



# Workplace Violence Toolkit

**FEDERAL & STATE LAWS  
FOR WORKPLACE VIOLENCE  
AND PREVENTION | DEC. 2023**



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## INTRODUCTION



Dear Health Care Leaders,

Workplace violence is unacceptable in any setting. However, health care workers, who work tirelessly to heal others, should receive special protection under the law. The data on violence in health care settings tell a disturbing story. According to the American Hospital Association, 44% of nurses reported experiencing physical violence and 68% reported experiencing verbal abuse during the COVID-19 pandemic. Simply put, this is unacceptable. This toolkit is meant to not just help hospitals comply with and understand workplace violence legislation, but to foster best practices to create safe work environments.

The Texas Hospital Association and the Texas Nurses Association are grateful for the legislators who filed, supported and passed sweeping legislation to help protect the Texans who devote their lives to healing others. During the 88th Texas Legislature, THA and TNA strongly advocated for two key pieces of legislation to protect health care workers that became law. Senate Bill 240 requires health care facilities to create workplace violence committees and adopt and implement workplace violence prevention policies and plans. Senate Bill 840 made assaulting hospital personnel a third-degree felony.

Our workforce advocacy began well before the legislative session through the creation of a special committee of the Board of Trustees and through collaboration on legislation with TNA and other provider advocacy groups. In 2022, THA commissioned a 20-question survey to help quantify workforce challenges and inform solutions for the 88th legislative session and beyond. THA issued the survey to its more-than 600 member hospitals, and received responses representing 178 hospitals, including health systems and rural facilities.

Most Texas hospitals have robust violence prevention programs in place. However, violence against health care workers, particularly nurses, is increasing.

- 98% of Texas hospitals report that workplace violence has significantly increased or stayed the same since the start of the pandemic.
- 61% of Texas hospitals report that violence severity has increased.
- Only one survey respondent indicated a decrease in the frequency of violence since the start of the pandemic.
- 89% of Texas hospitals have implemented workplace violence prevention efforts.

THA and TNA have developed this toolkit to help hospitals implement policies and procedures aimed at fostering safe places to work. These resources are meant to be shared, tested and improved. Texas hospitals and nurses are committed to protecting their staffs, and THA and TNA will continue to advocate for the 400,000 health care workers in Texas who put patients first.

Sincerely,

John Hawkins  
President & CEO



Serena Bumpus,  
DNP, RN, NEA-BC  
CEO





## WORKPLACE VIOLENCE

**DEFINITION:** 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 any 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.<sup>1</sup>

Violence in the health care setting can include the following:

- Verbal threats or written threats that express an intent to harm.
- Verbal assaults
- Physical assaults such as biting, kicking, punching, scratching, spitting, etc.
- Any act that causes fear or harm to a staff member, provider, patient or visitor to the health care facility
- Domestic violence
- Sexual harassment and sexual assault
- Stalking

## CATEGORIES OF WORKPLACE VIOLENCE

**CATEGORY 1: CRIMINAL INTENT.** Occurs when the perpetrator has no legitimate relationship to the facility or its employees and is often committing a crime in conjunction with violence, such as robbery, shoplifting, or trespassing. In health care settings Category 1 violence occurs less frequently than other types of violence.

**CATEGORY 2: CLIENT-ON-WORKER.** This is the most common type of workplace violence in health care settings, and takes place most often in emergency departments, psychiatric settings, geriatric settings, and waiting rooms.

**CATEGORY 3: WORKER-ON-WORKER.** This type of workplace violence includes bullying and harassment but can range to homicide. Worker-on-worker violence is usually directed toward a person in a subordinate position, although peer-to-peer violence is also common.

**CATEGORY 4: PERSONAL RELATIONSHIP.** This type of workplace violence involves perpetrators who have personal relationships with the intended target but no direct relationship to the health care facility or hospital.

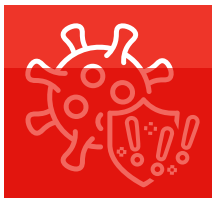
<sup>1</sup> TX Health & Safety Code, Sec. 331.004(b)(2)(A)(B)



## WORKPLACE VIOLENCE STATISTICS



**44%** of nurses reported experiencing violence at work.<sup>2</sup>



**68%** of nurses reported experiencing verbal abuse during the COVID-19 pandemic.<sup>2</sup>



**98%** of Texas hospitals report workplace violence has *increased or stayed constant* in the last three years.<sup>3</sup>



