

Senate Bill 1594

Sponsored by Senator GORSEK, Representatives RUIZ, HARTMAN; Senators CAMPOS, DEMBROW, JAMA, LIEBER, MEEK, PATTERSON, PROZANSKI, TAYLOR, WEBER, WOODS, Representatives CHAICHI, EVANS, FAHEY, HUDSON, NELSON, NGUYEN D, WALTERS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires each person who runs a place that provides mental health care and substance use care to have a safety plan to protect the person's workers. The Act sets out how a safety plan must be created and requires a person to submit the safety plan to OHA by a certain date. The Act puts civil penalties on persons who do not have safety plans, who do not submit the plans to OHA by the due date or who fail to comply with the safety plans.

The Act creates a program in which OHA pays persons who run places that provide mental health care or substance use care so that the persons can provide their workers with on-the-job training or other types of training. (Flesch Readability Score: 61.4).

Requires a behavioral health care facility to have in place a safety plan to ensure the safety of the employees of the facility. Specifies procedures for creating the safety plan that include involving the exclusive representative of any employees who are in a collective bargaining unit. Requires behavioral health facilities to submit safety plans to the Oregon Health Authority by September 1, 2025, and every two years thereafter.

Requires the authority to establish a process for individuals to file a complaint regarding a violation of a safety plan and allows the authority to audit a facility for compliance with a facility's safety plan.

Authorizes the authority to impose specified civil penalties.

Establishes the United We Heal Medicaid Payment Program in the authority to make payments to behavioral health facilities to offer apprenticeship and training opportunities to their employee behavioral health providers.

A BILL FOR AN ACT

1
2 Relating to behavioral health providers.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section, "behavioral health care facility" includes any of**
5 **the following that primarily provide care or treatment to individuals with behavioral health**
6 **disorders:**

7 (a) **Residential treatment facilities as defined in ORS 443.400;**

8 (b) **Secure residential treatment facilities as described in ORS 443.465;**

9 (c) **Health care facilities as defined in ORS 442.015;**

10 (d) **Sobering facilities, detoxification centers and halfway houses as those terms are de-**
11 **finied in ORS 430.306; or**

12 (e) **Other facilities prescribed by rule by the Oregon Health Authority.**

13 (2) **A behavioral health care facility must have in place a safety plan to ensure the safety**
14 **of the employees of the facility from harm caused by clients of the facility. A safety plan:**

15 (a) **May include staff training in mental health awareness, substance use and addiction,**
16 **crisis intervention and de-escalation, patient acuity assessments or trauma-informed care;**

17 (b) **Must include safe staffing ratios for employees in each department of the facility who**
18 **engage directly with clients;**

19 (c) **Must take into account client acuity; and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) May include but is not limited to:

2 (A) Proper internal communication procedures;

3 (B) Procedures restricting access to high-risk areas such as roofs or balconies and lim-
4 iting the access of clients to objects that could be used to injure oneself or others such as
5 knives, sharp glass, scissors or certain types of medication; or

6 (C) Procedures restricting client access to staff.

7 (3) A facility's management must submit the safety plan to the authority by September
8 1 and every two years thereafter.

9 (4) If any employee of a behavioral health care facility is included within a collective
10 bargaining unit, the management of the behavioral health care facility shall:

11 (a) Provide the management's proposed safety plan to and solicit feedback from the labor
12 organization that is the exclusive representative of the collective bargaining unit.

13 (b) Give the exclusive representative of the collective bargaining unit 60 days from re-
14 ceipt of the proposed safety plan to provide feedback.

15 (c) Submit the final safety plan to the exclusive representative of the collective bargain-
16 ing unit to submit to the employees within the collective bargaining unit for approval by a
17 majority vote. The collective bargaining unit must approve or reject the safety plan no later
18 than 30 days after receipt of the plan from management.

19 (5) If a collective bargaining unit fails to approve a safety plan by a majority vote, the
20 exclusive representative of the collective bargaining unit may submit an alternative safety
21 plan no later than 60 days after the date the plan was rejected. The management of the be-
22 havioral health care facility shall submit to the authority the final safety plan proposed by
23 the management and the alternative safety plan proposed by the exclusive representative of
24 the collective bargaining unit. The authority may modify the management's final safety plan
25 based on the feedback from the exclusive representative of the collective bargaining unit or
26 based on best practices.

27 (6) If the management of the facility fails to submit a safety plan or submits a safety plan
28 to the authority 90 days or more after the September 1 deadline, the employees within the
29 collective bargaining unit may develop and adopt a safety plan for the facility.

30 (7)(a) The authority shall maintain a process for a behavioral health care facility staff
31 person or an exclusive representative of the staff person's collective bargaining unit to sub-
32 mit a complaint to the authority through the authority's website, anonymously if the
33 complainant so chooses, alleging a violation of the facility's safety plan.

