

Texas Healthcare Facilities Required To Adopt a Workplace Violence Prevention Plan

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By Sept. 1, 2024, covered Texas healthcare facilities are required to adopt: (1) a workplace violence prevention plan (“Plan”); and (2) a workplace violence prevention policy (“Policy”) in compliance with [Senate Bill \(SB\) 240](#), now [Chapter 331](#) of the Texas Health and Safety Code. When lawmakers passed SB 240 last year, Texas joined states such as California, Connecticut, Illinois and Washington, among others, in enacting a law to respond to workplace violence against healthcare workers.

By way of background, currently, there is no federal law or regulation that specifically addresses workplace violence in healthcare. The Occupational Safety and Health Administration (“OSHA”) currently relies on its catch-all standard, the General Duty Clause in Section 5(a)(1) of the Occupational Safety and Health Act of 1970, for enforcement in instances of hazards related to workplace violence.

Covered facilities under this new law include:

- a home and community support services agency licensed or licensed and certified under Chapter 142 to provide home health services as defined by Section 142.001 that employs at least two registered nurses;
- a hospital licensed under Chapter 241 and a hospital maintained or operated by an agency of Texas that is exempt from licensing under that chapter;
- a nursing facility licensed under Chapter 242 that employs at least two registered nurses;
- an ambulatory surgical center licensed under Chapter 243;
- a freestanding emergency medical care facility as defined by Section 254.001; and
- a mental hospital licensed under Chapter 577.

While Chapter 331 requires covered facilities to adopt a Plan and a Policy, they may be contained in one single document. The Policy must:

- provide significant consideration of the Plan recommended by the facility’s committee;
- encourage workers to provide confidential information on workplace violence to the committee;
- include a process to protect employees from retaliation who provide such information; and
- comply with the Texas Health and Human Services Commission’s rules relating to workplace violence.

Chapter 331 requires covered facilities to establish a workplace violence prevention committee or authorize an existing committee to develop a Plan. The Plan must be based on “the practice setting” and also must:

- adopt a definition of workplace violence that includes “an act or threat of physical force against a health care provider or employee that results in, or is likely to result in, physical

injury or psychological trauma”; and “an incident involving the use of a firearm or other dangerous weapon, regardless of whether a health care provider or employee is injured by the weapon”;

- require workplace violence prevention training or education at least annually;
- prescribe a system for responding to and investigating violent (or potentially violent) incidents;
- address physical security and safety;
- require the facility to solicit information from employees when developing and implementing a Plan;
- allow reporting of workplace violence incidents through existing reporting systems;
- require the facility to adjust patient care assignments, to the extent practicable, to prevent an employee from treating a patient or providing services to a patient who has intentionally abused or threatened the employee; and
- be available upon request to facility employees via electronic or printed copy.

A workplace violence committee must meet annually to evaluate the Plan and report the results of their evaluation to the facility’s governing body. If a health care system operates more than one facility, a single committee may be used for all facilities under certain circumstances.

With regard to responding to incidents of workplace violence, Chapter 331 requires covered facilities to offer, at a minimum, immediate post-incident services to the employee, including any necessary acute medical treatment for each health care provider or employee of the facility who is directly involved in the incident. Further, a facility may not discourage any healthcare provider or employee from contacting law enforcement regarding an incident of workplace violence. And employers cannot discipline, discriminate against or retaliate against any person who in good faith reports an incident of workplace violence, or advises an employee of the employee’s right to report an incident of workplace violence.

While there is no penalty or citation structure for failing to comply with the requirements under Chapter 331, appropriate licensing agencies, such as the Texas Health and Human Services Commission, may take disciplinary action against “a person” who violates the law as if the person violated an applicable licensing law.

Covered Texas healthcare facilities should revisit their current workplace violence prevention procedures to ensure compliance with Chapter 331, including the required policies and plans, training and post-incident services.