**61%** of Texas hospitals report that the severity of workplace violence has *increased*.<sup>3</sup>



**89%** of Texas hospitals have implemented workplace violence prevention efforts.<sup>3</sup>

<sup>2</sup> <https://www.aha.org/system/files/media/file/2022/06/fact-sheet-workplace-violence-and-intimidation-and-the-need-for-a-federal-legislative-response.pdf>

<sup>3</sup> <https://www.tha.org/wp-content/uploads/2023/02/Staff-Vacancies-Whitepaper.pdf>



## **SB 240: TEXAS' NEW WORKPLACE VIOLENCE PREVENTION LAW**

### **ANALYSIS:**

SB 240 is new legislation that requires hospitals, among others, to establish and implement a workplace violence prevention committee, plan and policy by Sept. 1, 2024. SB 240 creates a new Chapter 331 in the Health and Safety Code and has four main requirements of facilities, including hospitals. SB 240 also applies to home health, nursing homes, ambulatory surgical centers, and freestanding emergency centers. A facility's state licensing agency is allowed to enforce this law by undertaking any disciplinary action for violations against any person in the same manner as if that person had violated an applicable licensing law for the facility. This law took effect on Sept. 1, 2023.

### **COMMITTEE REQUIRED**

Facilities must establish a workplace violence prevention committee or task an existing committee to take on the new workplace violence prevention duties. The committee must include at least one RN who provides direct care to facility patients, one physician who provides direct care to facility patients unless the facility does not have at least one physician on staff, and one employee who provides security services to the facility, if any and if practicable.

A health care system that owns or operates more than one facility may establish a single committee for all of the system's facilities but only if the committee develops a workplace violence prevention plan that can be implemented at each facility (this may or may not require more than one plan depending on the types of facility under the system umbrella) and any data gathered and collected on violence prevention remains distinctly identifiable by facility in the system.

### **POLICY REQUIRED**

The facility's governing body must adopt a workplace violence prevention policy to protect health care providers and employees from violent behavior and threats of violence occurring at the facility. The policy must require that the facility give "significant consideration" to the plan developed by the workplace violence prevention committee and evaluate any existing plan(s). It must also encourage health care providers and employees to provide confidential information on workplace violence to the committee, include a process to protect providers and employees from retaliation, and mandate facility compliance with any licensing agency rules that are established or in existence as related to workplace violence.

***PREVENTION PLAN REQUIRED***

The established/designated workplace violence prevention committee must develop a workplace violence prevention plan that must, at a minimum:

- Be based on the practice setting.
- 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 the facility to provide at least annual workplace violence prevention training or education that may be included in other required training or education provided to the facility’s health care providers and employees who provide direct patient care.
- Prescribe a system for responding to and investigating violent incidents or potentially violent incidents at the facility.
- Address physical security and safety.
- Require the facility to solicit information from health care providers and employees when developing and implementing a workplace violence prevention plan.
- Allow health care providers and employees to report incidents of workplace violence through the facility’s existing occurrence reporting systems.
- Require the facility to adjust patient care assignments, to the extent practicable, to prevent a health care provider or employee of the facility from treating or providing services to a patient who has intentionally physically abused or threatened the provider or employee.

The law permits a facility’s plan to reference other internal facility policies or documents already in place that address these requirements. Once adopted, the committee must review and evaluate the plan each year and report those findings to the facility’s governing body. A more in-depth look at the plan’s requirements is included, following this summary.

Facilities must make the plan available (electronic or printed) if requested by a provider or employee. However, the committee is allowed to redact information in the plan that, if released, would pose a security threat to providers or employees.



***WORKPLACE VIOLENCE RESPONSE***

SB 240 requires facilities to offer, at a minimum, immediate post-incident services including necessary acute medical treatment for each facility health care provider or employee directly involved in the incident. Additionally:

- Facilities are prohibited by the law from discouraging providers and employees from reporting a workplace violence incident to law enforcement, including filing charges.
- Facilities are also prohibited from engaging in any adverse employment actions (discipline, suspension, termination, discrimination or retaliation) against any employee who makes a good-faith report of an incident or advises another employee or provider about their rights to report incidents.



## WORKPLACE VIOLENCE PREVENTION PLAN REQUIREMENTS

Senate Bill 240, Texas' new workplace violence legislation, requires hospitals and other applicable health care facilities to adopt and implement a workplace violence prevention plan to protect health care providers and employees from workplace violence and threats of workplace violence. The law allows a hospital to reference existing policies or procedures in order to meet the following elements. The plan must include or address:

1. **Procedures, processes and safety measures based on the practice setting.** A plan for an acute-care hospital will not be the same for a smaller rural hospital or long-term care setting. Each hospital and system must ensure that their plans are setting-specific.
2. **A workplace violence definition.** The new law requires the plan to include in its workplace violence definitions the following language:

*“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.”*

The facility-specific plan can include a more expansive definition, including specific examples of acts that would be considered as workplace violence.

