

By: Howard, Klick, Darby, et al.

H.B. No. 326

Substitute the following for H.B. No. 326:

By: Klick

C.S.H.B. No. 326

A BILL TO BE ENTITLED

AN ACT

relating to workplace violence prevention in certain health care facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Health and Safety Code, is amended by adding Subtitle H to read as follows:

SUBTITLE H. EMPLOYEES OF HEALTH CARE FACILITIES

CHAPTER 331. WORKPLACE VIOLENCE PREVENTION

Sec. 331.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Committee" means the workplace violence prevention committee or other committee responsible for developing a facility's workplace violence prevention plan under Section 331.002.

(3) "Facility" means:

(A) 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, and that employs at least two registered nurses;

(B) a health care provider that:

(i) is certified by the commission to provide services through the home and community-based services (HCS) or Texas home living (TxHmL) waiver program; and

1 (ii) employs at least two registered
2 nurses;

3 (C) a hospital licensed under Chapter 241 and a
4 hospital maintained or operated by an agency of this state that is
5 exempt from licensing under that chapter;

6 (D) a nursing facility licensed under Chapter 242
7 that employs at least two registered nurses;

8 (E) an ambulatory surgical center licensed under
9 Chapter 243;

10 (F) a freestanding emergency medical care
11 facility as defined by Section 254.001; and

12 (G) a mental hospital licensed under Chapter 577.

13 Sec. 331.002. WORKPLACE VIOLENCE PREVENTION COMMITTEE. (a)
14 Each facility shall establish a workplace violence prevention
15 committee or authorize an existing facility committee to develop
16 the workplace violence prevention plan required under Section
17 331.004.

18 (b) A committee must include at least:

19 (1) one registered nurse who provides direct care to
20 patients of the facility; and

21 (2) one facility employee who provides security
22 services for the facility if any and if practicable.

23 (c) A health care system that owns or operates more than one
24 facility may establish a single committee for all of the system's
25 facilities if:

26 (1) the committee develops a violence prevention plan
27 for implementation at each facility in the system; and

1 (2) data related to violence prevention remains
2 distinctly identifiable for each facility in the system.

3 Sec. 331.003. WORKPLACE VIOLENCE PREVENTION POLICY. (a) A
4 facility shall adopt, implement, and enforce a written workplace
5 violence prevention policy in accordance with this section to
6 protect health care providers and employees from violent behavior
7 and threats of violent behavior occurring at the facility.

8 (b) The workplace violence prevention policy must:

9 (1) require the facility to:

10 (A) provide significant consideration of the
11 violence prevention plan recommended by the facility's committee;
12 and

13 (B) evaluate any existing facility violence
14 prevention plan;

15 (2) encourage health care providers and employees of
16 the facility to provide confidential information on workplace
17 violence to the committee;

18 (3) include a process to protect from retaliation
19 facility health care providers or employees who provide information
20 to the committee; and

21 (4) comply with commission rules relating to workplace
22 violence.

23 Sec. 331.004. WORKPLACE VIOLENCE PREVENTION PLAN. (a) A
24 facility shall adopt, implement, and enforce a written workplace
25 violence prevention plan in accordance with this section to protect
26 health care providers and employees from violent behavior and
27 threats of violent behavior occurring at the facility.

1 (b) A facility's workplace violence prevention plan must:

2 (1) be based on the practice setting;

3 (2) adopt a definition of "workplace violence" that
4 includes:

5 (A) an act or threat of physical force against a
6 health care provider or employee that results in, or is likely to
7 result in, physical injury or psychological trauma; and

8 (B) an incident involving the use of a firearm or
9 other dangerous weapon, regardless of whether a health care
10 provider or employee is injured by the weapon;

11 (3) require the facility to provide at least annually
12 workplace violence prevention training or education that may be
13 included in other required training or education provided to the
14 facility's health care providers and employees, including
15 temporary employees, who provide direct patient care;

16 (4) prescribe a system for responding to and
17 investigating violent incidents or potentially violent incidents
18 at the facility;

19 (5) address physical security and safety;

20 (6) require the facility to solicit information from
21 health care providers and employees when developing and
22 implementing a workplace violence prevention plan;

23 (7) require health care providers and employees to
24 report incidents of workplace violence through the facility's
25 existing occurrence reporting systems; and

26 (8) require the facility to adjust patient care
27 assignments, to the extent practicable, to prevent a health care

1 provider or employee of the facility from treating or providing
2 services to a patient who has intentionally physically abused or
3 threatened the provider or employee.

4 (c) The written workplace violence prevention plan may
5 satisfy the requirements of Subsection (b) by referencing other
6 internal facility policies and documents.

7 (d) A committee at least annually shall:

8 (1) review and evaluate the workplace violence
9 prevention plan; and

10 (2) report the results of the evaluation to the
11 governing body of the facility.

12 (e) Each facility shall make available on request an
13 electronic or printed copy of the facility's workplace violence
14 prevention plan to each health care provider or employee of the
15 facility. If the committee determines the plan contains information
16 that would pose a security threat if made public, the committee may
17 redact that information before providing the plan.

18 Sec. 331.005. RESPONDING TO INCIDENT OF WORKPLACE VIOLENCE.

19 (a) Following an incident of workplace violence, a facility shall
20 at a minimum offer immediate post-incident services, including any
21 necessary acute medical treatment for each health care provider or
22 employee of the facility who is directly involved in the incident.

23 (b) A facility may not discourage a health care provider or
24 employee from exercising the provider's or employee's right to
25 contact or file a report with law enforcement regarding an incident
26 of workplace violence.

27 (c) A person may not discipline, including by suspension or

1 termination of employment, discriminate against, or retaliate
2 against another person who:

3 (1) in good faith reports an incident of workplace
4 violence; or

5 (2) advises a health care provider or employee of the
6 provider's or employee's right to report an incident of workplace
7 violence.

8 Sec. 331.006. ENFORCEMENT. An appropriate licensing agency
9 may take disciplinary action against a person who violates this
10 chapter as if the person violated an applicable licensing law.

11 SECTION 2. Not later than September 1, 2022, a facility
12 subject to Chapter 331, Health and Safety Code, as added by this
13 Act, shall adopt a workplace violence prevention policy and adopt
14 and implement a workplace violence prevention plan in accordance
15 with Sections 331.003 and 331.004, Health and Safety Code, as added
16 by this Act.

17 SECTION 3. This Act takes effect September 1, 2021.