
OLR Bill Analysis

sSB 970

AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND RESPONSE IN HEALTH CARE SETTINGS.

SUMMARY:

This bill (1) requires certain health care employers to develop and implement plans concerning workplace violence prevention and response, (2) requires health care employers to report incidents of workplace violence to local law enforcement, and (3) establishes criminal penalties for assault of a health care employee.

The bill requires the labor commissioner to adopt regulations to implement its provisions.

EFFECTIVE DATE: October 1, 2011, except for the provisions on establishing workplace safety committee, risk assessment, violence prevention plan and patient care assignment, and regulations which are effective July 1, 2011.

WORKPLACE SAFETY COMMITTEE

By October 1, 2011, the bill requires each health care employer to convene an ongoing workplace safety committee to address issues concerning the health and safety of health care employees. A "health care employer" means any institution, as defined in law, with 50 or more full- or part-time employees and includes a facility caring for or treating mentally ill persons or those with substance abuse, a licensed residential care facility for persons with intellectual disability, and a community health center. "Institution", with the 50 employee minimum, includes hospitals; residential care homes; health care facilities for the handicapped; nursing homes; rest homes; home health care agencies; homemaker-home health aide agencies; assisted living services agencies; outpatient surgical facilities; an infirmary operated by an educational institution; and facilities providing services for the

prevention, diagnosis, treatment, or care of human health conditions, including state agency facilities.

A “health care employee” is a person employed by a health care employer.

The workplace safety committee must include representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff determined appropriate by the employer. At least 50% of the membership must be nonmanagement employees. The committee selects a chairperson from its membership. The committee must meet at least quarterly and make meeting minutes and other records of proceedings available to all employees.

RISK ASSESSMENT; WORKPLACE VIOLENCE PREVENTION AND RESPONSE PLAN

By October 1, 2011 and annually afterwards, each health care employer must do an assessment of the factors that put any health care employee at risk for workplace violence. Based on these findings, the employer, by January 1, 2012 and annually afterwards, must develop and implement a workplace violence prevention and response plan. This must be done in collaboration with the workplace safety committee.

Under the bill, a hospital may use an existing committee it has established to assist with the plan if as required, at least 50% of the committee membership is nonmanagement employees. The employer, when developing the plan, can consider any guidance on workplace violence provided by any government agency, including the federal Occupational Safety and Health Administration, the federal Centers for Medicare and Medicaid Services, the Public Health (DPH) and Labor departments, and any hospital accrediting organizations.

A health care employer can meet the bill’s requirements for a workplace violence prevention and response plan by using existing policies, plans, or procedures if, after performing the risk assessment, the employer, in consultation with the safety committee, determines

that they are sufficient.

ADJUSTING PATIENT ASSIGNMENTS

To the extent practicable, a health care employer must adjust patient care assignments so that an employee making the request does not have to treat a patient who the employer knows has intentionally physically abused or threatened the employee. The employer must give due consideration to its obligation to meet the needs of all patients. The bill specifies that patient behavior that is a direct manifestation of the patient's condition or disability, including physical abuse or threatening behavior, is not considered intentional physical abuse or threatening of an employee.

An employee who has been physically abused or threatened by a patient may request that a second employee be present when treating the patient in situations where the employer determines that patient assignment adjustment is not practicable.

RECORDS

The bill requires health care employers to keep records detailing workplace violence incidents, including the specific area or department where the incident happened. Upon DPH's request, an employer must report the number of incidents occurring on the employer's premises and the specific areas or departments.

REPORTING TO LOCAL LAW ENFORCEMENT

A health care employer must report to its local law enforcement agency any act which may be an assault or related offense under the Penal Code against an employee acting in the performance of his or her duties. The report must be made within 24 hours of the act and the employer must provide the names and addresses of those involved to the local law enforcement agency. An employer does not have to report any act which may be an assault or related offense if it was committed by a person with a disability whose action is a clear and direct manifestation of the disability.

ASSAULT OF HEALTH CARE PERSONNEL

The bill makes assault of a health care employee a class C felony. It also specifies that it is a defense that the defendant has a disability which presumably includes a physical, mental, or learning disability.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/30/2011)