3. **Annual training and education.** Hospitals must ensure that their plans include annual training or education, at a minimum, to employees and direct patient care staff. A hospital can provide more frequent training but must ensure that training or education on workplace violence prevention and mitigation is provided at least once per year. A hospital may fulfill this requirement by including workplace violence training as a component of other required training or education.
4. **Response to and investigating incidents.** The plan must prescribe a system for responding to and investigating violent or potentially violent incidents occurring at the facility. Hospitals should encourage employees and providers to report as necessary and should make clear that any attempts to prevent reporting are prohibited and can lead to disciplinary action.



5. **Physical security and safety.** The plan must include any necessary processes, procedures or checklists that address physical security and safety. Examples include providing panic buttons, educating staff on exit routes, assessment of physical layout, nurse stations or equipment and educating staff on locations of safe rooms. The plan may also include requirements for making self-defense, active shooter or hostage training available to employees and health care providers.
6. **A process to solicit information from health care providers and employees when developing and implementing the plan.** Hospitals must use an established process, or create a new process, to allow health care providers and employees to provide confidential feedback on what the facility should consider and address when creating its plan. Hospitals need to ensure that the information provided to the committee will be confidential and provide adequate training to committee members and other committee staff about the importance of maintaining that confidentiality. Retaliation of any kind is strictly prohibited, and staff should be informed that any retaliatory action may lead to disciplinary action, including termination.
7. **Allow reporting.** The plan must outline the process by which employees and providers may report workplace violence incidents. Hospitals are allowed to designate the use of an existing occurrence reporting system. Hospitals should encourage employees and providers to report as necessary and should make clear that any attempts to prevent reporting are prohibited and can lead to disciplinary action.
8. **Process to adjust patient care assignments.** The plan must include a process, to the extent practicable, that requires the adjustment of patient care assignments. Adjustments may be necessary to prevent a health care provider or employee from treating or providing services to patients who have intentionally engaged in or are threatening physical abuse against the health care provider or employee.



LAW	POLICY REQUIRED?
<b>FEDERAL:</b> <b>Medicare Conditions of Participation</b> <b>42 C.F.R. §482.13(c)(2) – Patient Right to a Safe Setting</b> (Last updated: 2019)	<b>Yes.</b> Efforts to provide a safe setting should be included in policies related to environmental safety, infection control, and security. These policies should describe how hospitals identify patients at risk for self-harm or harm to others and the steps that need to be taken to minimize those risks. Per CMS, requires a patient risk assessment strategy.
<b>FEDERAL:</b> <b>Medicare Conditions of Participation 42 C.F.R. § 482.15 – Emergency Preparedness</b> (Last updated: 2019)	<b>Yes.</b> Such policies and procedures should be based on the emergency preparedness and communication plans adopted by the hospital. The regulation has more requirements than the Texas workplace violence policy since it encompasses all types of emergencies and not just those related to workplace violence.
<b>FEDERAL:</b> <b>OSHA – General Duty Clause of the Occupational Safety and Health Act of 1970 – 29 U.S.C. § 654</b> (Last updated: 1970)	Not specifically, but OSHA <b>has published guidelines</b> for preventing workplace violence in health care, which state that hospitals should have workplace prevention programs. Hospitals that comply with the new Texas law would arguably meet this guideline. OSHA believes that a failure to adequately attempt to prevent workplace violence is a violation of the general duty clause.
<b>STATE:</b> <b>Texas Health &amp; Safety Code Chapter 331- Workplace Violence Prevention</b> (New: Effective Sept. 1, 2023)	<b>Yes.</b> Tex. Health & Safety Code § 331.003 requires a hospital to adopt, implement and enforce a written workplace violence prevention policy to protect health care providers and employees from violent behavior and threats. Sec. 331.003(b) has four components that the policy must contain.
<b>STATE:</b> <b>Texas Administrative Code: Harassment &amp; Abuse of Hospital Staff Policy 25 TAC §133.45(f)</b> (Last updated: 2022)	<b>Yes.</b> HHSC requires hospitals to have a policy in place to identify and address instances of alleged verbal or physical harassment of hospital employees or contracted personnel by other hospital employees or contracted personnel, or people with clinical privileges at the hospital.



