

This document contains answers to questions brought up during the review of HB 2022/ORS 654.412 to 654.423 “Safety of Health Care Employees” which occurred at the BFO on 7/16/08; SFO (7/24/08); PFO (8/26/08); and EFO (9/12/08).

Q: Can the existing 300 Log be extended to support additional data requirements (e.g., we have our own computer system)?

A: Yes, as long as there is a way to extract HCV (health care violence) information for reporting.

Q: Will we need to keep recording after the 2008 calendar year is over?

A: Yes, *recording* is perennial. The *reporting* (sending) to DCBS is a one-time thing (this is all that is called for in this legislation; there is no sunset on this bill).

Q: Is written program required to document training?

A: A written program is not a specific requirement of the new law.

Q: If domestic violence situations arise, are these reportable?

A: According to the statute, an employee/patient relationship does not need to exist (e.g., the assailant may be a patient, visitor, coworker, or other). Attacks against employees should be reported. If a serious injury results, it may also need to be recorded on the OSHA 300 log.

Q: We are concerned about individual privacy.

A: While the *recorded* information includes employee identification (and may include patient identification, though this is not required), when this information is *reported*, individual identifying information should be redacted or left out.

Q: Now that we are embarking on data recording/collection, there are additional pieces of data we want to capture – is this ok?

A: This law is meant to raise awareness, provide a dataset for analysis and future policy decisions, but can also help you manage your organization. Basically, sure – but if it is possible to strip the extra fields in what you submit, that will make it easier for us to pull it into a database.

Q: We have our own internal security protocols that cover workplace violence, and are corporate-wide. Do we still need to adopt these additional recording procedures?

A: For enforcement, if your program covers statutory requirements, then you will not be cited. For recording and reporting, we need a fairly consistent set of reports from all sites, containing the same data, in the same format (with a few minor exceptions as stated above). The legislative intent is to have a complete set of data reflecting violence incidents for hospital and related settings. If you do not participate, the data will not be complete, the analysis will not be sufficient, and policy decisions will not be as sound as they could be. Basically, it is fine to have your own protocols as long as they meet statutory requirements, but we need 100% participation in the reporting phase.

Q: Does this bill only cover violence perpetrated against nurses?

A: It covers any employee who is assaulted in the workplace, including nurses, nurse's aides, EMTs, lab technicians, home health care workers, janitors, housekeeping staff, security guards (and others).

Q: Will reporting incidents lead to prosecution?

A: OR-OSHA's role is that of enforcement to workplace safety requirements, including recordkeeping and reporting. Also, to provide consultation and technical assistance as needed. Our mission is to protect workers by holding employers responsible. Any further action against perpetrators is outside of Oregon OSHA's purview.

Q: Do home care settings keep separate logs?

A: Incidents occurring at home care sites can be recorded on a separate log; they may also be recorded on a centralized log for the hospital. For either case, record the address where the event occurred, and designate 'M' in column C to indicate the home setting.

Q: My organization includes a hospital, but the home care workers are organized into a separate division. Are they covered?

A: It depends – if they are covered under the hospital's license, then they are covered by this legislation and our rules. If they are not covered under the hospital's license, they would not be subject to the new requirements. Some additional provisions apply to home care workers – the ability of employees working at a home care setting to call for a backup employee (if the patient they are about to treat has a history of violence), and possession of a 2-way communication device.

Q: A question arose from an employer: now that we have finalized our rules without the clause about reporting assault-like behavior, they asked how to determine which incidents to exclude from reporting, if those incidents do not meet the definition of *assault*.

A: While HB 2022 describes the required reporting items, it also states that the *assault record* does not need to be limited to those items. There is no requirement that you report non-assault type incidents that result in physical injury to an employee, but you are free to do so, and we welcome the additional data. Also, the assault log should be useful for your facility, so if this information is useful, feel free to include it.

Q: Which section of rules are referenced in citations?

