

Maine Medical Association

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October 12, 2022

RE: Task Force to Study the Process for Bringing Criminal Cases in Situations of Violence Against Health Care Workers

Please find the following information, as requested from the Task Force, during the Tuesday, September 27, 2022, meeting.

American College of Emergency Physicians Survey

An [August 2022 survey](#) of emergency physicians from the American College of Emergency Physicians (ACEP) shows that violence in the emergency department (ED) is on the rise and is increasing rates of health care worker burnout and harming patient care.

85% of emergency physicians believe the rate of violence experienced in emergency departments has increased over the [past five years](#), with 45% indicating it has greatly increased.

- Two-thirds of emergency physicians report being assaulted in the past year alone (66%), while more than one-third of respondents say they have been assaulted more than once.
- One-third of emergency physicians who were assaulted resulted in an injury, an increase of 6% since 2018.
- The number of emergency physicians who missed part of or their entire shift has increased by 50% since 2018.

Assaults are on the rise with nearly a quarter (24%) of emergency physicians reporting being assaulted multiple times a week (up from 8% in 2018).

- Patients committed nearly all assaults (98%) against emergency physicians. Additionally, three in ten assaults (31%) were committed by family or friends of the patient being treated.
- The most common types of assaults are as follows:
 - Verbal assault, with threats of violence (64%)
 - Hits or slaps (40%)
 - Spit on (31%)
 - Kicked (26%)
 - Punched (25%)
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Emergency physicians report psychiatric patients and those seeking drugs or under the influence of drugs or alcohol are most often responsible for the assaults experienced (42% and 40%, respectively).

According to emergency physicians, the lack of punitive consequences has become a larger factor in the rise of violence since 2018.

- Many emergency physicians indicated the hospital's reaction is minimal: escorting the patient off property, restraining the patient, or in many cases, no action at all.
- When administration does get involved, physicians note it is often to de-escalate the situation in a way that appeases the family or patient, and not the physicians or staff.
- The most common response was to make a note in the patient's chart (29%) and only 2% of hospital security pressed charges.

The full impact of violence against healthcare workers is understated because many incidents are never reported.

- Many health care workers decline or are encouraged not to report assaults for a variety of reasons and leaving most assailants not held accountable.

COVID-19 has had a chilling effect on the levels of trust and has heightened violence between patients, the care team, and staff.

- Two-thirds of emergency physicians (66%) believe COVID-19 has increased the amount of violence in emergency departments.
- Nearly seven in ten (69%) emergency physicians say that COVID-19 has decreased the level of trust between patients and physicians or emergency department staff.

Nearly nine in ten emergency physicians agree violence in the emergency department harms patient care (89%), a 12-percent increase from 2018.

- More than eight in ten emergency physicians say ED violence has resulted in an increase in wait times (85%).
- 60% of emergency physicians report these attacks often result in patients leaving the emergency department without being seen or treated by a doctor.

Violence in emergency departments is exacerbating the already high rates of healthcare worker burnout and impacting their mental health.

- 87% of emergency physicians report a loss of productivity from the physician or staff as a result.
- 85% of emergency physicians report emotional trauma and an increase in anxiety because of ED violence.

Emergency physicians and their care teams deserve a support system that prevents these incidents and protects them when they occur.

- The American College of Emergency Physicians (ACEP) and the Emergency Nurses Association have partnered since 2018 on the [No Silence on ED Violence](#) campaign to raise awareness, advocate for policy changes and strengthen protections for frontline workers.

ACEP is addressing these trends and [advocating on behalf](#) of emergency physicians and their care teams so they can focus on saving lives, without fearing for their personal safety.

- Physical violence, intimidation and threats are not accepted in any other workplace, and they should not be allowed or tolerated in a health care setting.
- Emergency departments should be a safe space where patients are guaranteed they have the full attention and dedication of their care team to treat their ailments.

Thank you for reviewing our information and considering our comments and suggestions. If you have any questions, please contact Dan Morin at dmorin@mainemed.com or 207-838-8613.

PROJECT BACKGROUND

ACEP engaged Marketing General Incorporated (MGI) to replicate a brief polling survey originally conducted in 2018. The purpose of the survey is to gather data from its member physicians to better understand their experiences regarding the level, type, frequency, and impact of violence experienced in the emergency department. This online survey consisted of approximately 20 closed-ended questions.

RESEARCH METHODOLOGY

Marketing General Incorporated (MGI) sent invitations to participate in the poll on July 25, 2022, to a list of 32,714 current ACEP members.

Of the 31,165 email invitations sent, 410 emails bounced, resulting in a net total of 30,755 invitations sent. To boost response rates, MGI sent reminder emails to non-responders and non-completers on July 27 and July 29.

The poll officially closed on August 1. A total of 2,712 responses were completed, providing a response rate of approximately 9% and a margin of error of +/- 1.9%. The margin of error, or standard of error, is a statistical term used to measure the random fluctuations inherent in samples—the smaller the standard of error, the more accurate the measurement of the population or universe.

This study's significance level of .05 carries with it a 95 percent confidence interval. The confidence interval is established as the likelihood that the same results would be achieved in a similar study, meaning that if we were to conduct this study 100 times, then the same results plus or minus the margin of error (1.9%) would occur 95 out of 100 times.

Sample Characteristics

Number of Responses per State					
STATE	COUNT	PERCENT	STATE	COUNT	PERCENT
Alabama	29	1%	Nebraska	18	0.7%
Alaska	2	0.1%	Nevada	27	1%
Arizona	39	1%	New Hampshire	26	1%
Arkansas	18	0.7%	New Jersey	81	3%
California	255	9%	New Mexico	18	0.7%
Colorado	59	2%	New York	214	8%
Connecticut	36	1%	North Carolina	100	4%
Delaware	18	0.7%	North Dakota	5	0.2%
District of Columbia	17	0.6%	Ohio	107	4%
Florida	120	4%	Oklahoma	28	1%
Georgia	67	3%	Oregon	34	1%
Hawaii	15	0.6%	Pennsylvania	127	5%
Idaho	13	0.5%	Rhode Island	12	0.4%
Illinois	95	4%	South Carolina	46	2%
Indiana	63	2%	South Dakota	6	0.2%
Iowa	12	0.4%	Tennessee	24	0.9%
Kansas	14	0.5%	Texas	202	7%
Kentucky	23	0.8%	Utah	39	1%
Louisiana	27	1%	Vermont	12	0.4%
Maine	15	0.6%	Virginia	85	3%
Maryland	55	2%	Washington	66	2%
Massachusetts	88	3%	West Virginia	14	0.5%
Michigan	127	5%	Wisconsin	46	2%
Minnesota	66	2%	Wyoming	9	0.3%
Mississippi	16	0.6%	Guam	1	0%
Missouri	57	2%	Puerto Rico	6	0.2%
Montana	12	0.4%	U.S. Virgin Islands	1	0%

The top 10 participating states include:

- | | | | |
|-----------------|--------|-------------------|--------|
| 1. California | 255—9% | 6. Michigan | 127—5% |
| 2. New York | 214—8% | 7. Ohio | 107—4% |
| 3. Texas | 202—7% | 8. North Carolina | 100—4% |
| 4. Florida | 120—4% | 9. Illinois | 95—4% |
| 5. Pennsylvania | 127—5% | 10. Massachusetts | 88—3% |

ACEP EMERGENCY DEPARTMENT VIOLENCE POLL RESULTS

Prepared For:

American College of Emergency Physicians

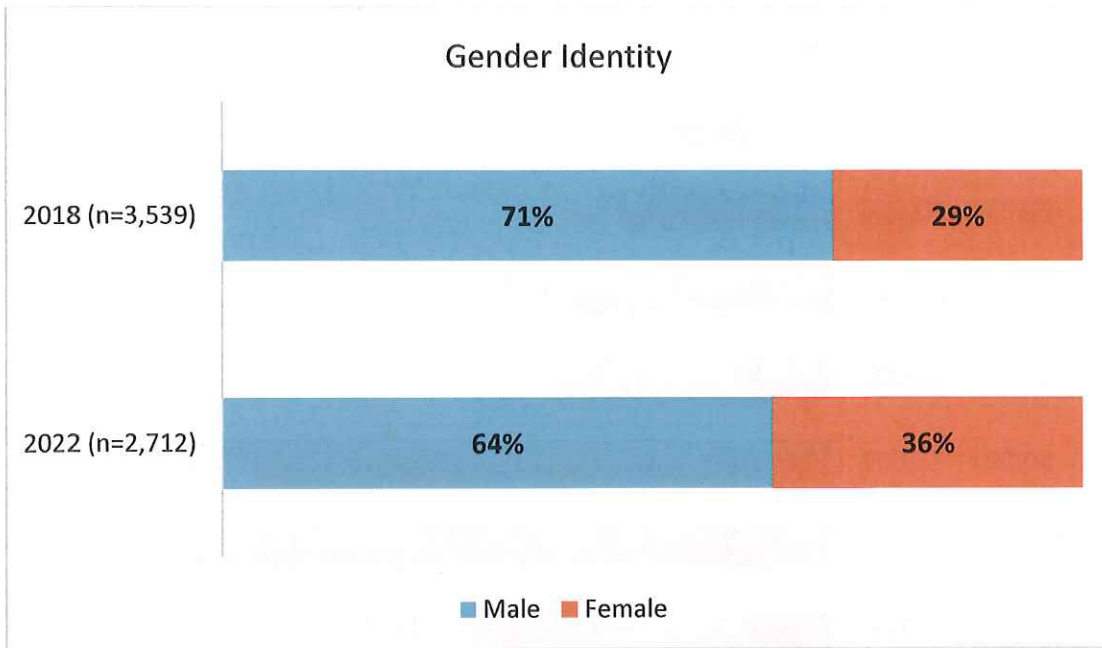


August 2022

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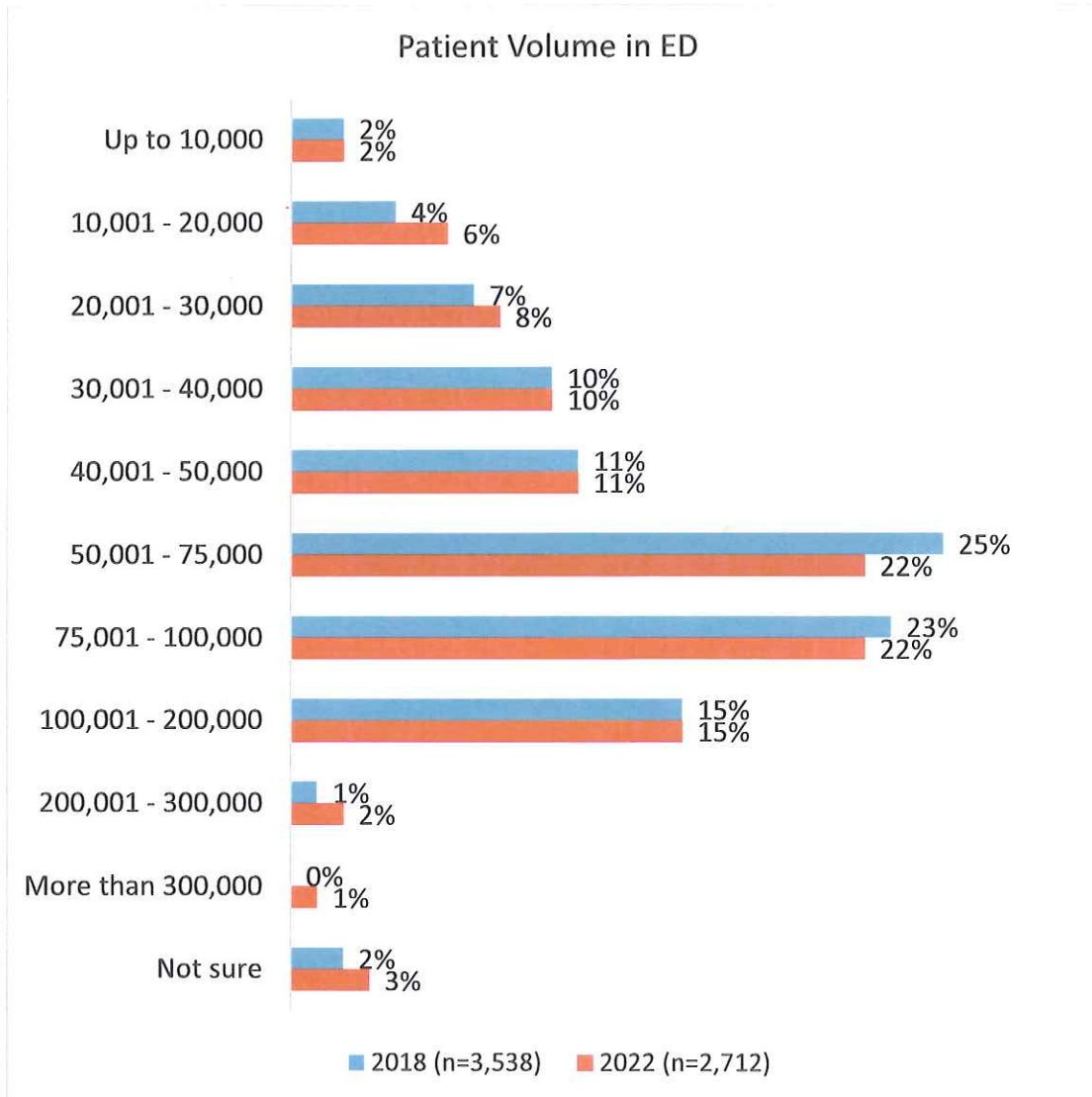
Overall Findings

Q2. With what gender do you identify?



As in the previous research, a majority of respondents are male. However, a larger part of the current sample is female (36%).