LAW	PLAN REQUIRED?
<b>FEDERAL:</b> <b>Medicare Conditions of Participation</b> <b>42 C.F.R. §482.13(c)(2) – Patient Right to a Safe Setting</b> (Last updated: 2019)	<b>No</b> , but providing a safe setting for patients can be met by having a robust emergency preparedness plan.
<b>FEDERAL:</b> <b>Medicare Conditions of Participation 42 C.F.R. § 482.15 – Emergency Preparedness</b> (Last updated: 2019)	<b>Yes.</b> See 42 C.F.R. § 482.15(a).
<b>FEDERAL:</b> <b>OSHA – General Duty Clause of the Occupational Safety and Health Act of 1970 – 29 U.S.C. § 654</b> (Last updated: 1970)	Not specifically in law, but see <b>OSHA’s Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers.</b>
<b>STATE:</b> <b>Texas Health &amp; Safety Code Chapter 331- Workplace Violence Prevention</b> (New: Effective Sept. 1, 2023)	<b>Yes.</b> Sec. 331.004 requires a hospital to adopt, implement and enforce a written workplace violence prevention plan that must have the eight components listed in the section. This plan is allowed to reference the federally required emergency preparedness plan, if appropriate, to meet one of the eight components.
<b>STATE:</b> <b>Texas Administrative Code: Harassment &amp; Abuse of Hospital Staff Policy 25 TAC §133.45(f)</b> (Last updated: 2022)	<b>No.</b>



LAW	TRAINING REQUIRED?
<b>FEDERAL:</b> <b>Medicare Conditions of Participation</b> <b>42 C.F.R. §482.13(c)(2) – Patient Right to a Safe Setting</b> (Last updated: 2019)	<b>Yes.</b> Per CMS guidance, hospital staff should be trained to identify patients at risk of self-harm or harm to others, environmental patient safety risk factors and mitigation strategies. This guidance can be included in emergency preparedness training or state-required workplace violence training. Training should be tailored to the services provided and patient population served.
<b>FEDERAL:</b> <b>Medicare Conditions of Participation 42 C.F.R. § 482.15 – Emergency Preparedness</b> (Last updated: 2019)	<b>Yes.</b> Every two years at least; can be more frequent at the discretion of the hospital. See Texas requirement on workplace violence prevention training.
<b>FEDERAL:</b> <b>OSHA – General Duty Clause of the Occupational Safety and Health Act of 1970 – 29 U.S.C. § 654</b> (Last updated: 1970)	Not specifically in law, but see <b>OSHA’s Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers.</b>
<b>STATE:</b> <b>Texas Health &amp; Safety Code Chapter 331- Workplace Violence Prevention</b> (New: Effective Sept. 1, 2023)	<b>Yes,</b> at least once per year. The workplace violence prevention plan must require at least annual training on workplace violence prevention training or education.
<b>STATE:</b> <b>Texas Administrative Code: Harassment &amp; Abuse of Hospital Staff Policy 25 TAC §133.45(f)</b> (Last updated: 2022)	<b>No.</b> The text of this law does not specifically require training. However, see requirements of SB 240 explained in this toolkit.



LAW	REPORTING TO LAW ENFORCEMENT OR GOVERNMENT AGENCY REQUIRED?
<b>FEDERAL:</b> <b>Medicare Conditions of Participation</b> <b>42 C.F.R. §482.13(c)(2) – Patient Right to a Safe Setting</b> (Last updated: 2019)	<b>No.</b> The text of the law does not include a reporting component. However, the Joint Commission considers the rape, assault leading to death, permanent harm, severe temporary harm, or homicide of a patient, staff member, health care provider, visitor or vendor on site as a sentinel event that warrants comprehensive systematic analysis. Additionally, depending on the nature of the incident, OSHA and Texas regulations may require reporting to applicable federal or state regulatory agencies.
<b>FEDERAL:</b> <b>Medicare Conditions of Participation 42 C.F.R. § 482.15 – Emergency Preparedness</b> (Last updated: 2019)	<b>No.</b> The text of the law does not include a reporting component. However, please refer to reporting requirements under other federal and state laws outlined in this chart.
<b>FEDERAL:</b> <b>OSHA – General Duty Clause of the Occupational Safety and Health Act of 1970 – 29 U.S.C. § 654</b> (Last updated: 1970)	<b>Yes.</b> Facilities must report a workplace-related fatality within eight hours of death and workplace-related hospitalizations, amputations, or loss of any eye within 24 hours, including those that resulted from workplace violence. A death is “workplace-related” if it occurs within 30 days following a workplace-related event. See <b>Code of Federal Regulations, 29 C.F.R. §1904.39.</b>
<b>STATE:</b> <b>Texas Health &amp; Safety Code Chapter 331- Workplace Violence Prevention</b> (New: Effective Sept. 1, 2023)	<b>No.</b> Additional reporting is not required. However, the law specifically prohibits hospitals from discouraging providers or employees from exercising their right to contact law enforcement or file a report with law enforcement. Hospitals cannot take an adverse employment action against an employee who makes a good-faith report or helps another person make a report. See <b>Sec. 331.005, Tex. Health &amp; Safety Code.</b>
<b>STATE:</b> <b>Texas Administrative Code: Harassment &amp; Abuse of Hospital Staff Policy 25 TAC §133.45(f)</b> (Last updated: 2022)	<b>No.</b> The text of this law does not include a reporting component. However, if the abuse or harassment has an impact on patients or patient care that results in unprofessional, illegal or unethical conduct by an employee or licensed professional, such actions may warrant a report under the abuse and neglect reporting requirements of Texas law.