A: Employer failure to implement a violence prevention program and training will cite statute. Failure to keep records on a health care assault log will cite OAR 437-001-0706. Oregon Revised Statutes reflecting changes (such as HB 2022) added in the 2007 Legislative Session should be available by late February.

Q: I am using the Excel version of the Health Care Assault Log, and have data to enter in a field protected by the data validation check – how do I override this?

A: You have two choices. One would be to cut data from an alternate cell, and paste into this cell – this overrides the data validation. The other method is to select the destination cell, chose Edit/Clear/Clear All from the Excel menu options. This will allow you to enter

text into the cell. If you are entering ‘O – whatever’ for an ‘Other’ section, be sure to preface your entry with the ‘O’ designation so we can correctly identify the field.

Q: Are hospital employees who transport patients covered under this law (an injury from assault occurring during transport)?

A: Yes

Q: Ambulance services, separate from a hospital, are not covered under this law, correct?

A: Correct

Q: A hospital employee is attempting to move a patient into a wheelchair when the patient involuntarily moves in a quick/reactive-type fashion. It is unknown if the patient was trying to resist. The employee strains their back while trying to control the patient? By our definition, is this classified as "assault"?

A: No. “assault” is defined as intentionally, knowingly, or recklessly causing physical injury. The description of the above event reads; “involuntarily moves in a quick/reactive-type fashion.” This event would not be considered intentional.

Q: A hospital patient takes a swing at an employee. The patient doesn't make contact but when reacting to the punch, the employee moves their head and bangs it against a wall, suffering a bruise. By our definition, is this "assault"?

A: Yes. The employee was injured while being attacked by a patient who was trying to intentionally cause physical injury.

Q: A patient, known to be a very sweet person, bites and scratches a healthcare worker when they become combative and irritated while coming out of a prescribed drug. By our definition, is this “assault”?

A: No. If the patient is administered a medication by the provider (i.e. anaesthesia) then any injury he/she causes is considered unintentional.

Q: A patient suffering dementia becomes combative for whatever reason. By our definition, is this “assault”?

A: No. Patients who become assaultive while coming out of anesthesia or suffering from dementia are not included because their actions do not meet the definition of assault.

Q: Is spitting included under bodily fluids ('BF') of Column O ("Weapon") of the healthcare assault log?

A: Yes, spitting would be included in column O as a weapon using the bodily fluid category.

Q: How can bodily fluids (i.e. throwing fluids or spitting) result in a physical injury and be appropriately marked in Column N?

A: Physical Injury is defined as "damage or harm caused to the structure or function of the body caused by an outside force, which may be physical or chemical. Bodily fluids are considered a weapon because they can cause injury or illness such as Hepatitis, HIV or TB

among other things. If this is the case and 1-4 of column N do not apply then it should be left blank.

Q: Can an assailant be a dog? For example, a home healthcare employee is attacked by a dog while at the patient's home? What if the dog was commanded to attack?

A: Both should be recorded. The main concern here is that an employee was assaulted. There is an "other" option in the reporting field "status of assailant" that would be appropriate for this situation. It would also be appropriate for the dog to be listed as the weapon in reporting field G if the owner commanded it to attack.

Q: What is a "non-assault type incident"?

A: Non-assault type incidents can include threatening interactions that do not include physical violence. In addition, it would include incidents that result in unintentional physical injury.

A common example is an employee being unintentionally injured while tending to a patient even if the patient was the cause of the injury. For example, patients often become combative due to anaesthesia or dementia and they may even cause physical injury but they lack intention to do so.

However, if someone causes physical injury while under the influence of intoxicants that incident should be recorded because of the recklessness of their behavior (remember the definition?).

Q: If coming out of anesthesia or suffering from dementia does not meet our definition of 'assault' (not intentional and/or knowingly) then why are there codes for both under Column M on the healthcare assault log?

A: Although technically facilities don't have to record this type of assaultive behavior some may choose too, so both descriptions were included.