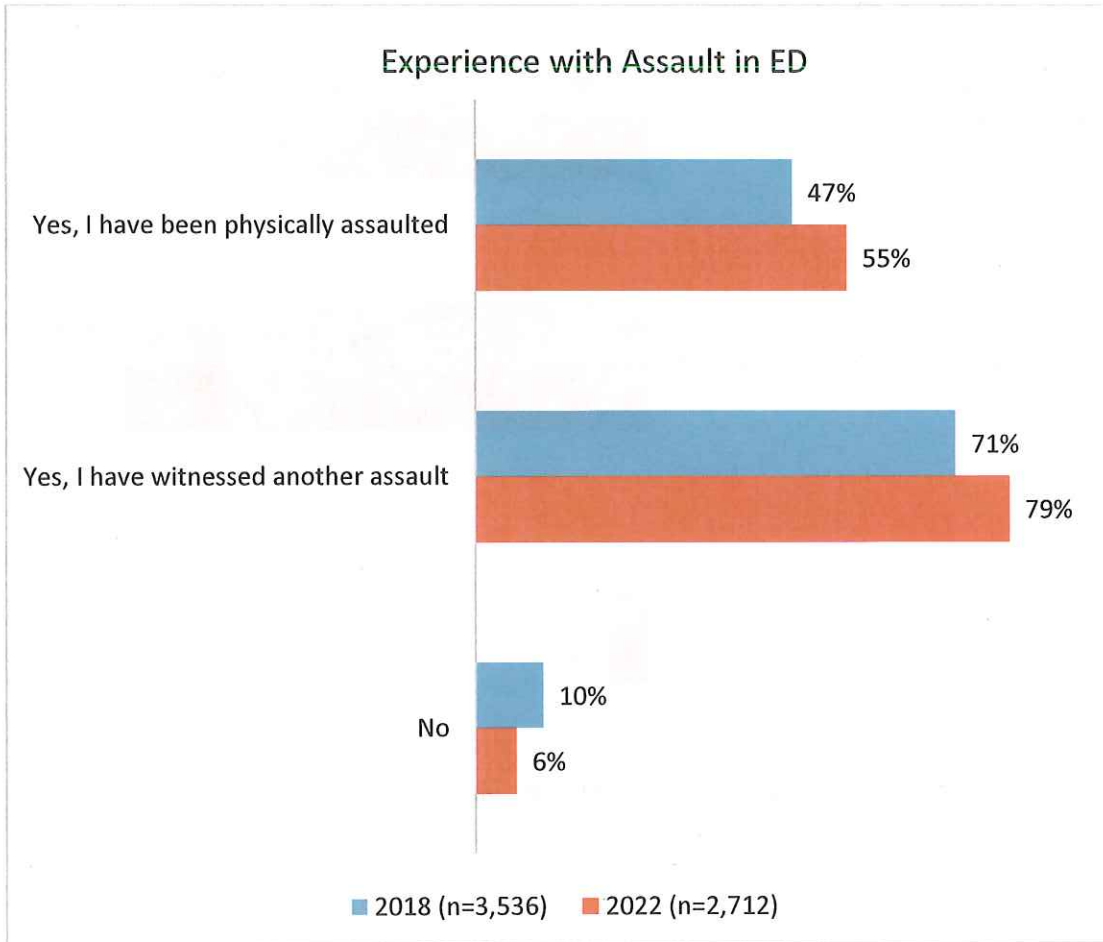
Q4. What is the annual emergency department patient volume where you work most of your time?



The bulk of participants work in emergency departments with 50,000 to 100,000 patients annually (44%). However, compared to findings from 2018, this represents a decline in participants serving in emergency departments of this size.

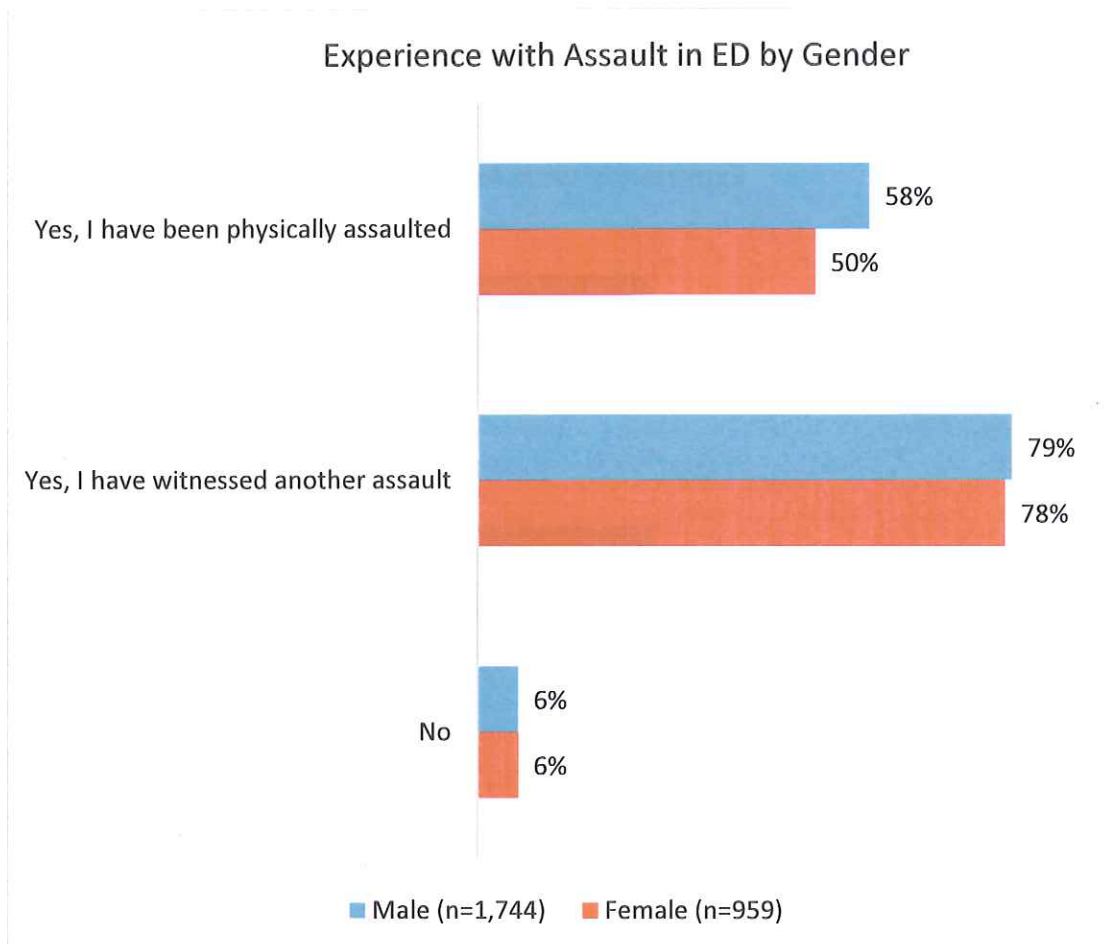
There is a slight increase in participants working in larger EDs (over 200,000 patients annually) and a slight increase in participants working in smaller EDs (10,000 to 30,000 patients annually).

Q5. Have you ever been physically assaulted or witnessed another assault while at work in the emergency department? (Check all that apply.)



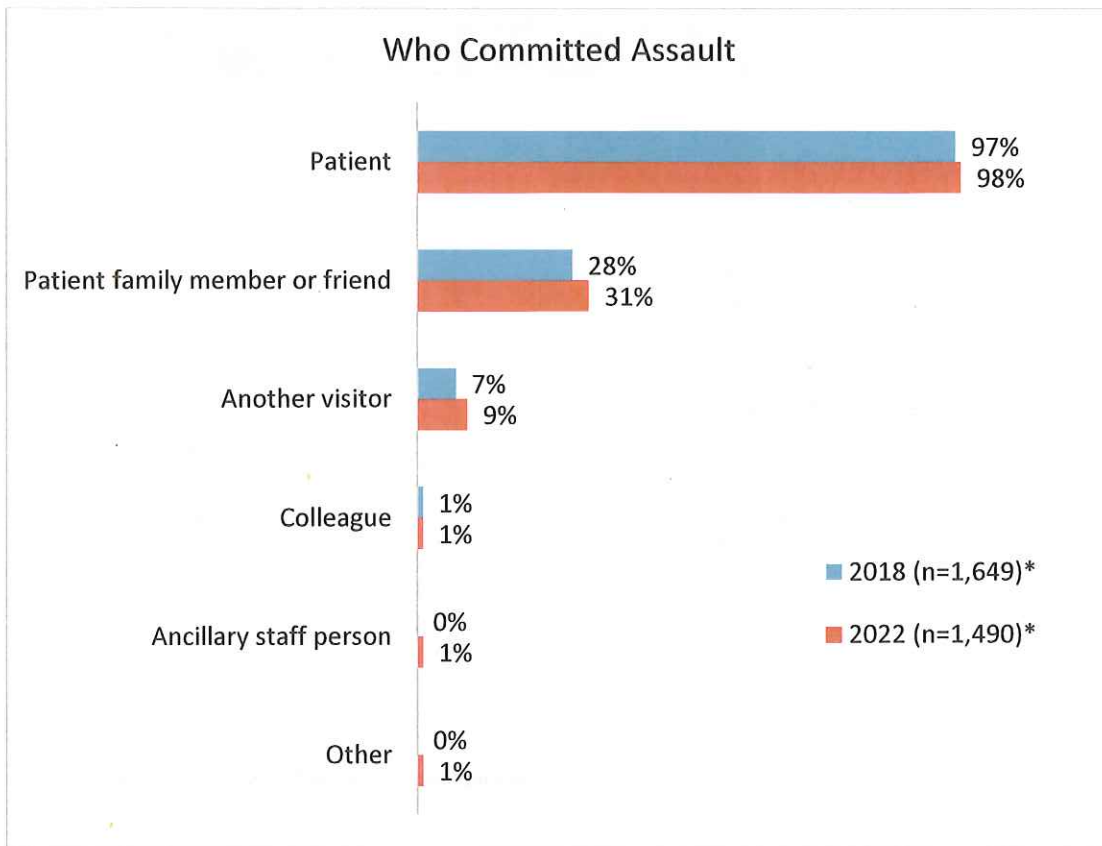
Compared to findings from 2018, more emergency physicians have been physically assaulted in the ED (55%), and a higher percentage have witnessed assault of another individual (79%).

Fewer emergency physicians indicate they have not experienced or witnessed assault while at work.



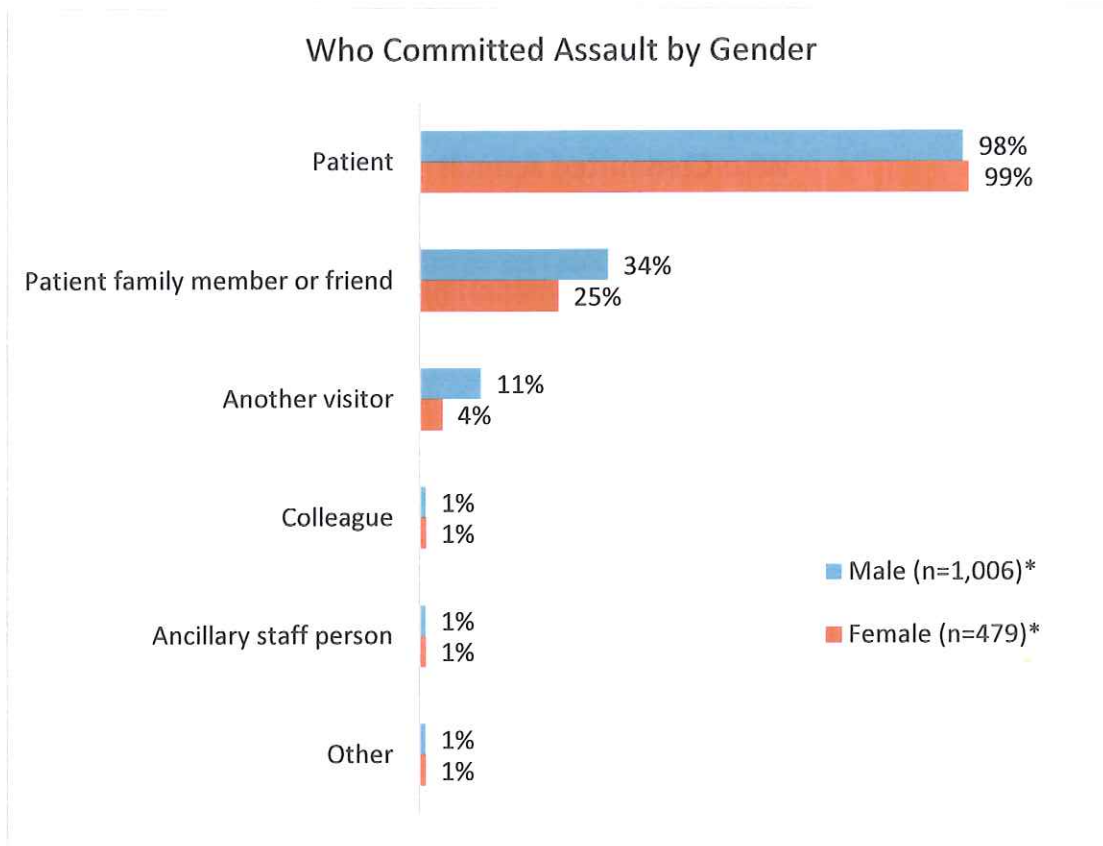
Men are more likely than women to report having been physically assaulted in the emergency department while at work (58% vs. 50%).

Q6. Who committed the assault? If more than one assault, please answer for the most recent incident. (Check all that apply.)