34 (b) No later than 14 days after receiving a complaint, the authority shall send a copy of
35 the complaint to the exclusive representative, if any, of the complainant's or complainants'
36 collective bargaining unit.

37 (c) No later than 30 days after receiving a complaint of a violation of a facility's safety
38 plan, the authority shall open an investigation of the facility and provide a notice of the in-
39 vestigation to the facility, the complainant or the complainants and the exclusive represen-
40 tative, if any, of the complainant or complainants. The notice must include a summary of the
41 complaint that does not include a complainant's name or the specific date, shift or unit, but
42 does include the calendar week, in which the complaint arose.

43 (d) No later than 90 days after opening the investigation, the authority shall conclude the
44 investigation and provide a written report on the complaint to the facility, the complainant
45 or complainants and the exclusive representative, if any, of the complainant or complainants.

1 **The report:**

2 (A) Shall include a summary of the complaint;

3 (B) Shall include the nature of the alleged violation or violations;

4 (C) Shall include the authority's findings and factual bases for the findings;

5 (D) Shall include any other information the authority determines is appropriate to in-
6 clude in the report; and

7 (E) May not include the name of any complainant, the name of any patient or the names
8 of any individuals that the authority interviewed in investigating the complaint.

9 (e) If the authority issues a warning or imposes one or more civil penalties based on the
10 report described in paragraph (d) of this subsection, the authority shall provide a notice of
11 the civil penalty to the facility, the complainant or complainants and the exclusive repre-
12 sentative, if any, of the complainant or complainants. The notice must comply with ORS
13 183.415 and 183.745.

14 (f) In determining whether to impose a civil penalty under section 2 of this 2024 Act, the
15 authority shall consider all relevant evidence, including but not limited to witness testimony,
16 written documents and the observations of the investigator.

17 (8) The authority shall maintain a database of all safety plans and make them available
18 to the public.

19 (9) The authority shall track any trends of violations in behavioral health care facilities
20 that are found by the Occupational Safety and Health Division of the Department of Con-
21 sumer and Business Services to identify root causes of incidents and develop harm reduction
22 strategies. The authority shall periodically report on its findings under this subsection and
23 make its reports publicly available.

24 (10) The authority may audit a behavioral health care facility for the purpose of ensuring
25 that the facility meets rules and standards for the safety of behavioral health care facility
26 staff.

27 **SECTION 2.** (1) The Oregon Health Authority shall impose a civil penalty in accordance
28 with ORS 183.745 on a behavioral health care facility, as defined in section 1 of this 2024 Act,
29 that demonstrates a pattern of failing to comply with section 1 of this 2024 Act.

30 (2) If the management of a facility fails to submit a safety plan to the authority by the
31 September 1 deadline, the authority may impose a civil penalty of:

32 (a) \$250 for submitting a safety plan to the authority 30 to 59 days after the September
33 1 deadline;

34 (b) \$500 for submitting a safety plan to authority 60 to 89 days after the September 1
35 deadline; and

36 (c) \$750 for submitting a safety plan 90 days or more after the September 1 deadline.

37 (3) If the management of a facility fails to submit a safety plan to the authority more
38 than 90 days after the September 1 deadline, the penalties shall increase by \$250 every 30
39 days unless the employees of the facility are in a collective bargaining unit and the bargain-
40 ing unit adopts a safety plan for the facility in accordance with section 1 (6) of this 2024 Act.

41 (4) If a behavioral health care facility fails to comply with an element of the facility's
42 safety plan, the authority shall issue a warning for the first violation and may impose a civil
43 penalty of:

44 (a) \$250 for the second violation;

45 (b) \$500 for the third violation; and

1 (c) \$1000 for the fourth and each subsequent violation.

2 **SECTION 3.** (1) The United We Heal Medicaid Payment Program is established in the
3 Oregon Health Authority. The goal of the program is to increase the available behavioral
4 health care workforce in this state. The authority shall provide payments to employers of
5 behavioral health care providers to enable the employers to offer the providers enhanced
6 apprenticeship and training programs and opportunities.

7 (2) The authority shall prescribe by rule eligibility criteria for receiving the payments
8 consistent with the goal of the program expressed in subsection (1) of this section.

9 (3) To participate in the program, an employer must enter into a memorandum of
10 understanding with the authority specifying how the payments will be used. The authority
11 shall terminate payments if the employer fails to abide by or violates the terms of the
12 memorandum of understanding. An employer may request a contested case proceeding to
13 challenge a termination.

14 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-
15 ated to the Oregon Health Authority for the biennium ending June 30, 2025, out of the Gen-
16 eral Fund, the amount of \$4,700,000, which may be expended for carrying out section 3 of this
17 2024 Act.

18