

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services/Oregon OSHA

Agency and Division

OAR 437

Administrative Rules Chapter Number

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RULE CAPTION

Propose changes to Division 1, General Administrative Rules, with House Bill 2022.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

		Labor & Industries Building 350 Winter Street NE Basement – Conference Room F Salem OR 97301	
<u>November 27, 2007</u>	<u>9:00 AM</u>		<u>Sue Joye</u>
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

ADOPT: OAR 437-001-0706

AMEND: OAR 437-001-0700, 437-001-0740

ORS 654.025(2) and 656.726(4)

Stat. Auth.

Other Authority

ORS 654.001 through 654.295

Stats. Implemented

RULE SUMMARY

This new rule, OAR 437-001-0706, Recordkeeping for Health Care Assaults, implements the recordkeeping requirements of HB 2022 (ORS 654.001 to 654.295) specific to assaults against employees working for health care employers, and additional recordkeeping requirements for capturing assault-like incidents at health care employers worksites.

Health care employers are defined as hospitals and ambulatory surgical centers, and includes home health care services provided by them. The details for recording each incident are specified, as well as a mandatory reporting form, and category codes used to complete the form.

Reports must be submitted to the Department of Consumer and Business Services by January 31, 2009 - specific means for reporting are specified in the rule.

OAR 437-001-0700 Recordkeeping and Reporting, is amended to include a cross-reference to this new rule in the section titled Forms.

OAR 437-001-0740 Falsification or Failure to Keep and Post Records or Make Reports, is amended to include penalties for failure to keep these records.

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Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services/OR-OSHA
Agency and Division

OAR 437
Administrative Rules Chapter Number

In the Matter of: Adopting OAR 437-001-0706; and amending 437-001-0700 and 437-001-0740.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
Propose changes to Division 1, General Administrative Rules, with House Bill 2022.

Statutory Authority: ORS 654.025(2) and 656.726(4)

Stats. Implemented: ORS 654.001 through 654.295

Need for the Rule(s):

To implement the requirements of House Bill 2022 passed by the 2007 Oregon Legislature, and additional requirements for capturing assault-like incidents.

Documents Relied Upon, and where they are available:

House Bill 2022 <http://www.leg.state.or.us/07reg/measpdf/hb2000.dir/hb2022.en.pdf>
OAR 437-001, Division 1 http://www.cbs.state.or.us/osha/rules_laws.html

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The largest impact in the new recordkeeping requirements will be for staff **training**. Employers affected by this bill can be segmented into 2 groups, hospitals and ambulatory surgical centers. This fiscal impact deals only with costs associated with the recordkeeping requirements.

The first group is hospitals. Staff size ranges from 50-99 to 1000+ for the larger hospitals (source: 2004 data – Employment Department, OLMIS, using NAICS 622).

Assuming each hospital trains 5-10 individuals to perform incident recording, and requires a 4-hour training session based on an average loaded salary of \$40/hour. Training costs will range from \$800 (for hospitals with 50-999 employees) to \$1,600 (for the largest hospitals in the state, with 1000+ employees).

The second group impacted by the bill will be the ambulatory surgical centers. These range in size from very small (1-4 employees), to a few larger centers with up to 450 employees. Many have 10-19 employees. Taking an average of 2 employees per site, using the loaded \$40/hour wage, and allowing 4 hours for training on the new recordkeeping requirements, yields an average cost of \$320 per employer for training costs.

Recording costs will vary depending on the type of facility and the types of patients they service. Facilities that deal with psychiatric patients will likely experience more assaults and hence have higher recordkeeping costs. The cost for recordkeeping is small compared to initial training costs.

Federal OSHA estimates that each entry on an OSHA 300 Log takes approximately 14 minutes. Given the complexities of data that go onto the 300 Log, in contrast, the data required on the Health Care Assault Log can be reported immediately following an assault incident. Category codes are documented in the instructions, and no calculations are required. Using an estimate of 5 minutes per incident, we then need to determine the average number of incidents per facility.

A study prepared by the New Jersey Department of Health and Senior Services, entitled "Workplace Violence and Prevention in New Jersey Hospital Emergency Departments" provides some data. The publication cites data from the National Crime Victimization Survey that was conducted from 1992 to 1996, which shows an annual rate of 24.8 victimizations per 1000 nurses, and 16 assault injuries per 100 psychiatric nurses.

Using an average of 762 employees per hospital, the rate of 25 assaults per 1000 employees, over 60 hospitals in the state, provides an average of 19 assaults per facility. Using the \$40/hour wage and 5 minutes to record each incident, the average cost per hospital facility for recording is \$63/year. The cost for ambulatory surgical centers, given their smaller staffing and fewer incidents, is negligible (on average less than one incident per year).

The subset of hospitals that have psychiatric patients will experience a higher rate of assaults. Using the rate of 16 assault injuries per 100 psychiatric nurses, a facility such as the Oregon State Hospital, with approximately 200 psychiatric nurses, may experience 32 assaults per year. Higher than average, but at \$40/hour and 5 minutes recording time per incident, this amounts to \$106 for recording, on an annual basis.

How were small businesses involved in the development of this rule?

Outreach to small hospitals throughout Oregon, several of whom participated in stakeholder meetings.
Outreach to various ambulatory surgical centers in the state.

**Administrative Rule Advisory Committee consulted? Yes.
If not, why?**

A stakeholder group composed of representatives from affected employer and employee groups – Oregon Nurses Association, Oregon Association of Hospitals and Health Systems, DHS/Oregon State Hospital, Providence Medical Systems, AFSCME, Home Health Care Association, PeaceHealth, OHSU, Lake Health District, Bay Area Hospital, SEIU, and others was involved in rule formulation and drafting requirements for the reporting form, including the category codes used in reporting.

/s/Michael D. Wood
Authorized Signer

Michael D. Wood
Printed name

10/5/07
Date