** Among those who have been physically assaulted*

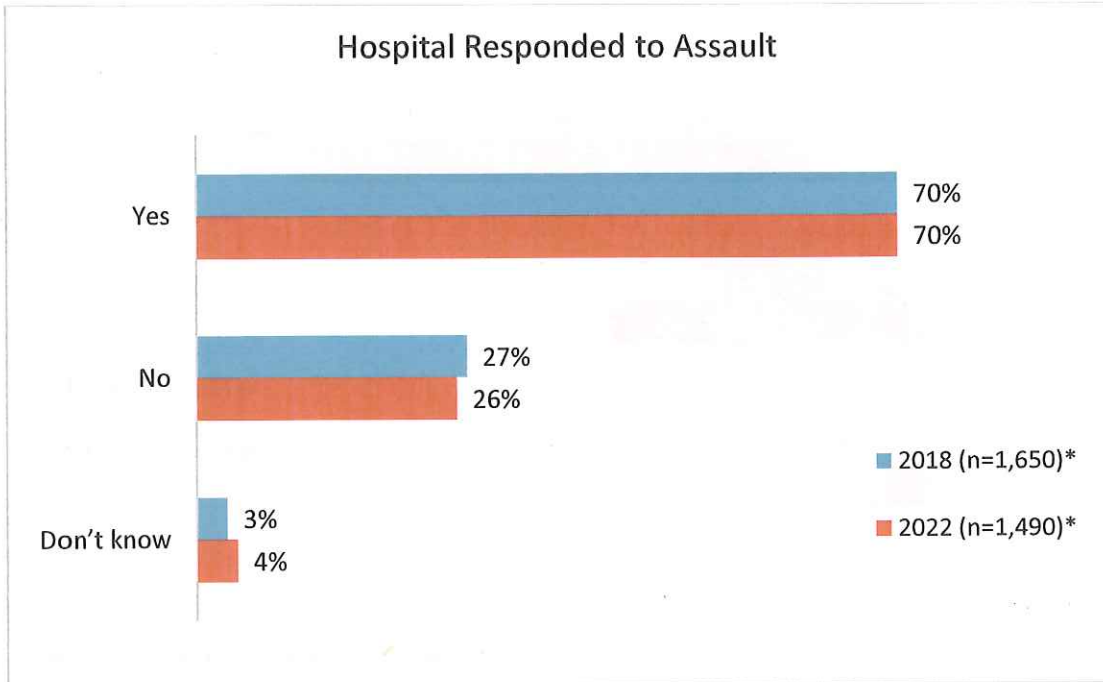
Results mirror those from 2018. Similar to previous findings, almost all physical assaults against emergency physicians were committed by patients. Around three in ten assaults were committed by family or friends of the patient being treated by the physician (31%).



** Among those who have been physically assaulted*

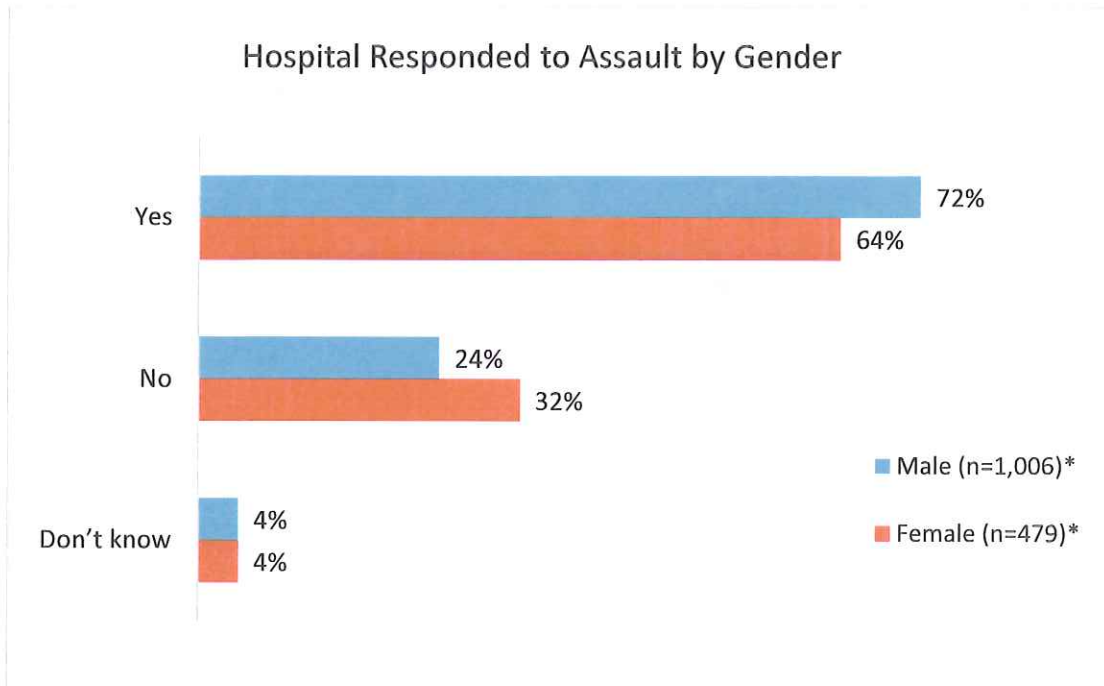
Male physicians are more likely to be assaulted by friends or family members of the patient or another visitor than female physicians.

Q7. Did your hospital administration or hospital security respond to the assault?



** Among those who have been physically assaulted*

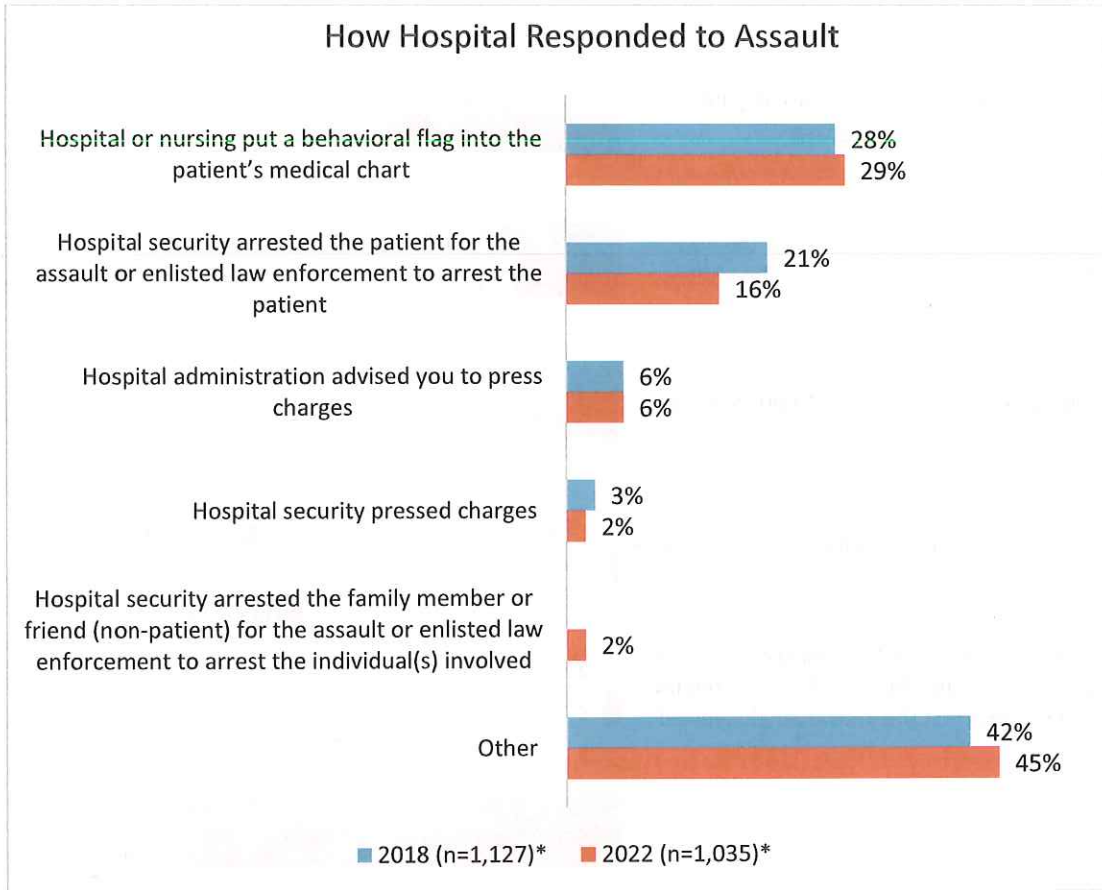
Nearly identical to the previous research, 70% of emergency physicians physically assaulted said that their hospital administration or security responded to the assault.



** Among those who have been physically assaulted*

Results show that hospital administration or security are more likely to respond to an assault with male physician victims than female physician victims. This may be due to the type or severity of the assault, but the discrepancy is noteworthy.

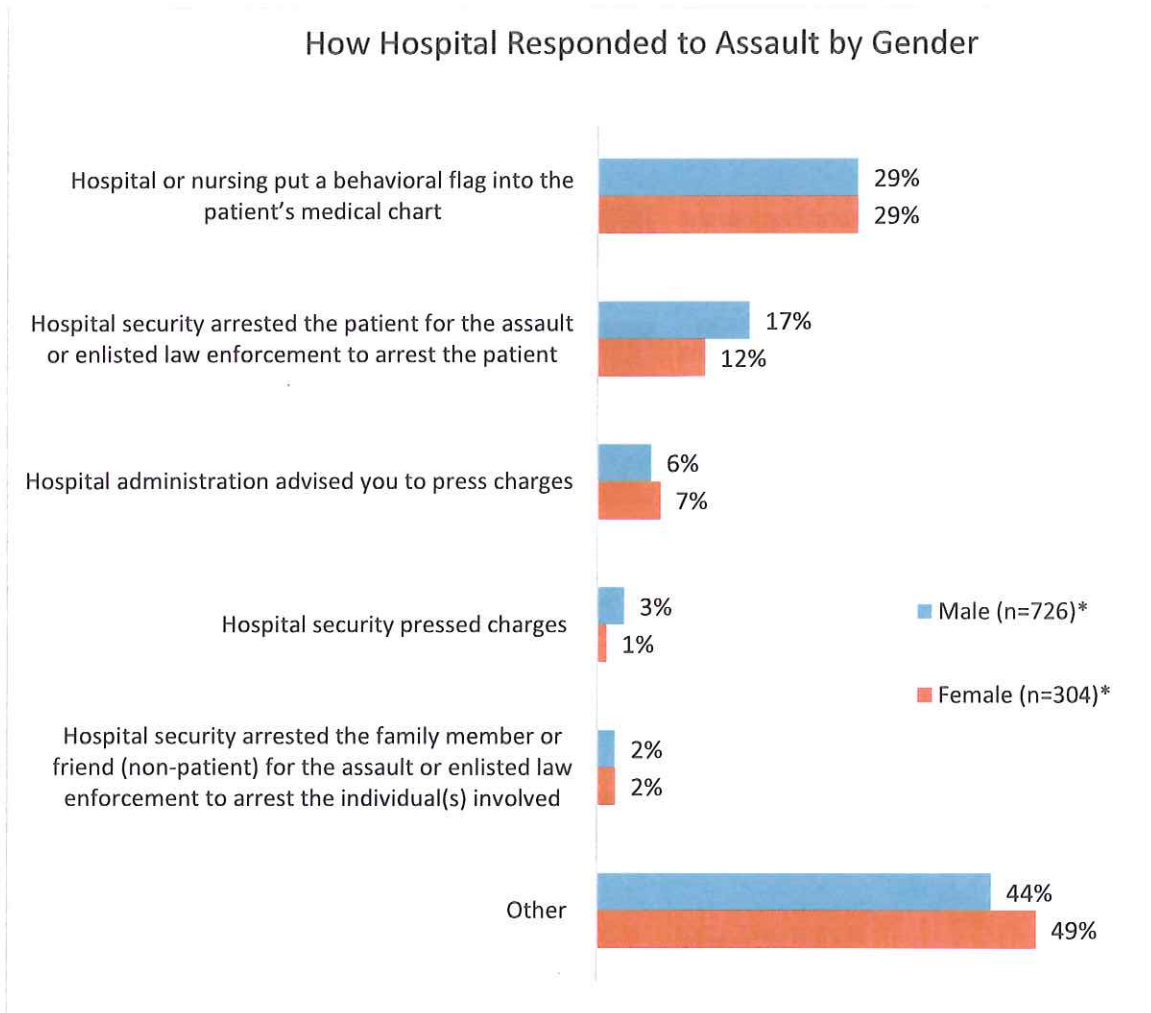
Q8. How did the hospital administration or hospital security respond to the assault?



** Among those who have been physically assaulted and whose hospital responded*

Like findings from 2018, the hospital administration and security's most common responses to physical assaults are to put a behavioral flag in the patient's medical chart (29%) or to have the patient arrested, although fewer physicians report in the current research that patients were arrested (16%, down from 21%).

