



## **STATE WORKPLACE VIOLENCE PREVENTION LAWS OVERVIEW AND LEGISLATIVE LANGUAGE GUIDANCE**

### **Overview**

Many AFT Nurses and Health Professionals affiliates are considering passing or strengthening comprehensive workplace violence prevention laws. These are laws requiring healthcare employers to develop prevention programs in collaboration with frontline workers through a process recommended by OSHA. The laws mandate risk assessment, data evaluation, and program evaluation to reduce the frequency and severity of assaults in the workplace. Many states have also passed legislation that increases penalties for assaults against healthcare workers and or require employers to report assaults to the police.

This document outlines important provisions for comprehensive program laws—whether for a new bill or amendment to an existing law. Comprehensive laws exist in Arizona, Connecticut, Illinois, Maine, Maryland, Minnesota, New Jersey, New York, Oregon, and Washington. California has a workplace violence prevention standard enforced by Cal/OSHA. A Google folder containing statutory language, summaries, OSHA’s guidance, and requirements from CMS and the Joint Commission is here: [Code Red State WPV Legislation Resources - Google Drive](#). Examples of contract language, site assessment checklists, and other resources will be added as well.

In states with a challenging legislative environment, affiliates may want to consider an incremental approach. For example, the Montana Nurses Association achieved a state law that requires all workplace violence incidents to be reported. Data collection over five years will be used to demonstrate the need for a comprehensive prevention program law. The Ohio Nurses Association won a law requiring hospitals to post warnings regarding violent behaviors.

We recommend that a comprehensive workplace violence prevention law:

- Compels healthcare employers to develop and implement a prevention program through a labor management committee.
- Defines workplace violence.
- Requires equal representation of nonmanagerial and managerial representatives on the committee and to provide for shared governance.
- Empowers the committee to collect and analyze data, conduct site inspections and root cause analysis, develop site-specific solutions, and regularly reevaluate the program.

- Is based on OSHA’s Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers, the Joint Commission Standard and CMS rule.
- Requires hands on training for all staff and may include additional training for high risk staff.
- Includes enforcement provisions and whistleblower protection.

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## **Enforcement**

### **Which state agency will enforce the law and do they have the capacity to do so?**

Does your state have an OSHA plan (state agency)?

- If yes, an OSHA plan is generally the best equipped to enforce occupational safety laws and standards.
  - Does it cover public and private sector workers? (AK, WA, OR, MI, MD, VT)
    - If yes, consider drafting a bill that would be enforced by the state OSHA as a law or as a standard.
    - State OSHA plans in Connecticut, New Jersey, and New York only cover public sector employees and private sector workers are covered by federal OSHA. As a result, the workplace violence laws in Connecticut and New Jersey are enforced by the state health departments and cover all healthcare workers. New York's law covers public sector workers only.
- If there is no state OSHA, the alternative is the state health department or the entity that licenses hospitals and other healthcare facilities.
  - Consider the capacity of the agency and your history with it. Will the agency enforce the law with its existing staff and budget?
  - Does it make sense to meet with the agency to discuss this?
  - Does it make sense to request additional funds for the agency to enforce the law?
  - Consider that the state agency will oversee other state employers or its subsidiaries.

### **Enforcement mechanisms should be included in the law.**

- The law should prohibit retaliation against workers for reporting incidents of workplace violence and for reporting violations of the law. Employees and contractors should be informed that they have whistleblower protection.
- The enforcing agency must have authority to:
  - Demand records from employers (requiring annual reporting to the agency is also an option).
  - Receive complaints, conduct investigations and inspections.
  - Cite employers for violations. Referencing existing statutory language on fines for citations may be helpful.

### **Example: New Jersey**

#### **N.J.A.C. 8:43E-11.14 Prohibition of retaliatory action**

**(a)** As used in this section, "retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, in accordance with section 2 of P.L. 1986, c. 105 (N.J.S.A. 34:19-2).

**(b)** A covered facility shall not take any retaliatory action against any health care worker for reporting violent incidents.

### **N.J.A.C. 8:43E-11.15 Enforcement and penalties**

A covered facility licensed pursuant to N.J.S.A. 26:2H-1 et seq. that is in violation of the provisions of this subchapter shall be subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.