## HOSPITAL ACCREDITATION REQUIREMENTS FOR WORKPLACE VIOLENCE PREVENTION

In addition to the federal and state laws hospitals must comply with related to workplace violence and its prevention, hospitals must also ensure they meet any workplace violence prevention accreditation requirements. As of Jan. 1, 2022, The Joint Commission's (TJC) new workplace violence standards apply to all TJC-accredited hospitals and critical access hospitals. The purpose of the new standards is to assist hospitals in developing effective workplace violence prevention programs and plans, similar to the one required by Texas' new law, that hopefully will lead to a decrease in workplace violence incidents in health care settings. Please refer to the **official TJC standards manual** for a full comprehensive description of the standards and the requirements for each element of performance. For ease of reference, the new standards are summarized below:

- 1. The hospital manages safety and security risks.**
  - a. Hospitals must undergo a workplace analysis related to its workplace violence prevention program in order to prevent or resolve safety or security risks identified by the analysis. (*Standard EC.02.01.01*). This is similar to Texas' new requirement that a hospital's workplace violence prevention policy contain a requirement that the hospital evaluate its current workplace violence prevention plan, and conduct investigations of safety and security incidents related to workplace violence. Texas also now requires that a hospital's workplace violence prevention plan prescribe a system for responding to and investigating violent or potentially violent incidents at your facility. (*Tex. Health & Safety Code §331.004(b)(4)*).
- 2. Staff participate in ongoing education and training.**
  - a. Requires that a hospital's workplace violence prevention program provides training, education and resources on workplace violence to leadership, all staff and licensed providers. (*Standard HR. 01.05.03*). Texas' new law only requires that a hospital's workplace violence prevention plan requires the facility to provide annual training or education on workplace violence to providers and employees who provide direct patient care. (*Tex. Health & Safety Code §331.004(b)(3)*).
- 3. Hospital leaders create and maintain a culture of safety and quality throughout the hospital.**
  - a. Requires the hospital to establish a workplace violence prevention program whose requirements are very similar to those contained in SB 240. (*Standard LD.03.01.01*) (*Chapter 331, Texas Health & Safety Code*)

If your hospital does not obtain accreditation through The Joint Commission, we strongly encourage you to ensure compliance with the applicable accreditation requirements that may be put in place by your contracted accreditation organization.





## TEXAS LAWS GOVERNING HOSPITAL NURSE STAFFING & OVERTIME

Adequate hospital staffing is a key component to ensuring your hospital will be considered a great and safe place to work by health care professionals. Since 2009, Texas has had a robust nurse staffing law that prioritizes input from nurses and recognizes their unique needs and skills at every hospital. The importance of nursing to patient care in Texas hospitals cannot be overstated. Texas hospitals and their almost 136,000 nurses are committed to ensuring that all patient needs are met and the best outcomes are achieved. In the 81st Legislature, SB 476 by Sen. Jane Nelson created Chapters 257 and 258 of the Health and Safety Code – in order to set out regulations that, if followed correctly, would ensure that hospitals were adequately staffed and prioritize the well-being of our nursing professionals. Adequate staffing is a key component to workplace violence prevention and we strongly urge and encourage each hospital to revisit and reassess their compliance with both laws as they begin developing their workplace violence prevention plans and policies.

Texas law requires the boards of trustees of hospitals to enact a written nurse staffing plan developed with input from direct care nurses that is updated at least annually. This plan ensures compliance with state law and regulations and provides the flexibility needed for each hospital to respond to patient and community needs.

This document explains the requirements included in hospitals' nurse staffing plans.