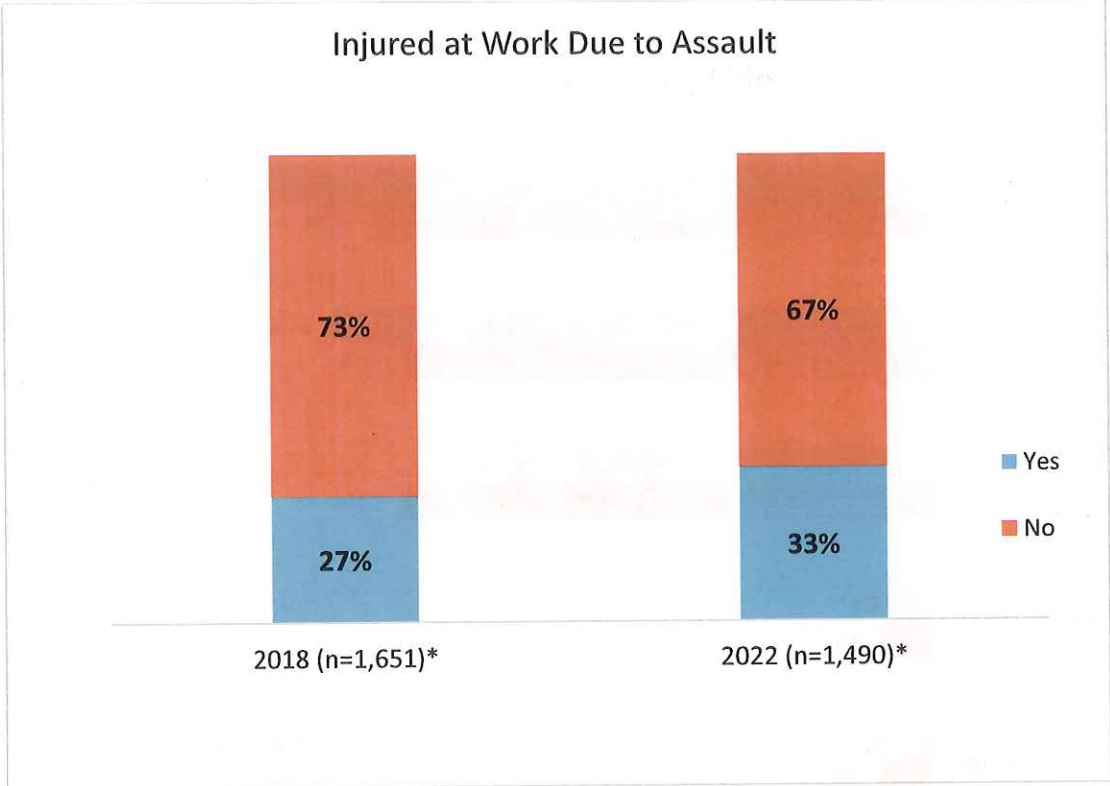
Among those who gave "other" responses (45%), many indicated that the hospital's reaction is minimal: escorting the patient off property, restraining the patient, or in many cases, doing nothing. "The administration rarely gets involved." When they do get involved, physicians note that it is often to "de-escalate" the situation in a way that will appease the family or patient, and not the physicians or staff. Several physicians indicate that they have been encouraged NOT to press charges for fear that it would promote a negative perception of the hospital.



** Among those who have been physically assaulted and whose hospital responded*

Male physicians are more likely than female physicians to report that hospital security arrested the patient for the assault or enlisted law enforcement to arrest the patient. This may be due to the severity or type of assault inflicted on the male physician.

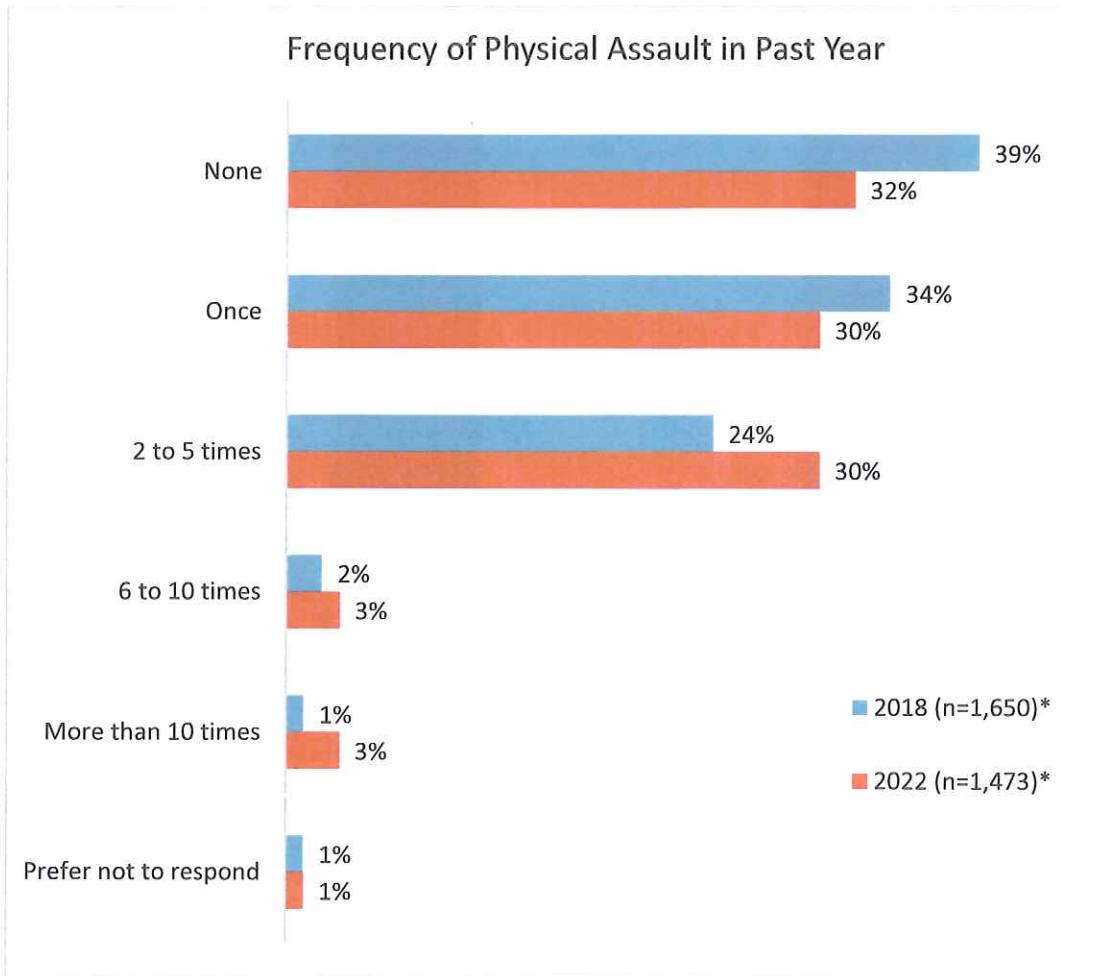
Q9. Have you ever been injured at work because of an assault?



* Among those who have been physically assaulted

One-third of physicians who have been assaulted have been injured as a result, an increase since 2018. The percentages are exactly the same for male and female physicians: 33% have been injured as a result of the assault endured.

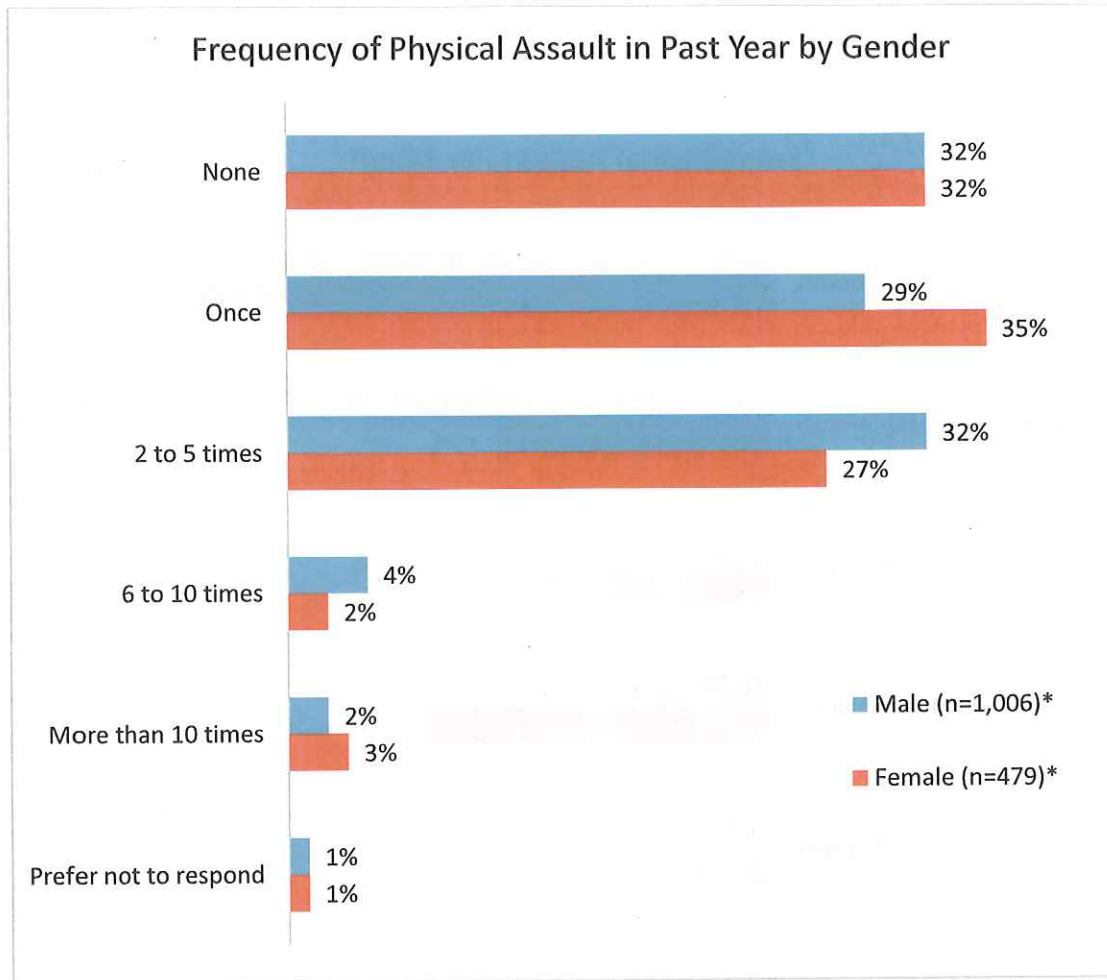
Q10. How many times have you been physically assaulted in the emergency department in the past year?



** Among those who have been physically assaulted*

Two-thirds of assaulted physicians have been assaulted in the past year alone (66%). More than one-third of emergency physicians have been assaulted more than once during that time (36%).

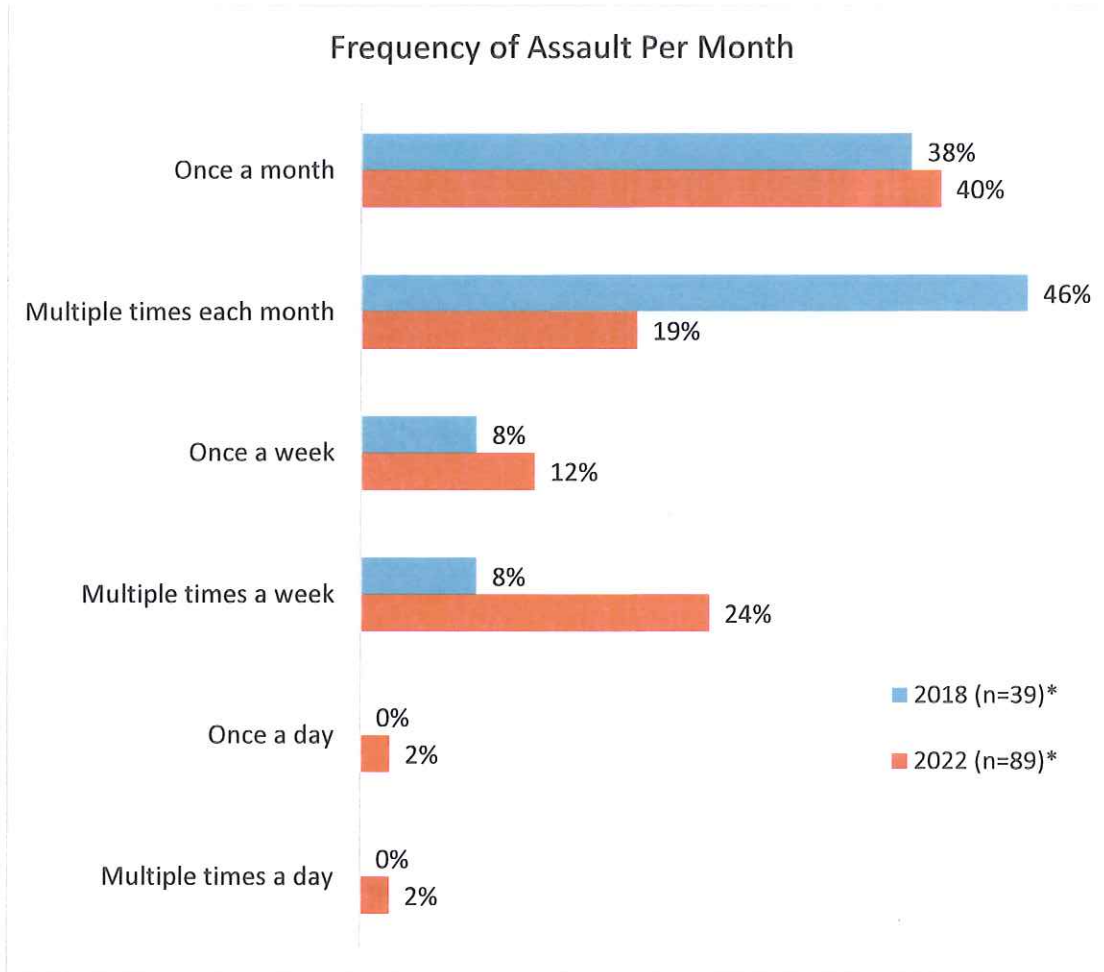
Compared to results from 2018, the frequency of assault on physicians has increased.



** Among those who have been physically assaulted*

Female physicians are more likely to have been assaulted only once in the past year, while male physicians are more likely to have been assaulted two to five times in the past year.

Q11. In a typical month, how frequently have you been physically assaulted in the emergency department?

