

2022 Regular Session

HOUSE BILL NO. 312

BY REPRESENTATIVES DUSTIN MILLER, ADAMS, BOYD, CARPENTER, CARRIER, WILFORD CARTER, DUPLESSIS, FISHER, GAINES, GLOVER, HORTON, ILLG, LANDRY, LARVADAIN, LYONS, MCFARLAND, NEWELL, PIERRE, SCHLEGEL, SELDERS, STAGNI, TURNER, VILLIO, AND WHITE

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:

1 Section 1. The heading of Part XIII of Chapter 11 of Title 40 of the Louisiana  
2 Revised Statutes of 1950 and R.S. 40:2199(A)(1) are hereby amended and reenacted and  
3 R.S. 40:2199.11 through 2199.19 are hereby enacted to read as follows:

4 PART XIII. ~~HEALTHCARE~~ PROVISIONS COMMON TO HEALTHCARE  
5 FACILITIES AND SERVICES; ~~LICENSING ENFORCEMENT~~

6 §2199. Violations; penalties; fines; notice; hearings; appeal; licensed entities

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

14 \* \* \*

15 §2199.11. Purpose

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

20 §2199.12. Definitions

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

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

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

28 (3) "Regulated entity" means any licensed healthcare facility listed in R.S.  
29 40:2006(A)(2), a federally qualified health center as defined in R.S. 40:1185.3, a

1 pharmacy permitted in accordance with Part IV of Chapter 14 of Title 37 of the  
2 Louisiana Revised Statutes of 1950, and any healthcare provider's office at which  
3 patients are treated that is not otherwise licensed by the state but provides healthcare  
4 services delivered by a licensee of a healthcare professional licensing board created  
5 in Title 37 of the Louisiana Revised Statutes of 1950.

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

9 §2199.13. Licensed healthcare facilities; signage addressing workplace violence  
10 required

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

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

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

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

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

23 §2199.14. Healthcare workplace violence; public information

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

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

28 (1) A listing of best practices, toolkits, and resources on the issue of  
29 healthcare workplace violence from governmental and private authorities including,

1 without limitation, the Occupational Safety and Health Administration and the Joint  
2 Commission.

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

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

9 §2199.15. Healthcare workplace violence prevention plans

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

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

13 (b) Resources for prevention of workplace violence.

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

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

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

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

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

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

27 (iv) Resources available to employees for coping with incidents of  
28 workplace violence.

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

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

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

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

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

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

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

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

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

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

24                  §2199.16. Acts of workplace violence at licensed healthcare facilities; reporting  
25                  required

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

1           B. If an instance of workplace violence at a regulated entity's facility results  
2           in injury, involves the use of a firearm or other dangerous weapon, or presents an  
3           urgent or emergent threat to the welfare, health, or safety of facility personnel, the  
4           regulated entity shall report the incident within twenty-four hours.

5           §2199.17. Retaliation in connection with reporting healthcare workplace violence;  
6           prohibition

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

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

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

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

20          §2199.18. Enforcement

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

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

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

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

4           (3) An informal reconsideration process.

5           (4) An appeal procedure including judicial review.

6           §2199.19. Rulemaking

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

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

14          (B) The Louisiana State Law Institute is hereby directed to designate R.S.  
15          40:2199.11 through 2199.19, as enacted by Section 1 of this Act, as Subpart B of Part XIII  
16          of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed  
17          to apply to the Subpart the heading "Healthcare Workplace Violence Prevention".

18          Section 3. This Act shall be known and may be cited as the "Lynne Truxillo Act".

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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)]

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HB 312 Reengrossed

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 the 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 regulated entity of a violation.
- (3) An informal reconsideration process.
- (4) An appeal procedure including judicial review.

Proposed law provides that proposed law shall be known and may be cited as the "Lynne Truxillo Act".

(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.

#### The House Floor Amendments to the engrossed bill:

1. Provide that proposed law shall be known and may be cited as the "Lynne Truxillo Act".
2. Make a technical change.