### **Coverage**

**If the law will be enforced by the agency that licenses healthcare employers, does that agency cover all healthcare settings?** Check to see if that agency would be able to enforce the law for any workers you want to be covered, including:

- Hospitals, including general, specialty, and psychiatric hospitals
- Home healthcare agencies and home care agencies
- Long term care facilities (nursing homes and assisted living facilities may be licensed differently)
- Ambulatory surgical centers
- Community health clinics
- Outpatient mental health clinics
- Congregate living facilities—group homes, institutional care homes
- Drug treatment centers-inpatient and outpatient.

**Do you want to seek coverage for healthcare workers only? Workplace violence is a significant hazard in social services as well.**

- Do you represent caseworkers, social workers, etc.?
- Does it make sense to ally with other AFT federations that represent public employees, other unions, or organizations that represent social service workers? Will this make passing a law easier or harder?

### **Example: Washington**

Sec. 1. RCW 49.19.010 and 2007 c 414 s 3 and 2007 c 375 s 10 are each reenacted and amended to read as follows: For purposes of this chapter: (1) "Health care setting" means: (a) Hospitals as defined in RCW 70.41.020; (b) Home health, hospice, and home care agencies under chapter 70.127 RCW, subject to RCW 49.19.070; (c) Evaluation and treatment facilities as defined in RCW 71.05.020; ((and)) (d) ((Community mental))Behavioral health programs as defined in RCW 71.24.025; and (e) Ambulatory surgical facilities as defined in RCW 70.230.010. (2) "Department" means the department of labor and industries. (3) "Employee" means an employee as defined in RCW 49.17.020.

## **Workplace Violence Defined**

Workplace violence should be statutorily defined so that employers cannot define it themselves to limit the scope of the prevention program. We recommend using a definition from NIOSH, OSHA, or the Joint Commission. All of these respected sources provide a broad definition that includes threats, which should be taken seriously as part of an effective program to reduce the risk and severity of workplace assaults.

- *NIOSH defines workplace violence as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty.* CDC/NIOSH, “Violence: Occupational Hazards in Hospitals,” 2002 [Violence\\_10-03 \(cdc.gov\)](#) OSHA uses this definition in their guidance.
- *Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide.* [Workplace Violence - Overview | Occupational Safety and Health Administration \(osha.gov\)](#)
- *“An act or threat occurring at the workplace that can include any of the following: verbal, nonverbal, written, or physical aggression; threatening, intimidating, harassing, or humiliating words or actions; bullying; sabotage; sexual harassment; physical assaults; or other behaviors of concern involving staff, licensed practitioners, patients, or visitors.”* [R3 Report Issue 30: Workplace Violence Prevention Standards | The Joint Commission](#)

A workplace violence prevention program should seek to reduce the risk of violence; the goal is not to place blame on perpetrators or hold them accountable. The law and definition should not exclude assaults committed by people who are impaired due to mental illness, substance use, dementia, or other disabilities. Many people who threaten or assault healthcare workers will not be prosecuted due to their mental status. It is in everyone’s interest to define workplace violence broadly so that data is collected, analyzed, and used to prevent future violent incidents.

Patients’ rights advocates may organize against workplace violence bills due to the perception that people with mental illness or intellectual disability will be penalized. But reducing the risk of violence in healthcare (and social service settings) benefits patients or residents as well as staff. Although a comprehensive program will not eliminate all workplace violence, it should begin to reduce the number of incidents and the severity the assaults that do occur. Patients or residents are also safer when preventative solutions are put into place, such as improved staffing, access to communications devices, and better trained staff.

**Example: California**

**California Code of Regulations, Title 8, Section 3342. Violence Prevention in Health Care.**

“Workplace violence” means any act of violence or threat of violence that occurs at the work site.

The term workplace violence shall not include lawful acts of self-defense or defense of others.

Workplace violence includes the following:

(A) The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury;

(B) An incident involving the threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.