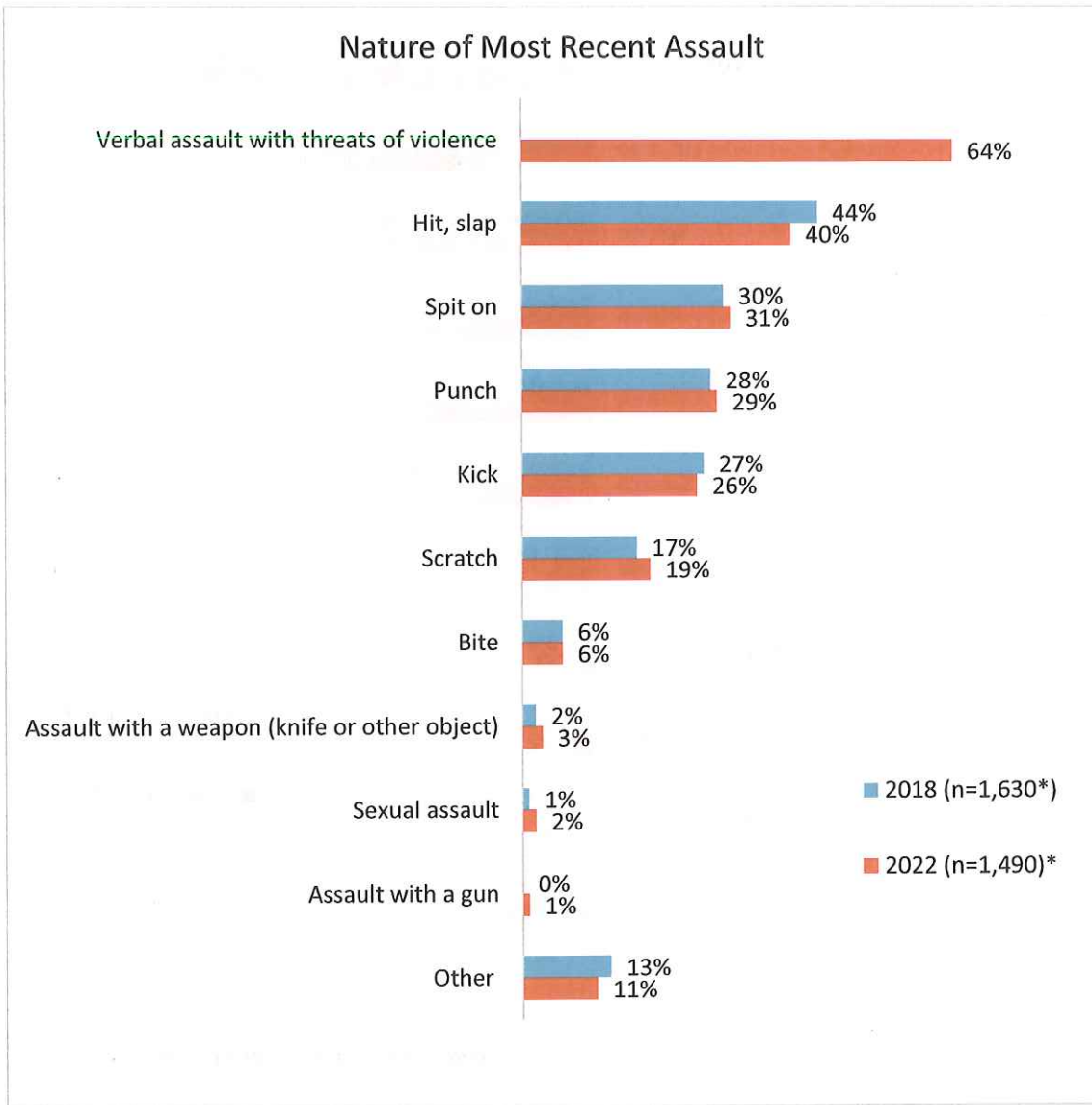


** Among those who have been physically assaulted 6+ times in the past year*

Among emergency physicians who have been assaulted six or more times in the past year, more than half have been assaulted several times each month (59%). In fact, 36% were assaulted on a weekly basis and 4% were assaulted on a daily basis.

Compared to the previous research, the frequency of assaults has increased.

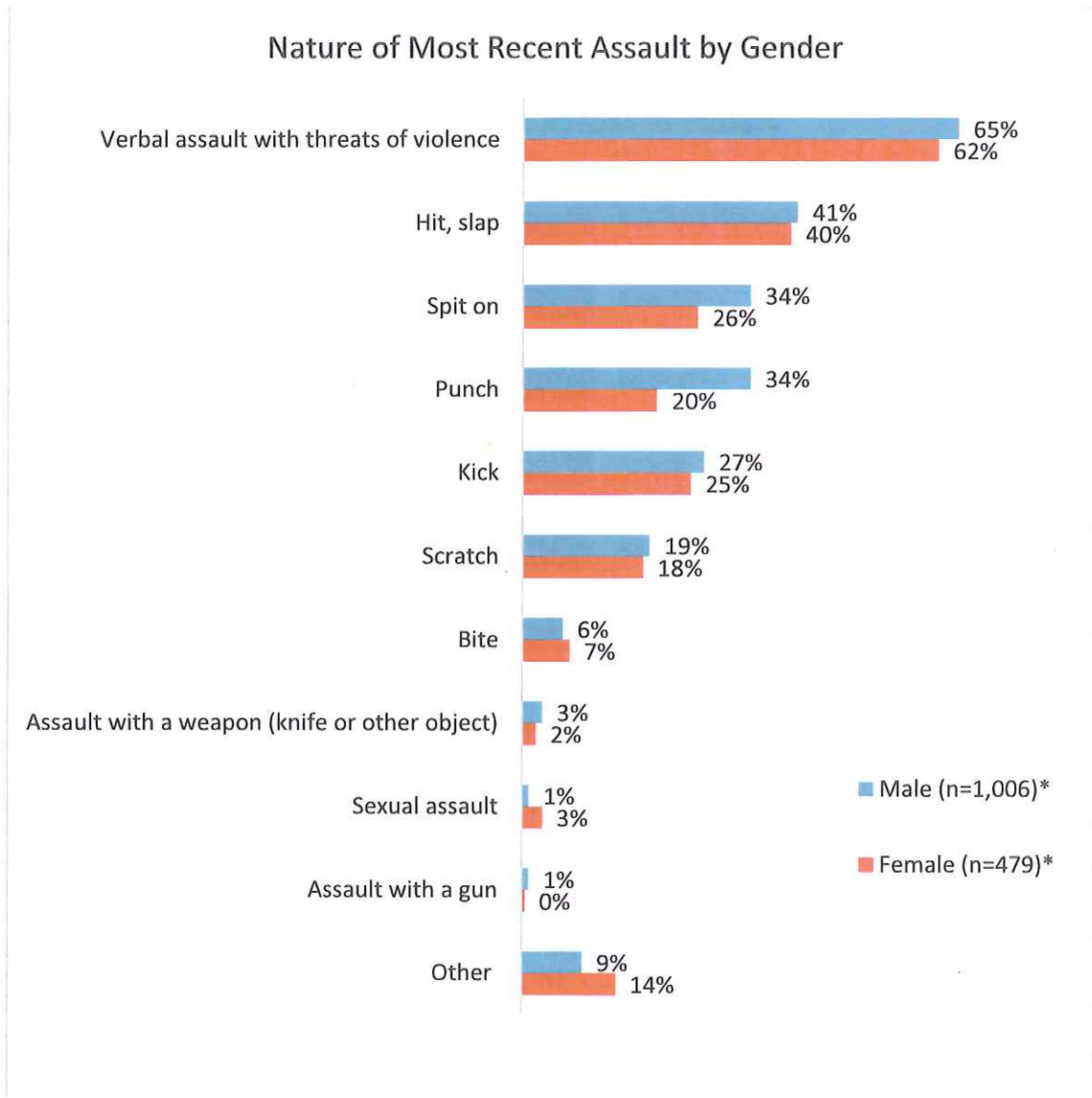
Q12. What was the nature of your most recent assault? (Check all that apply)



** Among those who have been physically assaulted*

Verbal assault, with threats of violence, are the most common form of assault (64%), followed by a hit or slap (40%). Emergency physicians also report being spit on, punched, or kicked.

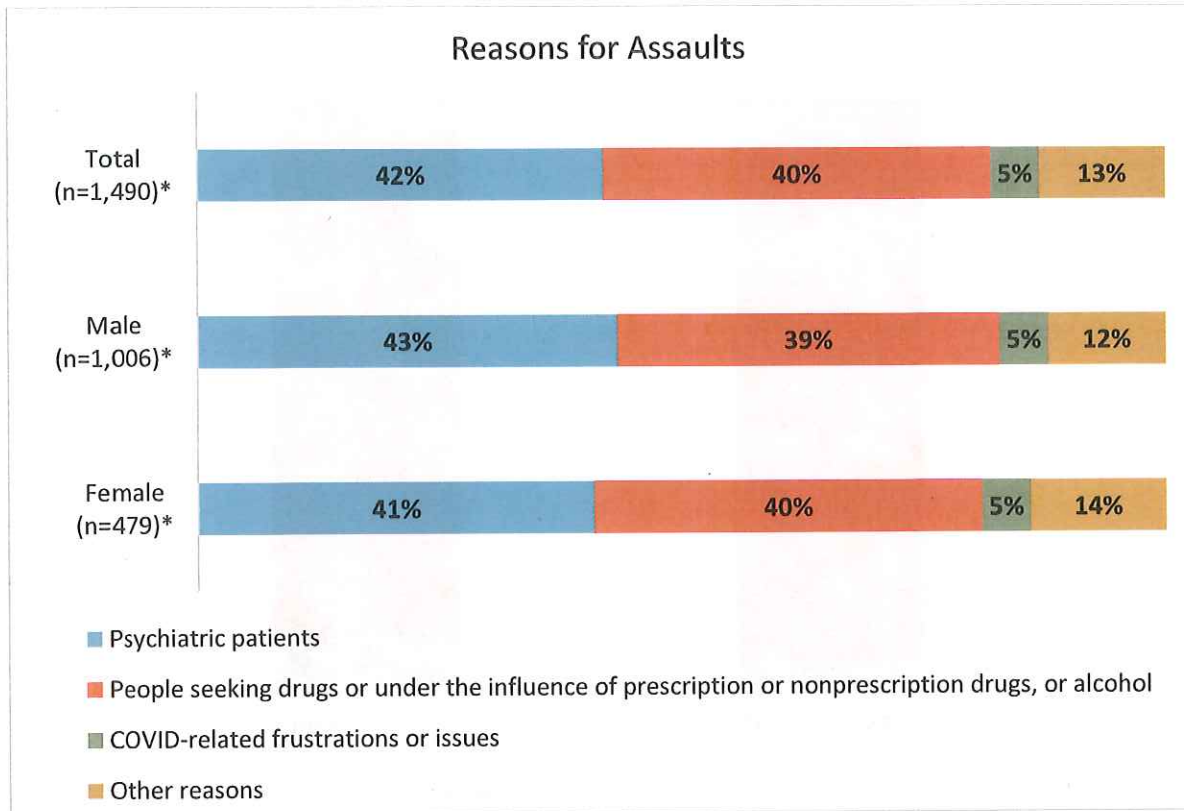
The type of assaults reported are similar in frequency to findings from 2018, with a slight drop in the percentage of physicians reporting being hit/slapped.



** Among those who have been physically assaulted*

Male physicians are more likely to be spit on or punched than female physicians.

Q13. Please indicate what percentage of the attacks are from each of the following. Total percentage should add to 100%.

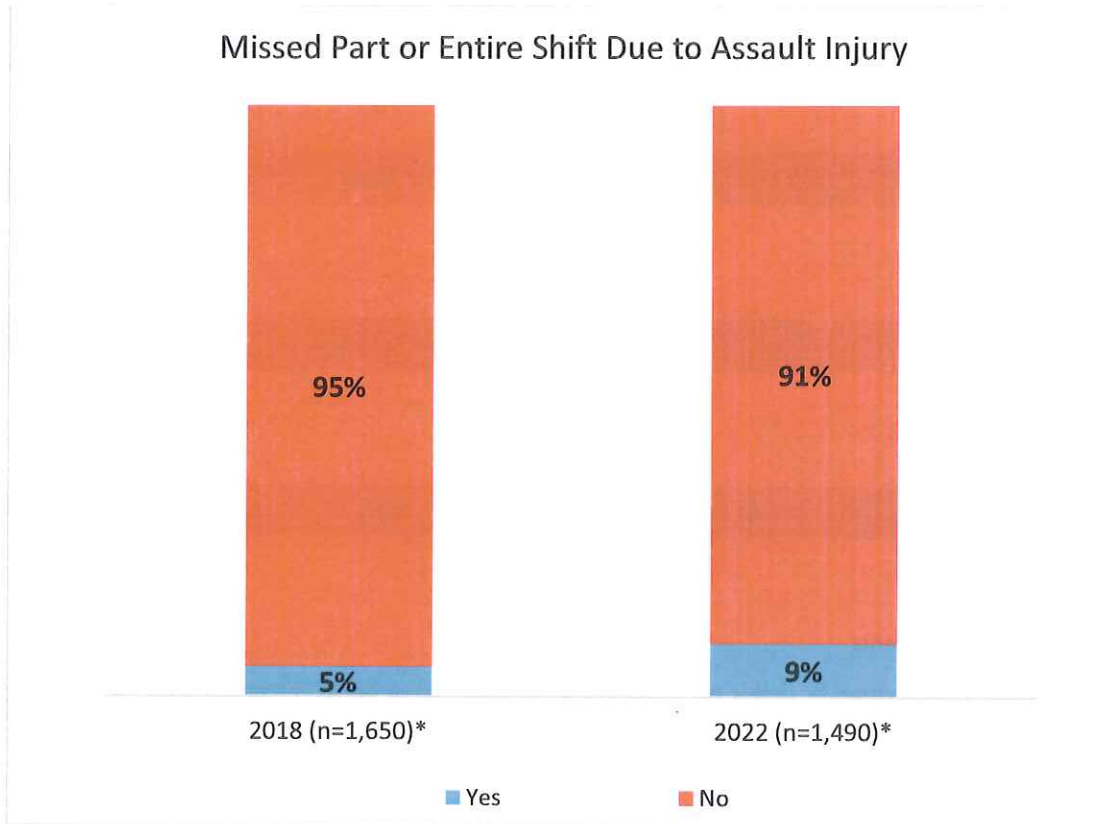


** Among those who have been physically assaulted*

Emergency physicians report that psychiatric patients and those seeking drugs or under the influence of drugs or alcohol are most often responsible for the assaults experienced (42% and 40%, respectively).