In general, Texas hospitals must ensure that:

- Nurses have current licensure.
- There are enough RNs and LVNs to care for patients.
- There is supervisory and staff personnel for each department or nursing unit to provide the immediate availability of an RN to provide care for any patient.
- An RN is on duty in each building of a licensed hospital that contains at least one nursing unit where patients are present.
- There is a nursing plan of care for each patient that addresses the patient's needs.
- They have a standing nurse staffing committee comprised of direct care nurses selected by their peers.



## **NURSE STAFFING PLAN**

The nurse staffing plan and related policies must:

- Consider the recommendations of the hospital's nurse staffing committee.
- Be based on the needs of each patient care unit, shifting based on the needs of patients.
- Take into account the skills and ability of the nurses and patient safety.
- Encourage input from the nursing staff with protection from retaliation.

The nurse staffing plan also must:

- Be retained for at least two years.
- Be a component in setting the nurse staffing budget, rather than having the budget inform the staffing plan.
- Guide the hospital in assigning nurses hospital-wide.
- Set minimum staffing levels for patient care units, which are determined by the nursing assessment in accordance with evidence-based safe nursing standards.
- Take into account: patient characteristics and the number of patients, including discharges, admissions, and transfers; the intensity and variability of patient care in the unit; the scope of services; the context and setting of the care and the availability of technology; and the characteristics of the nursing staff and other support staff.
- Include built-in flexibility with a method for adjusting the plan shift-to-shift for each patient care unit.
- Include a contingency plan for when patient care needs exceed staff resources.
- Describe how on-call time will be used.
- Reflect current standards by accrediting bodies, professional organizations and government entities.
- Include a mechanism for evaluating the effectiveness of the staffing plan based on patient needs, nursing sensitive quality indicators, nurse satisfaction measures collected by the hospital and evidence-based nurse staffing standards. At least one of these outcomes must be correlated to the adequacy of staffing:
  - Nurse-sensitive patient outcomes selected by the nurse staffing committee, such as patient falls, adverse drug events or length of stay.
  - Operational outcomes, such as work-related injury, violence towards nurses, overtime rates or turnover.
  - Substantiated patient complaints related to staffing levels.



- Incorporate a process to solicit concerns about the nurse staffing plan that:
  - Prohibits retaliation for reporting concerns.
  - Requires nurses to timely report concerns through appropriate channels at the hospital.
  - Orients nurses on how and to whom to report concerns.
  - Encourages nurses to provide input about staffing concerns to the nurse staffing committee and provides for review, assessment and response by the nurse staffing committee.
  - Include a process for providing feedback during the committee meeting on how concerns are addressed.
  - Uses the nurse safe harbor peer review process under section 303.005 of the Occupations Code.
- Includes policies and procedures requiring orientation (including the orientation of nonemployee nurses), documented competency in accordance with hospital policy and nursing assignments congruent with competency.

***NURSE STAFFING COMMITTEE***

Any reports, records or information compiled by the nurse staffing committee are confidential, not subject to disclosure under the Public Information Act, and subject to the same confidentiality and disclosure requirements as a record originating from a medical peer review committee.

The nurse staffing committee must meet quarterly and include:

- At least 60% RNs who spend at least half of their time providing direct patient care and are selected by their peers.
- At least one RN from either infection control, quality assessment and performance improvement or risk management.
- Representatives of the types of nursing services at the hospital.
- The CNO. The CNO is a voting member of the committee.

Committee members must be compensated for their time when attending committee meetings and relieved of patient care duties.

The nurse staffing committee must:

- Develop and recommend the nurse staffing plan.
- Solicit, evaluate and respond to staffing concerns expressed to the committee.
- Identify the nurse-sensitive outcome measures the committee will use to evaluate the effectiveness of the official nurse services staffing plan.
- Evaluate and document in the minutes, at least twice per year, the effectiveness of the official nurse



services staffing plan, variations between the plan and the actual staffing and whether the plan meets patient needs, nursing-sensitive quality indicators, nurse satisfaction measures collected by the hospital and evidence-based nurse staffing standards, as set out by the nurse staffing plan.

- Submit, at least twice per year, a report to the board on nurse staffing and patient care outcomes, including the committee's evaluation of the effectiveness of the official nurse staffing plan and aggregate variations between the staffing plan and actual staffing.