## **The Labor-Management Committee and Employee Involvement**

The law should assign responsibility for the development, implementation, and ongoing evaluation of a comprehensive workplace violence prevention program (described below) to the labor-management committee. It is important to establish the committee's responsibility to be actively involved in these activities so that the employer cannot claim they have the sole authority to conduct them. Some state legislatures may only allow labor-management committees to make recommendations.

The language should also prevent the employer from simply holding open meetings for any interested staff and labeling that the workplace violence prevention committee. The Cal/OSHA standard and the Arizona law require the employer to designate the manager responsible for the program.

### **Language SHOULD include:**

- Equal representation between frontline employees and managerial staff.
- Where there is a collective bargaining agent or agents, the union or unions select(s) the worker representatives and alternates.
- The committee members shall be responsible for assessment, implementation and evaluation of the program. This includes:
  - Conducting site assessments and root cause analysis of incidents. (A subcommittee could be assigned to meet more regularly for these duties.)
  - Access to records of workplace violence incidents and training.
    - Records shall be provided in accordance with OSHA's recordkeeping rule regarding identifying information and timely access.<sup>1</sup> Committee members shall be afforded access to records and identifying information to conduct the work of the committee, but identifying information will be kept confidential.
- The committee meets at least quarterly or as needed (but monthly meetings are preferable).
- Meeting minutes shall be made available to employees.

### **Language COULD also include:**

- The committee shall be co-chaired by a managerial representative and a non-managerial representative (or have rotating chairs).
- All members of the committee will receive training on the state law, OSHA guidance, CMS rule, and Joint Commission standard, as well as other relevant information.

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<sup>1</sup> Under the OSHA Recordkeeping rule (1904.35(b)(2)), the employer must provide copies of the OSHA 300 log and the OSHA 301 form (or equivalent incident report) to employees, collective bargaining agents, former employees, and personal representatives. Names must not be redacted on the 300 log, except in privacy cases, defined in 1904.29(b)(6-9). Collective bargaining agents are only entitled to descriptive information recorded under "Tell us about the case" in the OSHA 301 form or equivalent incident report. [1904.35 - Employee involvement. | Occupational Safety and Health Administration \(osha.gov\)](https://www.osha-slc.gov/1904.35-employee-involvement-occupational-safety-and-health-administration)

- An existing labor-management safety committee could be assigned these duties provided that the committee meets these requirements.
- For hospital systems or other multi-site employers, it is important that each workplace has a functioning labor-management committee with at least equal representation between the parties, even if the employer creates one workplace violence prevention program or has a system-wide health and safety committee.

**Language that is more likely to be achieved in a collective bargaining agreement:**

- The employer ensures staffing backfill to allow committee members to attend the meetings.
- Committee members fulfil renewable yearly terms. (This language helps to prevent the employer from making the committee an open call meeting).

**Example: Connecticut**

(underlined language following strike throughs represent improvements that AFT CT is seeking)

A health care employer's workplace safety committee shall be composed of representatives from the administration; physician, nursing and other direct patient care staff; security personnel; and any other staff deemed appropriate by the health care employer. Not less than fifty per cent of the committee membership shall be composed of non-management employees. The committee shall select ~~a chairperson~~ two cochairs from among its membership, one of whom shall be selected by the non-management members of the committee. In an organization represented by a union, the union will select this cochair. The committee shall meet not less than ~~quarterly~~ bi-monthly and shall make available meeting minutes and other records from its proceedings to all employees.

**Washington**

Sec. 2. RCW 49.19.020 and 1999 c 377 s 3 are each amended to read as follows: (1) Every three years, each health care setting shall develop and implement a plan to (prevent and protect employees from violence at the setting. In a health care setting with a safety committee established pursuant to RCW 49.17.050 and related rules, or workplace violence committee that is comprised of employee-elected and employer-selected members where the number of employee selected members equal or exceed the number of employer-selected members, that committee shall develop, implement, and monitor progress on the plan.

## **The Workplace Violence Prevention Program**

A workplace violence prevention program should be based on a comprehensive risk assessment for the facility or operation. It is helpful for the law to reference or require adherence OSHA's Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers.<sup>2</sup> Some employers in states with existing laws have implemented programs without understanding OSHA's recommendations. The program should also meet the requirements of the CMS rule and Joint Commission Standard, which require risk assessment, data analysis, and mitigations, but do not require worker engagement.<sup>3 4</sup>

The program shall be written, available to all employees, and provided to the enforcing agency upon demand. Critical program elements are listed below.