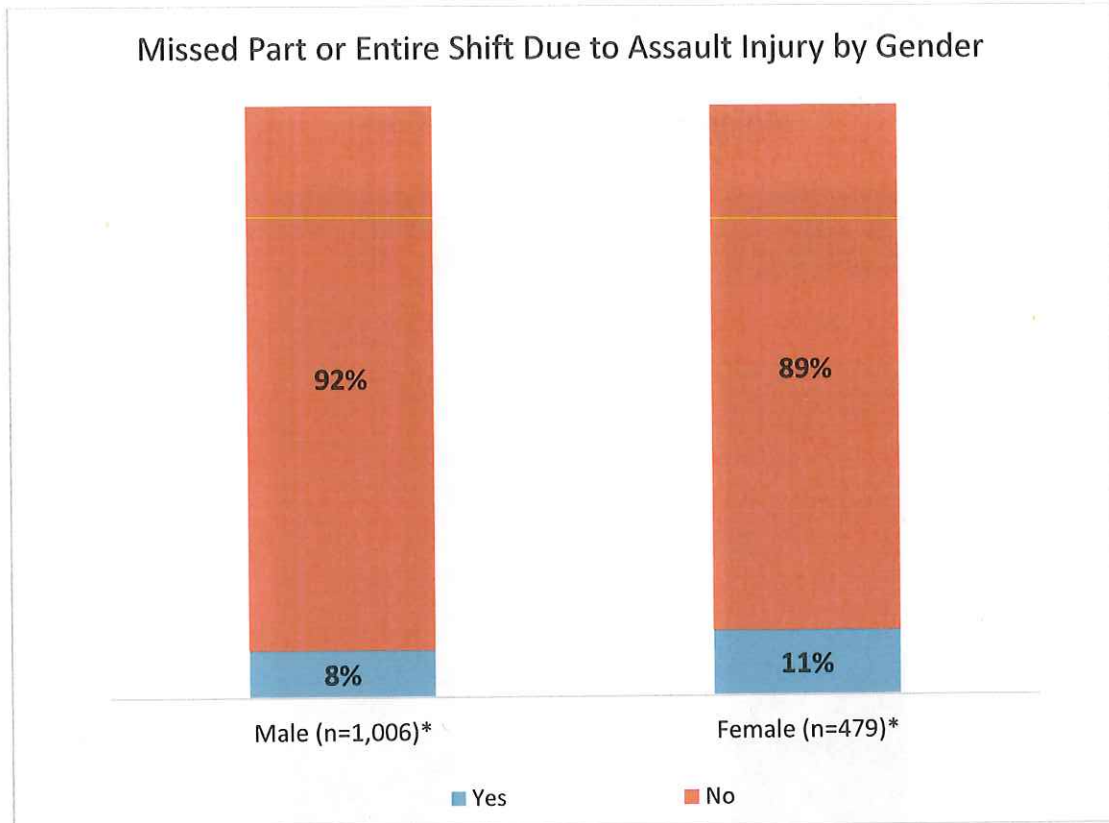
There are virtually no differences between male and female physicians for the reasons attributed to the assaults.

Q14. Have you ever missed part of or your entire shift due to an injury from an assault in the emergency department?



** Among those who have been physically assaulted*

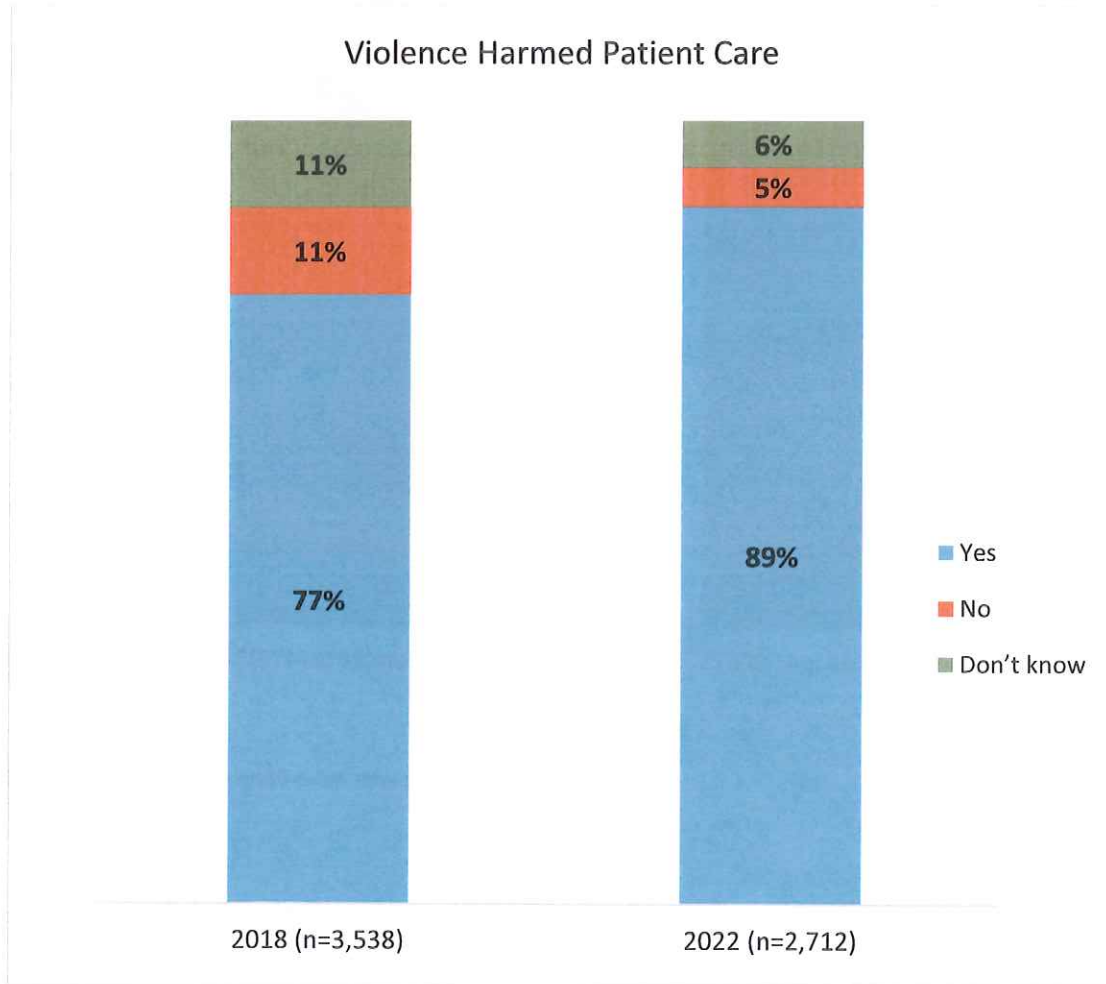
Few (9%) emergency physicians who have been assaulted have missed either a part of or an entire shift due to an assault. However, this percentage has increased since 2018 (5%).



** Among those who have been physically assaulted*

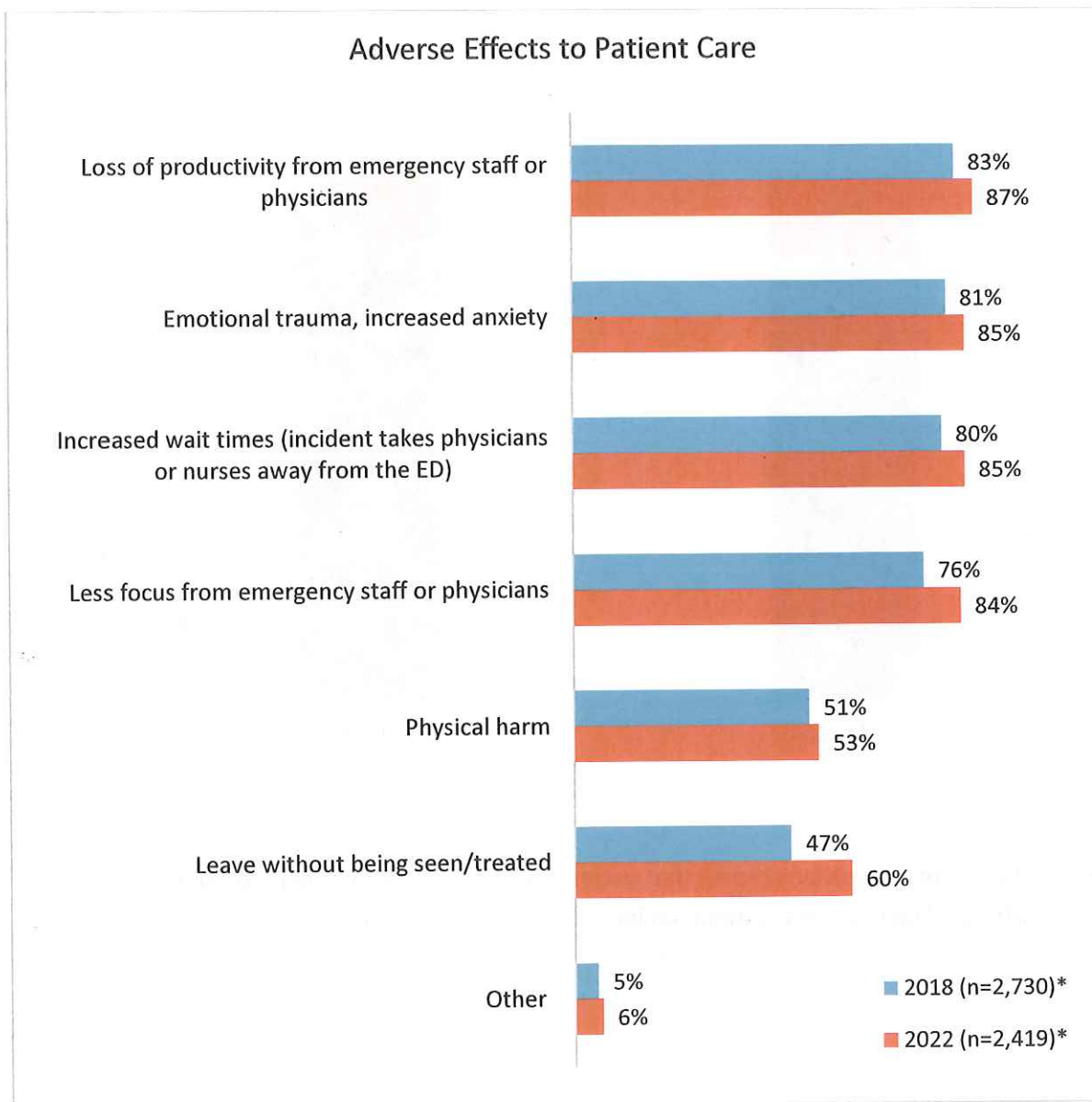
Female physicians are slightly more likely to report missing part or all of a shift due to an injury sustained during an assault (11%).

Q15. In your opinion, has violence in the emergency department harmed patient care?



Nearly nine in ten physicians agree that violence in the emergency department has harmed patient care (89%). This percentage has increased since 2018 (77%).

Q16. How have patients been adversely affected? (Check all that apply.)

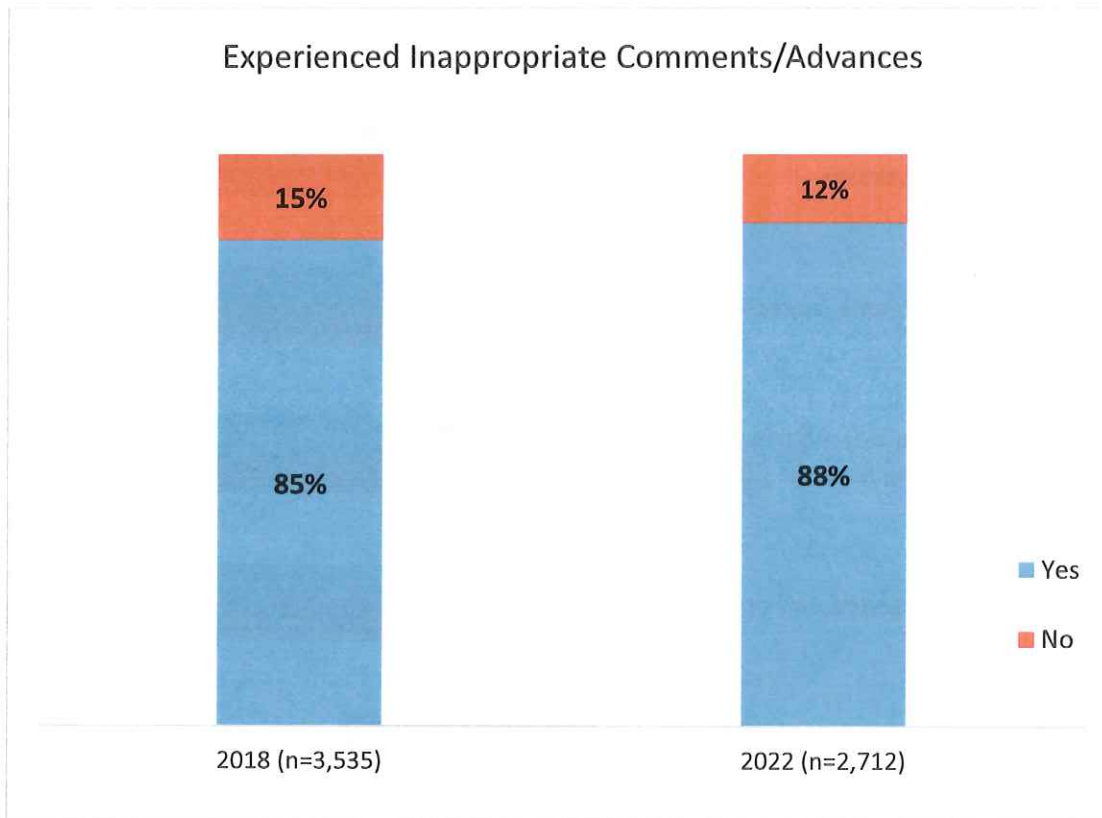


* Among those who believe that violence in the emergency department has harmed patient care

