of this Act, as Subpart B of Part XIII
13 of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed
14 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 Engrossed

2022 Regular Session

Dustin Miller

Abstract: Establishes duties and requirements of certain 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, "regulated entity" means any licensed healthcare facility listed in present law, R.S. 40:2006(A)(2); a federally qualified health center as defined in present law; a pharmacy permitted in accordance with present law; and any healthcare provider's office at which patients are treated that is not otherwise licensed by the state but provides healthcare services delivered by a licensee of a healthcare professional licensing board created in present law.

Proposed law provides that, for its purposes, "workplace violence" means violent acts, including battery or the intentional placing of another person in reasonable apprehension of sustaining battery, directed toward persons at work or on duty with their employment.

Proposed law requires every regulated entity 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 regulated entity 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.

Proposed law requires every regulated entity 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 regulated entity to report to the proper authority any instance of workplace violence that occurs on its property.

Proposed law prohibits regulated entities from taking any retaliatory action against a person who, in good faith, reports an allegation or instance of workplace violence. Provides that no regulated entity 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 regulated entities 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 or allegation involving workplace violence at the entity's 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 regulated entity or an owner of a regulated entity's 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Delete from proposed law all instances of the defined term "licensed healthcare facility" and replace the term with "regulated entity", defined as any licensed healthcare facility listed in present law, R.S. 40:2006(A)(2); a federally qualified health center as defined in present law; a pharmacy permitted in accordance with present law; and any healthcare provider's office at which patients are treated that is not otherwise licensed by the state but provides healthcare services delivered by a licensee of a healthcare professional licensing board created in present law.
2. Revise the definition of the term "workplace violence" for purposes of proposed law such that the term would mean violent acts, including battery or the intentional placing of another person in reasonable apprehension of sustaining battery, directed toward persons at work or on duty with their employment.
3. Delete proposed law requiring LDH to promulgate in rule the content requirements for workplace violence prevention plans.