### **HOSPITAL OBLIGATIONS**

Hospitals must:

- Annually report through the annual Texas Department of State Health Services/American Hospital Association annual survey of hospitals whether the hospital has a nurse staffing policy, whether the committee has the required membership composition, whether the nurse staffing committee has evaluated the hospital's nurse staffing plan and has reported the results of the evaluation to the hospital's governing body and what nurse-sensitive outcome measures the committee adopted to evaluate the nurse staffing plan.
- Make official nurse staffing plan levels and current staffing levels available to nurses on each patient care unit at the beginning of each shift.
- Report variations between planned staffing levels and actual staffing levels to the nurse staffing committee (which are confidential).
- Adopt policies on mandatory overtime where:
  - A hospital may not require a nurse to work mandatory overtime and a nurse may refuse to work mandatory overtime, except in the case of a disaster or declaration of emergency in the county or contiguous county, an emergency or unforeseen event that increases the need for health care personnel to provide safe care in a hospital or if the nurse is actively engaged in an ongoing medical or surgical procedure and the continued presence of the nurse is necessary for the health and safety of the patient.
  - Scheduling a nurse for a procedure that may last beyond the nurse's shift does not qualify as mandatory overtime. For example, two nurses in the cardiovascular lab are scheduled to work from 7 a.m. until 4 p.m., and a procedure that began at 3:30 p.m. is not completed at 4 p.m. The two nurses assisting with the procedure are told they must stay until the procedure is finished and the patient is transferred to recovery. This scenario is not considered mandatory overtime. However, illegal mandatory overtime would occur if two cases were added to the schedule after 4 p.m., and the nurses were directed to stay until those cases were completed.
  - If a hospital determines that an exception to the prohibition on mandatory overtime exists, the hospital must, to the extent possible, make a good faith effort to meet the staffing need through voluntary overtime, and document that effort.
  - A hospital may not use on-call time as a substitute for mandatory overtime.



## SAMPLE WORKPLACE VIOLENCE POLICY<sup>4</sup>

POLICY NO. \_\_ VIOLENCE IN THE WORKPLACE

### OBJECTIVE

It is [Hospital/System Name]'s policy to prohibit and prevent workplace violence by any person on the [Insert Hospital Name] campus or other [Hospital/System Name] owned or operated locations. [Hospital/System Name] does not tolerate workplace violence. Any person found in violation of this policy will be removed from the hospital premises and, if applicable, may be subject to termination or other disciplinary action, arrest and/or criminal prosecution. [Hospital/System Name] shall adopt and implement a workplace violence prevention plan or program to protect health care providers and employees from violent behavior occurring at [Hospital/System Name].

### APPLICABILITY

All Employees

All Providers, Including Physicians

All Visitors

All Vendors and Subcontractors

### POLICY

#### A. DEFINITION

##### **Example 1:**

[Hospital/System Name] shall not tolerate workplace violence of any kind including, without limitation, a) any 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, b) any harassment, intimidation or other threatening disruptive behavior and c) 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.

##### **Example 2:**

[Hospital/System Name] prohibits the following conduct by any person on [Hospital/System Name] that includes without limitation:

1. Possession of any weapon, explosive, or firearm on [Hospital/System Name] premises unless otherwise allowed by law;
2. Physically harming a person;
3. Engaging in behavior that creates a reasonable fear of injury in another person;

<sup>4</sup>This sample policy is for informational purposes only and does not constitute (and should not be interpreted as) legal advice nor used as such. The Texas Hospital Association assumes no responsibility or liability, either express or implied, for errors or omissions of any kind. This sample policy is intended to serve as an example of the minimum amount of information hospitals should consider including in their workplace violence policies. Hospitals may include additional elements that are specific to their facilities, processes, and procedures.



4. Engaging in behavior that subjects another person to extreme emotional distress;
5. Shouting, shoving, pushing, harassment, intimidation or coercion;
6. Intentionally damaging property or sabotage; and
7. Committing injurious acts motivated by or related to domestic violence or sexual harassment.

#### **B. WORKPLACE VIOLENCE PREVENTION PLAN OR PROGRAM**

*[If your hospital or hospital system does not have a workplace violence prevention plan or program in place]*

The [Name of Governing Body] shall adopt a workplace violence prevention plan or program prior to September 1, 2024. The plan or program shall comply with all Texas laws and Texas Health & Human Services Commission (HHSC) rules and regulations related to workplace violence.

The [Name of Governing Body] designates [Name of Committee] as the committee that shall prepare, develop and finalize the workplace violence prevention plan or program to present to the [Name of Governing Body]. Such committee shall ensure that its membership includes persons required by law and that such plan or program is effective at preventing workplace violence.

All employees and providers, including physicians, are encouraged to contact any member of the [Name of Committee] to provide input and feedback on workplace violence. All information provided shall be confidential and no committee member or assigned committee staff shall disclose such confidential information outside members of the committee. Disclosure of confidential information may lead to disciplinary action, up to and including termination.