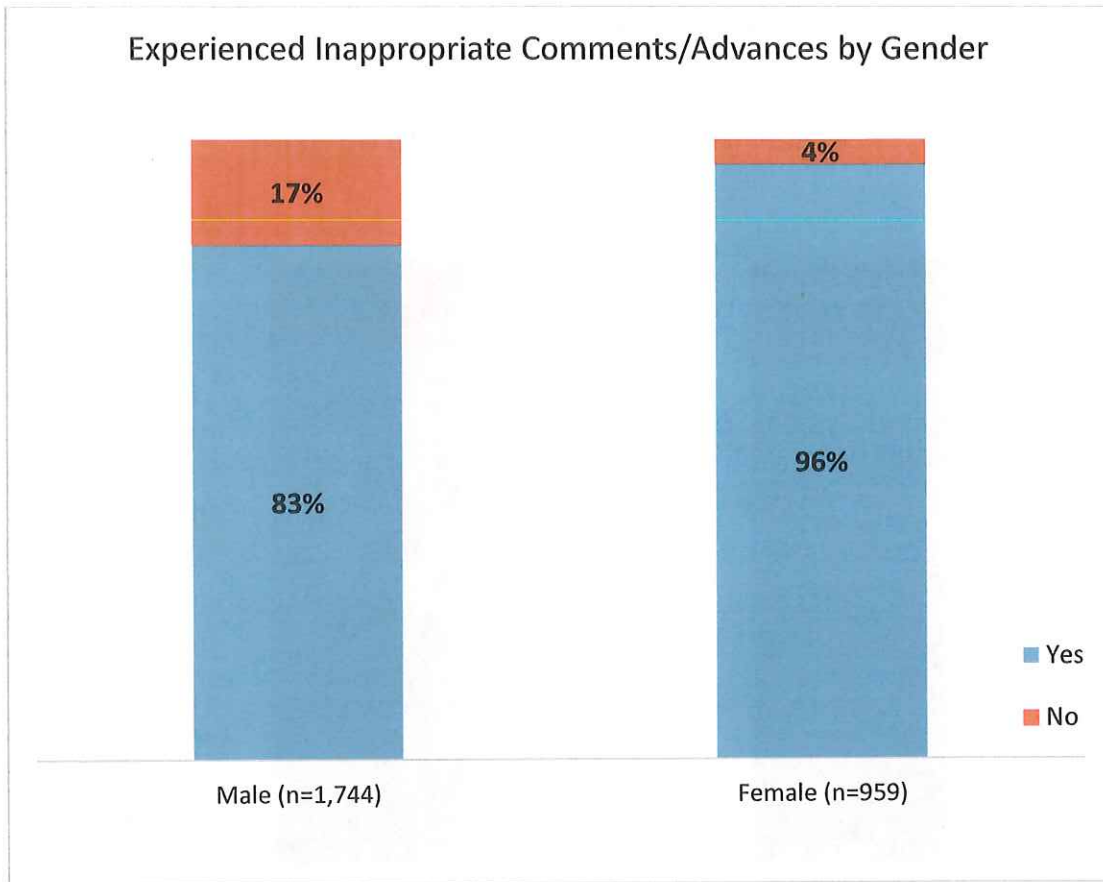
Similar to findings from 2018, loss of productivity, emotional trauma, increased wait times, and less focus are cited as the most common adverse effects on patient care due to emergency department violence.

Compared to 2018, physicians indicate that each of the adverse effects on patient care have increased.

Q17. Has a patient or visitor ever made inappropriate comments or unwanted advances to you?

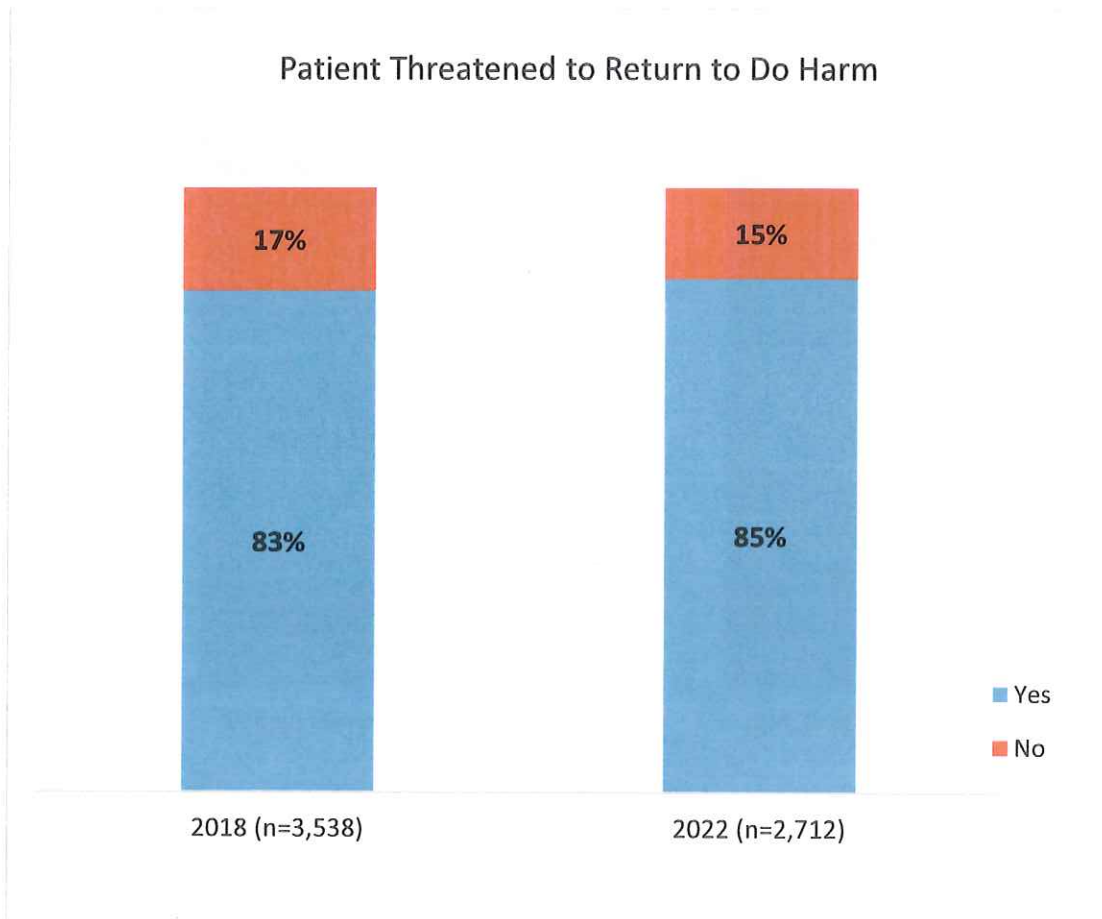


88% of emergency physicians report that patients or visitors have made inappropriate comments or advances toward them, an increase from 2018 (85%).



Female physicians are significantly more likely to experience inappropriate comments or advances from patients or visitors.

Q18. Has a patient ever threatened to return and harm you or emergency department staff?



85% of emergency physicians report that a patient has threatened to return and harm them or emergency department staff, a slight increase since 2018.

When examined by gender, the same percentage of male and female physicians (85%) report that a patient has threatened to return and harm them and/or emergency department staff.

Q19. Rank the most important thing hospitals can do to increase safety in emergency departments. Drag each item below to your desired ranking.

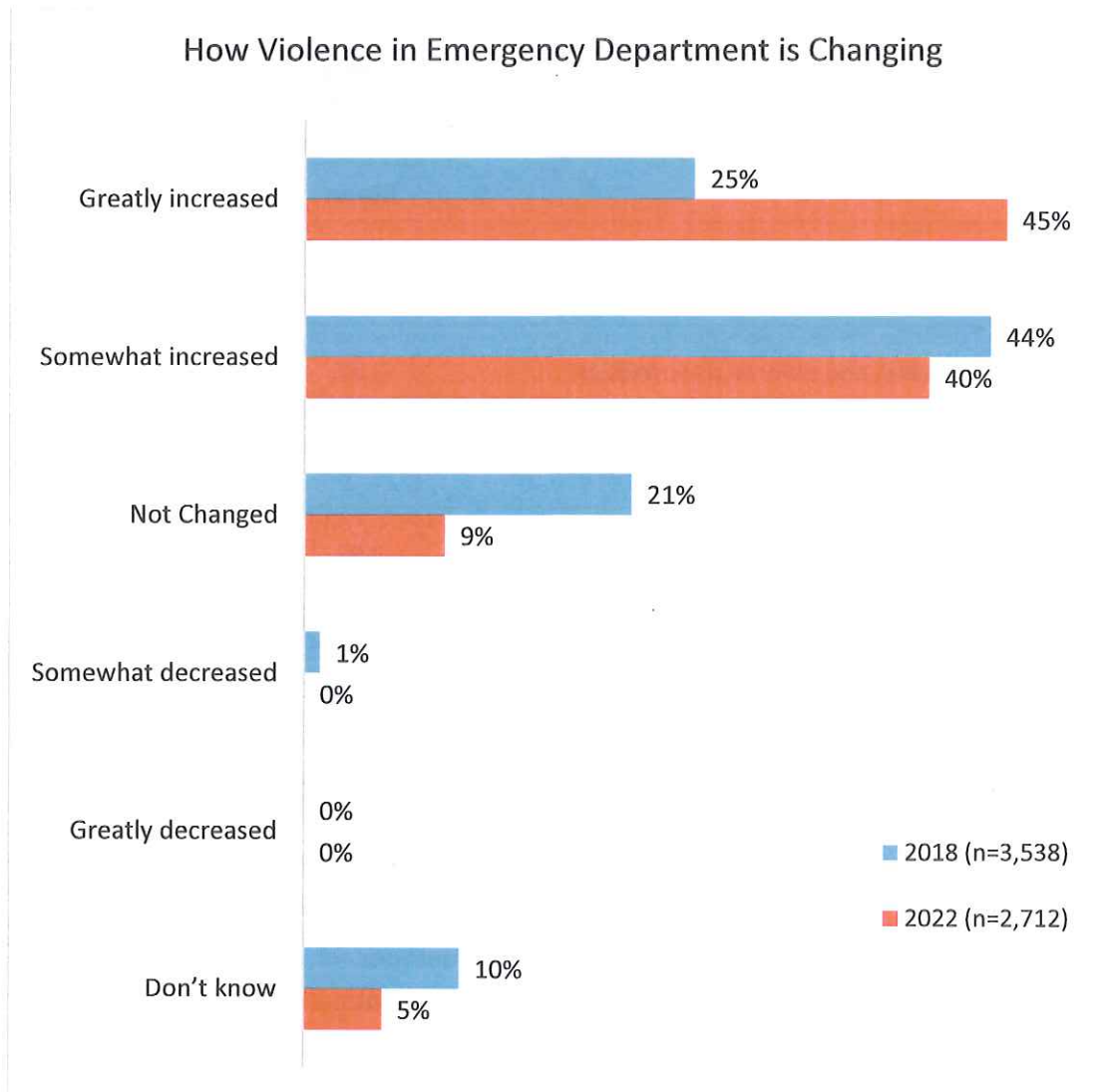
Ranked Importance of Ways to Increase Safety in Emergency Departments				
	2018		2022	
	Mean	Rank	Mean	Rank
Increase security (security guards, security cameras, security for parking lots, metal detectors, screen all visitors)	2.00	1	2.06	1
Establish, communicate, and enforce clear policies	3.32	2	3.37	2
Report incidents to the police	3.48	3	3.51	3
Increase staff in the emergency department	3.85	5	3.55	4
Reduce the number of areas in the emergency department that are open to the public	3.54	4	3.70	5
Offer training in self defense	5.22	6	5.34	6
Other	6.59	7	6.48	7

Emergency physicians indicate that the most important methods for hospitals to increase safety in emergency departments is to increase security; establish, communicate, and enforce clear policies; and report incidents of violence to the police.

Rankings are similar to those in 2018, except that physicians now believe an increase in staff in the emergency department is a better way to increase safety over reducing the number of public areas in the emergency department. (Rankings correspond to means.¹)

¹ A lower mean score is a higher ranking (1=most important factor; 7=least important factor).