### **Regular Risk Assessment and Program Evaluation**

- The committee shall conduct a risk assessment for the facility or operation, including parking areas and locations where employees and contractors conduct work duties.
- The committee shall evaluate and update the program **at least annually** and as needed following significant incidents of violence.
- Sources for the assessment include, but are not limited to:
  - OSHA 300 logs and OSHA 301 forms (or other incident reports)
  - Existing reports logs of violent incidents, including those generated from the incident reporting system and the security department's records.
  - Police reports
  - Workers' compensation records
  - **Staffing records (where this is possible)**
  - Employee surveys
- Site assessments/inspections should be conducted in all parts of the facility at least annually and following severe incidents. The OSHA guidelines provide examples of checklists for site inspections.
- Facility design, the surrounding community, and population served can also be included in the risk assessment.

### **Example: Oregon ORS 654.412 to 654.423**

(2) An assessment conducted under subsection (1)(a) of this section shall include, but need not be limited to:

(a) A measure of the frequency of assaults committed against employees that occur on the premises of a health care employer or in the home of a patient receiving home health care services

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<sup>2</sup> [Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers \(osha.gov\)](https://www.osha-slc.gov/sites/default/files/2017-05/OSHA-3092-Workplace-Violence-Guidelines-for-Health-Care-and-Social-Service-Workers.pdf)

<sup>3</sup> [QSO-22-XX1-Hospitals.docx \(cms.gov\)](#)

<sup>4</sup> [R3 Report Issue 30: Workplace Violence Prevention Standards | The Joint Commission](#)

during the preceding five years or for the years that records are available if fewer than five years of records are available; and

(b) An identification of the causes and consequences of assaults against employees.

(3) An assault prevention and protection program developed and implemented by a health care employer under subsection (1)(b) of this section shall be based on an assessment conducted under subsection (1)(a) of this section and shall address security considerations related to the following:

(a) Physical attributes of the health care setting.

(b) Staffing plans, including security staffing.

(c) Personnel policies.

(d) First aid and emergency procedures.

(e) Procedures for reporting assaults; and

(f) Education and training for employees.

## Reporting System

- The employer shall develop a system for reporting all incidents of workplace violence, including threats, near misses, and assaults that do not result in serious injury. An existing data collection system may be utilized provided the following requirements are met.
- Employees shall be trained to report all incidents and why it is important. Retaliation for reporting incidents of workplace violence is forbidden.
- The reporting form shall capture:
  - Date, time and specific location of the incident.
  - Whether the victim(s) is staff, a patient, a visitor, or other.
  - The name, job title, unit assignment, and staff ID or social security number of the victim(s) if staff.
  - A description of the type of threat or attack, detailing the acuity of the assault and body parts injured.
  - A description of any weapon used.
  - The number of employees in the vicinity at the time of the attack.
  - A description of the actions taken by employees and the employer.
- The employer shall maintain these records for a minimum of five years. (OSHA's recordkeeping rule requires employers to keep 300 logs and incident forms for five years. Having years of data provides more information on injury trends over time.)

### **Example: Washington Sec. 4. RCW 49.19.040**

Each health care setting shall keep a record of any violent act against an employee, a patient, or a visitor occurring at the setting. Each record shall be kept for at least five years following the act reported, during which time it shall be available for inspection by the department upon request. At a minimum, the record shall include:

- (1) The health care setting's name and address;
- (2) The date, time, and specific location at the health care setting where the act occurred;
- (3) The name, job title, department or ward assignment, and staff identification or social security number of the victim if an employee;
- (4) A description of the person against whom the act was committed as:
  - (a) A patient
  - (b) A visitor
  - (c) An employee or
  - (d) Other
- (5) A description of the person committing the act as:
  - (a) A patient
  - (b) A visitor
  - (c) An employee or
  - (d) Other

- (6) A description of the type of violent act as a:
  - (a) Threat of assault with no physical contact.
  - (b) Physical assault with contact but no physical injury.
  - (c) Physical assault with mild soreness, surface abrasions, scratches, or small bruises.
  - (d) Physical assault with major soreness, cuts, or large bruises.
  - (e) Physical assault with severe lacerations, a bone fracture, or a head injury; or
  - (f) Physical assault with loss of limb or death.
- (7) An identification of any body part injured.
- (8) A description of any weapon used.
- (9) The number of employees in the vicinity of the act when it occurred; and
- (10) A description of actions taken by employees and the health care setting in response to the act.

