

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

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:

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

(3) "Regulated entity" means any licensed healthcare facility listed in R.S. 40:2006(A)(2), a federally qualified health center as defined in R.S. 40:1185.3, a pharmacy permitted in accordance with Part IV of Chapter 14 of Title 37 of the Louisiana Revised Statutes of 1950, and any office of a healthcare provider at which five or more healthcare professionals, as defined in R.S. 14:34.8(B), treat patients and such office is not otherwise licensed by the state but provides healthcare services

1 delivered by a licensee of a healthcare professional licensing board created in Title  
2 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 by eighteen inches wide and  
18 written in the English language with letters not less than one square inch in size.

19 §2199.14. Healthcare workplace violence; public information

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

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

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

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

1                   (3) A checklist of items for regulated entities to consider when developing  
2                   a workplace violence prevention plan.

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.

29                   (c) A system for regularly, and not less than annually, assessing and  
30                   improving upon factors that may contribute to or help in preventing workplace

1 violence. This system shall address, without limitation, all of the following aspects  
2 of the workplace:

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

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

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

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

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

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

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

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

20 §2199.16. Acts of workplace violence at licensed healthcare facilities; reporting  
21 required

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

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

1           §2199.17. Retaliation in connection with reporting healthcare workplace violence;  
2                           prohibition

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

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

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

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

16           §2199.18. Enforcement

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

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

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

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

28                   (3) An informal reconsideration process.

29                   (4) An appeal procedure including judicial review.

1           §2199.19. Rulemaking

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

5           Section 2.(A) The Louisiana State Law Institute is hereby directed to designate R.S.  
6           40:2199 and 2199.1 as Subpart A of Part XIII of Chapter 11 of Title 40 of the Louisiana  
7           Revised Statutes of 1950, and is further directed to apply to the Subpart the heading  
8           "Licensing Enforcement".

9           (B) The Louisiana State Law Institute is hereby directed to designate R.S.  
10           40:2199.11 through 2199.19, as enacted by Section 1 of this Act, as Subpart B of Part XIII  
11           of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, and is further directed  
12           to apply to the Subpart the heading "Healthcare Workplace Violence Prevention".

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_