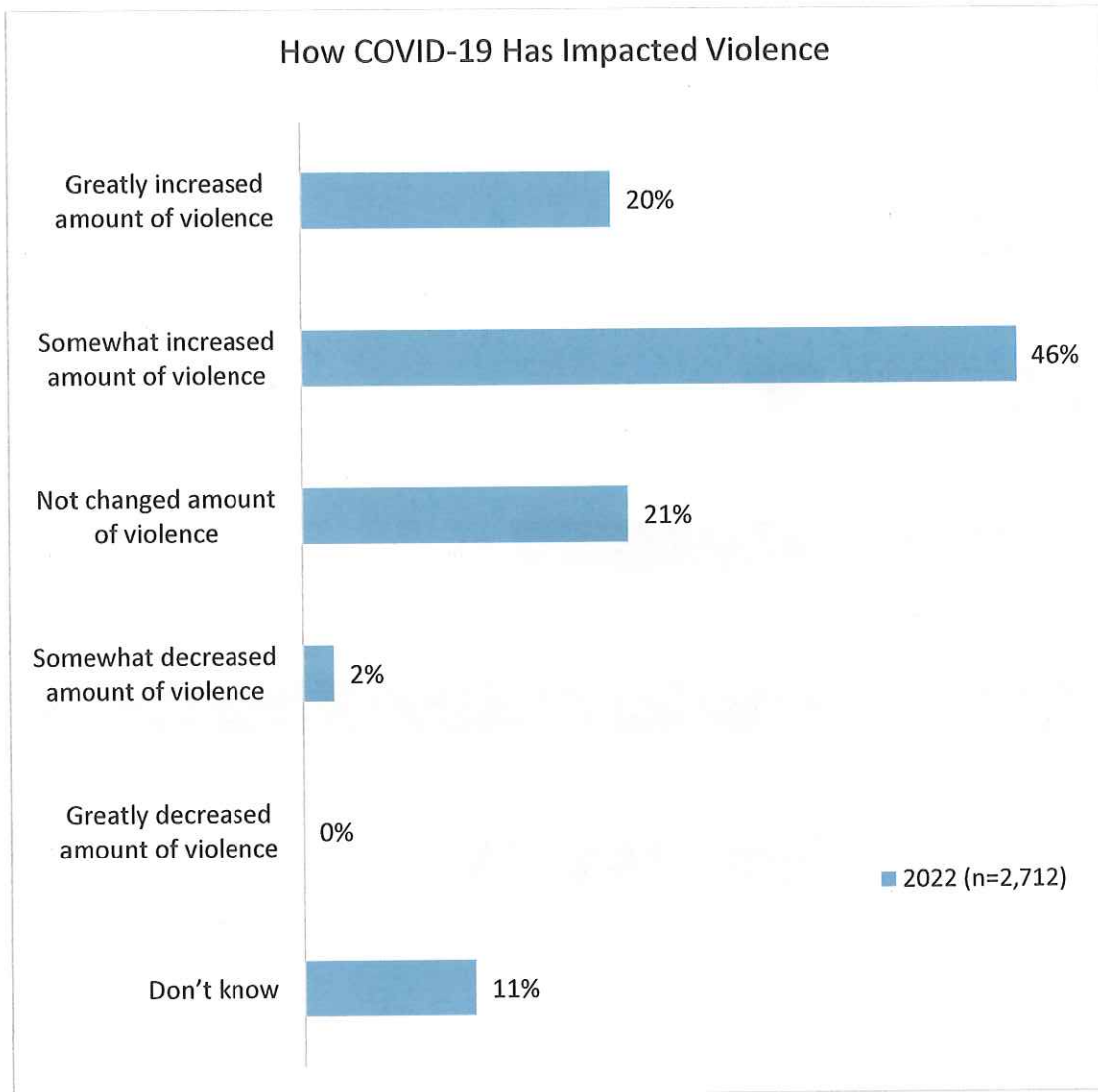
Q20. In your experience, violence in the emergency department in the past five years has:



85% of emergency physicians believe that the rate of violence experienced in emergency departments has increased over the past five years, with 45% indicating it has greatly increased. None of the physicians in the current study believe that the rate of violence has decreased at all.

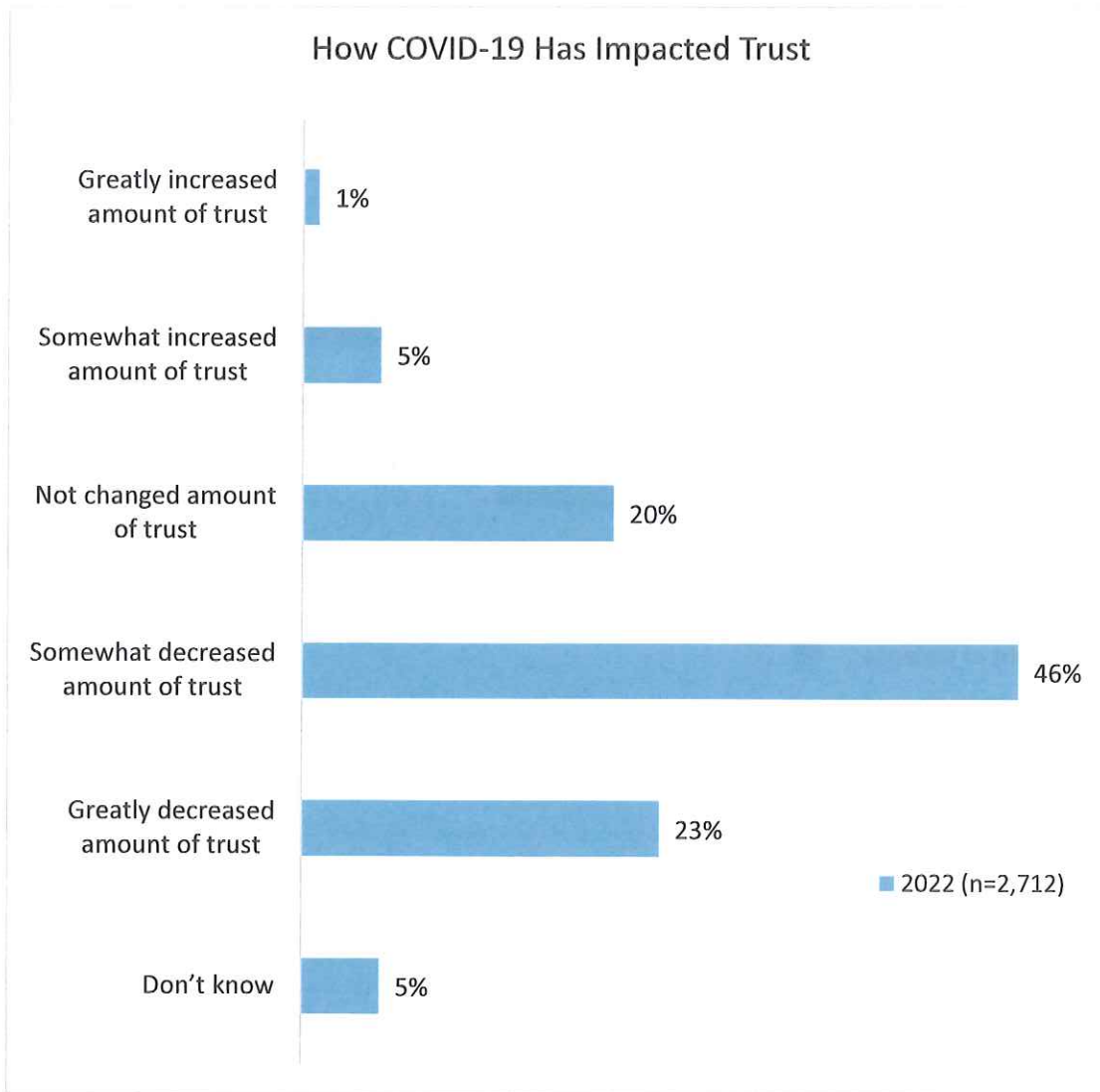
This represents a significant departure from the findings in 2018, with nearly twice as many physicians reporting that violence in the emergency department has greatly increased.

Q21. In your experience, how has COVID-19 impacted the level of emergency department violence?



Two-thirds of physicians indicate that COVID-19 has increased the amount of violence in emergency departments (66%).

Q22. In your experience, how has COVID-19 impacted the level of trust between patients and physicians or emergency department staff?



Results indicate that COVID-19 has had a chilling effect on the trust levels between patients and physicians and staff in the emergency department, with 69% of physicians reporting that COVID-19 has decreased the level of trust between patients and physicians or emergency department staff.

2022 ACEP Emergency Department Violence Poll Results

Q23. Rank what you think are the biggest contributing factors to violence in the emergency department. Drag each item below to your desired ranking.

Biggest Factors Contributing to Violence in the Emergency Department				
	2018		2022	
	Mean	Rank	Mean	Rank
No adequate punitive consequence or response towards the attacker	2.64	2	2.66	1
Behavioral health patients	2.62	1	2.87	2
Absence of adequate protective mechanisms for physicians/staff	3.20	3	3.36	3
Emergency department crowding	3.95	4	3.70	4
Emergency department boarding	4.82	6	4.55	5
People seeking prescription opioids	4.18	5	5.30	6
COVID-19	N/A	N/A	6.07	7
Other	6.58	7	7.50	8

Similar to the previous research, physicians believe the biggest factors contributing to violence in the emergency department are a lack of adequate punitive consequences toward the attacker, behavioral health patients, and the absence of adequate protective mechanisms for staff.

According to physicians, the lack of punitive consequences has become a bigger factor than behavioral health patients since 2018. Additionally, emergency department boarding is now a larger factor than people seeking opioids. (Rankings correspond to means.²)

² A lower mean score is a higher ranking (1=most important factor; 7=least important factor).



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

OTHER STATES' LAWS PROHIBITING VIOLENCE AGAINST MEDICAL PROFESSIONALS

May 2022

by

Pierre Chesnais, Associate Research Analyst

This memorandum provides an overview of statutes addressing violence against healthcare workers in seven states (Alaska, Colorado, Idaho, Nebraska, Oklahoma, Utah, and Wisconsin) and the penalties offenders may receive upon assaulting or harassing healthcare professionals. The seven states surveyed in this memorandum vary in: (1) whether the criminal provision specific to healthcare workers provides a sentence enhancement if the victim is a healthcare provider; and (2) whether the state considers violence against healthcare workers a separate misdemeanor or felony offense and the severity of punishment. Alaska and Colorado classify violence against medical professionals as a misdemeanor, while Nebraska, Oklahoma, and Wisconsin consider assault of a medical professional a felony. Nebraska provides the harshest potential penalty with a minimum of five years in prison for an assault in the first degree, while Alaska has the least severe potential punishment with a minimum prison sentence of 60 days if the defendant causes bodily injury. In Utah, violence against medical professionals may be a misdemeanor or a felony, depending upon the gravity of the offense. The text of laws for each state is provided in the appendices.

ALASKA: Alaska Statutes provide that an individual who knowingly assaults or harasses a medical professional¹ or an emergency medical technician, paramedic, ambulance attendant, or other emergency responder conducting his professional duties is guilty of an assault in the fourth degree or harassment in the first degree,² both Class A misdemeanors.³ Alaska law establishes a minimum prison term of 30 days if the defendant placed the victim in fear of imminent physical injury by words or other conduct, and a minimum sentence of 60 days if the defendant recklessly caused physical injury or engaged in offensive physical contact.⁴

¹ Alaska Stat. §12.55.135 defines a medical professional as a person who is an advanced practice registered nurse, anesthesiologist, chiropractor, dental hygienist, dentist, nurse, nurse aide, mental health counselor, osteopath, physician, physician assistant, psychiatrist, psychological associate, psychologist, radiologist, surgeon, or x-ray technician, or who holds a substantially similar position.

² Alaska Stat. § 12.55.135(d)(1)

³ Alaska Stat. § 11.41.230 and Alaska Stat. § 11.61.118

⁴ Alaska Stat. § 12.55.135(d)(1)(A) and Alaska Stat. § 11.41.230(a)(1)

COLORADO: Colorado law provides both a sentence enhancement if the victim is a particular type of medical provider and a specific assault offense where the victim is a particular type of medical provider. If a person commits an assault in the third degree on an emergency medical service provider⁵ or an emergency medical care provider⁶ performing his duties, the offender shall be sentenced to a term of imprisonment greater than the maximum sentence for other assaults in the third degree, but not more than twice the maximum sentence authorized for the crime.⁷ Under Colorado law, assault in the third degree is a Class 1 misdemeanor, punishable by a maximum imprisonment sentence of 364 days, not more than a \$1,000 fine, or both.⁸ A person commits assault in the third degree in Colorado when: (1) the offender knowingly or recklessly causes bodily injury to another person⁹ (the general assault offense) or (2) the offender causes a person that the offender knows or reasonably should know is an emergency medical service provider or emergency medical care provider to come into contact with blood or other bodily fluids with the intent to harass, annoy, alarm, or threaten the provider.¹⁰

IDAHO: Idaho specifies the offense of battery against healthcare workers.¹¹ Idaho law provides that any person who commits battery against any person licensed, certified, or registered by the State of Idaho to provide healthcare or an employee of a hospital, medical clinic, or medical practice while the person is engaged in performing medical duties is subject to imprisonment not to exceed three years.¹² Idaho defines battery as willful and unlawful use of force or violence upon a person; actual, intentional, and unlawful touching or striking of another person; or unlawfully and intentionally causing bodily harm to an individual.¹³

NEBRASKA: Under Nebraska law, assaulting a healthcare professional may be an assault in the first, second, or third degree.¹⁴ Nebraska Statutes establish that a person is committing an assault in the first degree if that person intentionally or knowingly causes serious bodily injury to an

⁵ While the Colorado Statutes do not provide a definition of emergency medical service providers, Colorado regulation defines an emergency medical service provider as an individual who holds a valid emergency medical service provider certificate issued by the Department of Health and includes emergency medical technicians, emergency medical technician intermediate and paramedic. Colo Reg. § 6-1015-3.

⁶ C.R.S. 18-3-201 defines an emergency medical care provider as a doctor, intern, nurse, nurse's aide, physician assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance.

⁷ C.R.S. 18-1.3-501(1.5) (a)

⁸ C.R.S. 18-1.3-501(a.5)

⁹ C.R.S. 18-3-204(1)(a)

¹⁰ C.R.S. 18-3-204(1)(b)

¹¹ The Idaho Code does not provide a statutory definition of healthcare workers.

¹² Idaho Code § 18-915C

¹³ Idaho Code § 18-903

¹⁴ R.R.S. Neb. § 28-929.01(1) defines an emergency care provider as an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, a community paramedic, a critical care paramedic, or a paramedic.