The [Name of Governing Body] shall give significant consideration to the workplace violence prevention plan or program recommended by the committee. Any deviations from the committee's recommended plan or program must be documented in the minutes of the [Name of Governing Body] and shall include justifications for the deviation.

The [Name of Committee] shall evaluate the adopted workplace violence prevention plan or program no less than annually.

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*[If your hospital or hospital system has a workplace violence prevention plan or program in place]*

The [Name of Governing Body] shall evaluate the workplace violence prevention plan or program currently in place as soon as possible following adoption of this policy. The plan or program must be evaluated to ensure compliance with all Texas laws and Texas Health & Human Services Commission (HHSC) rules and regulations related to workplace violence.

The [Name of Governing Body] designates [Name of Committee] as the committee that shall evaluate the workplace violence prevention plan or program and present any necessary changes or revisions to the [Name of Governing Body] prior to September 1, 2024. Such committee shall ensure that its membership includes persons required by law and that such plan or program is effective at preventing workplace violence.

All employees and providers, including physicians, are encouraged to contact any member of the [Name of Committee] to provide input and feedback on workplace violence. All information provided shall be confidential and no committee member or assigned committee staff shall disclose such confidential information outside members of the committee. Disclosure of confidential information may lead to disciplinary action, up to and including termination.

The [Name of Governing Body] shall give significant consideration to the evaluation and recommendations of the workplace violence prevention plan made by the committee. Any deviations from the committee's recommendations must be documented in the minutes of the [Name of Governing Body] and shall include justifications for the deviation.

The [Name of Committee] shall continue to evaluate the workplace violence prevention plan or program no less than annually.

### **C. REPORTING**

[Hospital/System Name] shall institute a reporting system that allows for the reporting, including confidential reporting, of workplace violence incidents. Data collected regarding workplace violence shall be aggregated and collected and provided to [Name of Committee] no less than annually to assist [Name of Committee] with completing their evaluation of the workplace violence prevention plan or program.

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Any person shall be allowed to make a report to law enforcement regarding a workplace violence incident and such person(s) shall not be impeded or coerced from making such a report. Any impeding or coercion of this kind by an employee or health care provider, including a physician, will not be tolerated and such persons may be subject to termination or other disciplinary action.

#### **D. RETALIATION PROHIBITED**

Retaliation against any person reporting workplace violence incidents or providing information to the [Name of Committee] is strictly prohibited. Any employee who believes they have been subject to retaliation may contact Human Resources and follow the process outlined in Policy No. [Policy Name] or workplace violence plan or program anti-retaliation procedures. [Hospital/System Name] shall follow the [Policy Name] process and procedure for investigating and responding to retaliation allegations.

**Date Adopted:** \_\_\_\_\_

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# **NOTICE**

**Assaulting hospital staff is a FELONY  
punishable by up to 10 YEARS IN PRISON.**

*Tex. Penal Code, Sec. 22.01(b)(9)*

**We respect you.**

**Please respect our staff.**



# AVISO

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Asaltando personal del hospital es un Delito Grave  
punible con hasta 10 años de prisión.

*Tex. Penal Code, Sec. 22.01(b)(9)*

**Te respetamos.**

**Por favor respete a nuestro personal.**





## FUNDING OPPORTUNITIES

### AVAILABLE GRANTS

DSHS Texas Center for Nursing Workforce Studies (TCNWS) – Since 2017, the Texas Legislature has appropriated funds to TCNWS to administer a grant program to fund innovative approaches for reducing verbal and physical violence against nurses in hospitals, freestanding emergency medical care facilities, nursing facilities, and home health agencies. TCNWS awards grants on a biennial basis. More information is available on the TCNWS website: <https://www.dshs.texas.gov/texas-center-nursing-workforce-studies/workplace-violence-grant-program>.

The following organizations have also funded workplace violence projects in the past:

- Occupational Safety and Health Administration
- National Institute for Occupational Safety and Health at the Centers for Disease Control and Prevention
- McElhattan Foundation
- Josiah Macy Jr. Foundation

### SECURITY ASSESSMENTS

THA partner **BluWater Security** contracts with hospitals to do a full physical and processual assessment of the facility, then provides a customized report detailing potential gaps and offering recommendations. Find out more at: <https://www.tha.org/services-for-hospitals/hospital-support-services/operational-support/bluwater>.

### AVAILABLE TRAININGS

**Workplace Violence Prevention for Nurses (CDC/NIOSH)** – Free

Trainings previously funded by DSHS TCNWS workplace violence prevention grants:

- **Crisis Prevention Institute Training** – Train-the Trainer approach
- **Satori Alternatives to Managing Aggression (SAMA) Training**