## **Implementation of Site Specific Solutions**

- The committee shall use the information from the records and inspections to develop solutions that are appropriate for the location and the setting. This is to avoid blanket responses that may not effectively address the problem, such as suggesting that all employees wear panic buttons at all times.
- For a multi-site employer or hospital system that has one workplace violence prevention program for all locations, the program must still provide solutions that are specific to each site's needs.
- It is helpful for the law to cite the hierarchy of controls, a framework for evaluating the effectiveness of solutions (controls) from most to least effective. The OSHA guidance provides many examples of controls. The most commonly used controls to address workplace violence include:
  - Engineering controls that either provide a barrier between the source of violence and the worker, such as locking doors or plexiglass barriers, or use technology, like video monitoring or communications devices.
  - Administrative or work practice controls, which are policies and procedures to reduce the risk of violence. For example, this can include requirements for security staff to be present in the emergency department at all times, red flag systems for patients with a history of violent behavior, and training. Training is one of the most important controls for violence prevention.
  - Personal Protective Equipment (PPE) may be used in some cases, but it is the least effective control to protect workers from violence. It includes face shields to protect against spitting, long sleeves to protect skin, and plexiglass shields.

### **Example: New York 12 NYCRR PART 800(g)(2)**

The workplace violence prevention program shall include the following:

- (i) A list of the risk factors identified in the workplace examination.
- (ii) (ii) The methods the employer will use to prevent the incidence of workplace violence incidents.
- (iii) (iii) A hierarchy of controls to which the program shall adhere as follows: engineering controls, work practice controls, and finally personal protective equipment.
- (iv) (iv) The methods and means by which the employer shall address each specific hazard identified in the workplace evaluation.

## **Training**

Training is likely the most effective and the most expensive control to reduce the risk workplace violence. All employees and contractors should receive training. At minimum, this includes knowing the risks associated with their job, knowing how and why to report all incidents of violence, and how to access the workplace violence prevention program. Managers should be educated to recognize risk, know their role in carrying out the program to reduce the risk of violence, and how to support their staff.

All staff who come into contact with patients and visitors need training that meets the needs of their job. Risk of assault is frequently correlated to proximity to patients. The risk assessment should be used to identify training needs for all frontline staff. While the data analysis may show that violence happens most frequently in the emergency department and behavioral units, serious assaults can and do happen in all parts of a facility. Home health staff are at a particular disadvantage because they work alone most of the time.

Training should not be limited to computer-based learning. It must be interactive and hands on, with opportunities to role play, practice skills, and ask questions from a live trainer. Basic requirements for the law include:

- Training within a reasonable period after hire and on an annual basis thereafter.
- Training on the prevention program, policies and procedures, and how to access the program.
- Understanding the state law.
- How to report incidents using the facility's reporting system and why it is important.
- Whistleblower protection for reporting incidents and violations of the program or law.
- Identifying risk factors and escalating behaviors.
- De-escalation techniques.
- Strategies to prevent physical harm with hands-on practice or role play.
- Response team processes.
- Proper application and use of physical and chemical restraints.
- The protocol and resources available to employees following an incident.