Q: The very end of our statute [Chapter 397, Oregon Laws 2007 Sec. 10 (4)] provides us "...access to or use of information or records otherwise required or permitted...". This allows us to review the log at the worksite; identify the employees who had been assaulted; and interview them, if deemed necessary, correct?

A: Yes. HB 2022 Sec.10 (4) is basically saying that "nothing in this section restricts the director's access....under the Oregon Safe Employment Act."

So ideally we would review the log and interview several employees (including those who have been victims) to determine if the employer has complied with ORS 654.414 (1-4) including 1) done security and safety assessments 2) provided an assault prevention and protection program 3) trained employees who have been deemed high risk and 3) that the employer is keeping records of assaults.

Q: Div 1 OAR 437-001-0700(20) "Employee Involvement" allows employees, former employees, and reps access to the OSHA Form 300. Do employees not have access to the healthcare assault log since its rule [Div 1 OAR 437-001-0706(4)] doesn't reference -0700(20)? If employees do not have access to the healthcare assault log, who does?

A: You are correct that [Div 1 OAR 437-001-0706(4)] doesn't reference -0700(20). For this reason it is up to the individual facility to determine who will have access to the Healthcare Assault Log (HAL).

Q: Div 1 OAR 437-001-0700(14)(a)(G) & (H) provides for certain injuries to be considered "privacy cases" and prohibit the injured employees name to be listed on the OSHA Form 300. One of these "privacy cases" can be an injury from sexual assault.

Column L ("Assailant Action") on the healthcare assault log lists sexual assault. Because this rule is separate from the OSHA Form 300 rule, must the employee's name be listed in column H of the healthcare assault log if he/she was assaulted and injured from sexual assault? What if the employer is using the OSHA Form 300 in lieu of a separate healthcare assault log (see P.D. A-267 Q&A #1) where employees have access?

A: According to ORS 654.416 (1)(c) the employer is required to record on the HAL the name, job title and department or ward assignment of the employee who was assaulted. However, Appendix A to OAR 437-001-0706 (H) directs that the name of the employee assaulted be removed before the HAL is sent to OR-OSHA.

As mentioned in the previous answer, if a facility decides that HAL will be available to employees then a privacy case should be recorded on the HAL just as it would on the OSHA 300, using 437-001-700 (14) (g). If HAL is only available to select employees (such as those maintaining it) than the name of the employee can be put on the HAL but removed before being sent to OR-OSHA.

Q: What are the "regulatory requirements" stated in ORS 654.414(4)(a)(G)? Are these state of Oregon requirements or the facility's requirements?

A: The regulatory requirements noted in ors 654.414(4)(a)(g) pertain to the state regulations regarding the use of restraints specific to the facility. Facilities need to include in their assault prevention and protection training the use of restraints.

Q: Appendix E "Hospitals in Oregon with Home Health Care designation" in P.D. A-267 lists either a "Yes" or "No" in the far right column under "Home Health coverage." Does this mean they are licensed to offer home health services but currently don't? If not, what exactly does this indicate?

A: A "Yes" in that column would indicate they are licensed to offer home healthcare services (whether they currently do or not).

Q: Several provisions in the statute cite the following reference: [2007 c.397]. What is chapter 397 in the 2007 Oregon law?

A: Chapter 397 of the 2007 Oregon Law is the section that outlines the implementation of the healthcare assault prevention program in the Oregon Safe Employment Act.

Q: Have there been SAVES established for healthcare assault law (ORS 654.412-423) and/or recordkeeping (OAR 437-001-0706) violations?

A: **Yes, SAVES have been put in the system.**

Additional Resources

Program Directive A-267: Safety of Health Care Employees

Links at www.orosha.org: “Health care” & “Health care workplace violence assault log”

OR-OSHA Div 1 OAR 437-001-0706

ORS 654.412 to 423 “Safety of Health Care Employees”