

April 15, 2024

Via Email to: HHSCLTCRRules@hhs.texas.gov.

Rachel Holden & Sandra Wiegand
Program Specialists
Texas Health & Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

Re: Comments on Proposed Rule 23R071

Dear Ms. Holden and Ms. Wiegand:

On behalf of our more than 460 member hospitals, including public, rural, urban, children's, teaching and specialty hospitals, the Texas Hospital Association (THA) appreciates the opportunity to provide feedback on the Texas Health & Human Services Commission's (HHSC) proposed amendments to Title 26, Part 1, Chapter 554 relating to Nursing Facility Requirements for Licensure and Medicaid Certification – specifically relating to the amendments to implement Senate Bill (SB) 240 which has new requirements for health care facilities related to workplace violence prevention.

The statistics surrounding workplace violence incidents in the healthcare setting portray a stark reality for healthcare workers. In anticipation of the 88th Texas legislative session, THA conducted a survey of our hospital membership, finding that 98% of hospitals reported that workplace violence had significantly increased or stayed the same since the start of the pandemic and 61% of responding hospitals reported that the violence severity has increased. THA is committed to advocating for the over 400,000 hospital workers in Texas who put patients first. To that end, THA supports HHSC's rulemaking efforts to implement SB 240. We offer one clarifying comment related to the proposed amendment of 26 TAC §554.1920. We suggest that HHSC consider revising proposed new subsection (g) to the rule as follows:

“(g) A facility must establish or authorize an existing committee to operate as its workplace violence committee and develop workplace violence prevention policies and procedures in accordance with Texas Health and Safety Code, Chapter 331.”

Our suggested revision reflects the statutory flexibility allowing a health care facility to designate an existing committee as its workplace violence committee, preventing any misinterpretation that the rule requires the creation of an entirely new committee. Texas Health & Safety Code Section 331.002(a) clearly states that a health care facility may authorize an existing committee to operate

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as the facility’s workplace violence prevention committee. Thus, our suggestion simply seeks to modify the proposal rule to mirror the statutory language more clearly.

Additionally, we also note that the Small Business, Micro-Business, and Rural Community Impact Analysis, identifies a potential adverse economic impact on rural communities if nursing facilities must “hire additional staff to meet the workplace violence prevention committee member requirements of registered nurses who provide direct care to facility residents *and facility employees who provide security services.*” It is THA’s interpretation that the law does not require a health care facility to hire security service employees. Texas Health & Safety Code Section 331.002(b)(3) states the committee must include “one facility employee who provides security services for the facility *if any* and if practicable.” The “if any” qualifies the requirement such that only if the health care facility already has security service employees are they required to be members of the committee and *only if practicable*. Therefore, the law does not require health care facilities to hire security service employees. A health care facility *may* determine, as part of their workplace violence prevention plan, that they should hire, or contract for, security services – but again they are not required or mandated by the law to hire new personnel. This clarification is important should HHSC engage in future rulemaking for other regulated health care facilities and to ensure the relevant requirements are evident to HHSC surveyors.

THA is grateful for the opportunity to comment on this important issue and proposed rulemaking. Should you have any questions or concerns with our recommendations and clarifications discussed in this letter, please do not hesitate to contact me at hdelagarza@tha.org.

Respectfully submitted,

/s/Heather De La Garza-Barone

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