### **Example: Oregon ORS 654.414(4)(a)**

(4)(a) Assault prevention and protection training required under subsection (1)(c) of this section shall address the following topics:

- (A) General safety and personal safety procedures;
- (B) Escalation cycles for assaultive behaviors;
- (C) Factors that predict assaultive behaviors;
- (D) Techniques for obtaining medical history from a patient with assaultive behavior;
- (E) Verbal and physical techniques to de-escalate and minimize assaultive behaviors;
- (F) Strategies for avoiding physical harm and minimizing use of restraints;

(G) Restraint techniques consistent with regulatory requirements;

(H) Self-defense, including:

(i) The amount of physical force that is reasonably necessary to protect the employee or a third person from assault; and

(ii) The use of least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, and any other methods of response approved by the health care employer;

(I) Procedures for documenting and reporting incidents involving assaultive behaviors;

(J) Programs for post-incident counseling and follow-up;

(K) Resources available to employees for coping with assaults; and

(L) The health care employer's workplace assault prevention and protection program.

(b) A health care employer shall provide assault prevention and protection training to a new employee within 90 days of the employee's initial hiring date.

(c) A health care employer may use classes, video recordings, brochures, verbal or written training or other training that the employer determines to be appropriate, based on an employee's job duties, under the assault prevention and protection program developed by the employer.

### **Workplace Violence Response Protocol and Assistance to Victims**

The workplace violence prevention program should include a standard protocol to follow after an incident occurs. The protocol should detail the necessary responses by the employer and employee, ranging from reporting requirements for minor incidents to the multiple steps to take following a severe assault. This is to ensure that workers are relieved from work duties as needed and receive adequate medical care when they are injured.

The requirements for the response protocol could be included in legislation or be left for the committee to address. Response protocols could include:

- Mental health support for affected staff.
- Requirements for the employer to report the incident to the police and/or support for staff to press charges.
- Debriefing for all staff who were involved.
- Information gathering for root cause analysis.
- Follow up support for injured staff during recovery.

### **Example: New Jersey 8:43E-11.13 Post-incident response**

(a) The covered facility shall ensure that prompt and appropriate medical care is provided to health care workers injured during an incident.

(b) The covered facility shall establish a post-incident response system.

1. The covered facility shall provide, at a minimum, an in-house crisis response team for employee-victims and their co-workers, and individual and group crisis counseling, which may include support groups, family crisis intervention and professional referrals as indicated in the violence prevention plan.

(c) The covered facility shall ensure that provisions for medical confidentiality and protection from discrimination shall be included in facility policies and procedures to prevent victims from suffering further loss.

**Connecticut Sec. 19a-490s**

**Health care employer: Report of assault or related offense to local law enforcement agency.**

Except as provided in this section, a health care employer shall report to such employer's local law enforcement agency any act which may constitute an assault or related offense, as described in part V of chapter 952, against a health care employee acting in the performance of his or her duties. A health care employer shall make such report not later than twenty-four hours after the occurrence of the act. The health care employer shall provide the names and addresses of those involved with such act to the local law enforcement agency. A health care employer shall not be required to report any act which may constitute assault or a related offense if the act was committed by a person with a disability as described in subdivision (13), (15) or (20) of section 46a-51 whose conduct is a clear and direct manifestation of the disability.

**Right to Refuse Unsafe Assignment**

The Oregon Nurses succeeded in strengthening the language in the original law in their state. Connecticut AFT is seeking improvement in their state law.

**Example: Oregon ORS 654.418**

**Protection of employee of health care employer after assault by patient.** If a health care employer directs an employee who has been assaulted by a patient on the premises of the health care employer to provide further treatment to the patient, the employee may request that a second employee accompany the employee when treating the patient. If the health care employer declines the employee's request, the health care employer may not require the employee to treat the patient. [2007 c.397 §5]

Example: Connecticut Sec. 19a-490q(2)(e)

(e) A health care employer shall, ~~to the extent practicable,~~ adjust patient care assignments so that no health care employee who requests an adjustment to his or her patient care assignment is required to treat or provide services to a patient who the employer knows to have intentionally physically abused or threatened the employee. When adjusting patient care assignments, a health care employer shall give due consideration to the employer's obligation to meet the needs of all patients. ~~Patient behavior that is a direct manifestation of the patient's condition or disability, including physical abuse or threatening behavior, shall not be considered intentional physical abuse or threatening of an employee.~~ In situations where a health care employer has determined that an adjustment to a health care employee's patient care assignment is not practicable, ~~any health care employee who has been physically abused or threatened by a patient may request~~ of the employer will assure that a second health care employee be present when treating such patient.