

116TH CONGRESS
1ST SESSION

H. R. 1309

To direct the Secretary of Labor to issue an occupational safety and health standard that requires covered employers within the health care and social service industries to develop and implement a comprehensive workplace violence prevention plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 2019

Mr. COURTNEY (for himself, Mr. SCOTT of Virginia, Ms. ADAMS, Ms. WILSON of Florida, Ms. BONAMICI, Mr. DESAULNIER, Ms. WILD, Ms. OMAR, Mr. GARAMENDI, Mr. ESPAILLAT, Mr. KHANNA, Ms. PINGREE, Ms. NORTON, Mr. HIMES, Mr. POCAN, Ms. SCHAKOWSKY, Ms. CLARKE of New York, Ms. OCASIO-CORTEZ, Ms. VELÁZQUEZ, Ms. MCCOLLUM, Mr. LIPINSKI, Mr. SIRES, Mr. PETERSON, Mr. RASKIN, Mr. ENGEL, Mr. LARSON of Connecticut, and Ms. HAALAND) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Labor to issue an occupational safety and health standard that requires covered employers within the health care and social service industries to develop and implement a comprehensive workplace violence prevention plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Workplace Violence
3 Prevention for Health Care and Social Service Workers
4 Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) In a 2016 report entitled, “Workplace Safe-
8 ty and Health: Additional Efforts Needed to Help
9 Protect Health Care Workers from Workplace Vio-
10 lence”, the Government Accountability Office re-
11 ported over 730,000 cases of health care workplace
12 assaults over the 5-year span from 2009 through
13 2013, based on Bureau of Justice Statistics data.

14 (2) The health care and social service industries
15 experience the highest rates of injuries caused by
16 workplace violence. Nurses, social workers, psy-
17 chiatric, home health, and personal care aides are all
18 at increased risk for injury caused by workplace vio-
19 lence. The Bureau of Labor Statistics reported that
20 in 2017, rates of violence and injury caused by per-
21 sons in these workplaces ranged from 3 times to as
22 high as 61.9 times the average American workplace.

23 (3) The Bureau of Labor Statistics reports that
24 health care and social service workers suffered 69
25 percent of all workplace violence injuries caused by
26 persons in 2017 and are nearly 5 times as likely to

1 suffer a workplace violence injury than workers over-
2 all.

3 (4) According to a survey of 3,500 American
4 emergency physicians conducted by the American
5 College of Emergency Physicians, 47 percent of
6 emergency room doctors have been physically as-
7 saulted at work, and 8 in 10 report that this vio-
8 lence is affecting patient care.

9 (5) Workplace violence in health care and social
10 service sectors is increasing. Bureau of Labor Statis-
11 tics data show that private sector injury rates of
12 workplace violence in health care and social service
13 sectors increased by 63 percent between 2006 and
14 2016. Due to under-reporting, actual injury rates
15 from workplace violence are widely recognized to be
16 higher than reported levels.

17 (6) Violence in health care settings has adverse
18 impacts on workers and patients, compromising
19 quality of care.

20 (7) Studies have demonstrated that workplace
21 violence prevention programs tailored to the needs of
22 specific work areas and State-based workplace vio-
23 lence prevention legislation are strongly associated
24 with reductions in workplace violence.

1 (8) Studies have found that proper staff train-
2 ing, appropriate staffing levels, sufficient resources,
3 and the use of evidence based interventions (such as
4 effective communication with patients using de-esca-
5 lation techniques and noncoercive use of medica-
6 tions) can reduce the risks to the safety of both pa-
7 tients and staff, using least-restrictive measures.

8 (9) The Occupational Safety and Health Ad-
9 ministration has issued “Guidelines for Preventing
10 Workplace Violence for Healthcare and Social Serv-
11 ice Workers”, however, this guidance is not enforce-
12 able. Absent an enforceable standard, employers lack
13 mandatory requirements to implement an effective
14 and ongoing violence prevention program that pro-
15 vides protection of workers from workplace violence.

16 (10) Nine States have mandated that certain
17 types of health care facilities implement workplace
18 violence prevention programs. On April 1, 2018, the
19 Division of Occupational Safety and Health of the
20 State of California issued a comprehensive standard
21 (“Workplace Violence Prevention in Health Care”)
22 that requires health care facilities to implement a
23 workplace violence prevention plan.

24 (11) Employer organizations have challenged
25 the Occupational Safety and Health Administra-

1 tion’s authority to utilize the General Duty Clause
2 of the Occupational Safety and Health Act of 1970
3 to enforce against workplace violence hazards, argu-
4 ing that Congress did not intend to cover workplace
5 violence under such clause when the Act was enacted
6 in 1970.

7 (12) The Occupational Safety and Health Ad-
8 ministration (OSHA) received two petitions for rule-
9 making in July of 2016, calling on OSHA to pro-
10 mulgate a violence prevention standard for health
11 care and social service sectors. On December 6,
12 2016, OSHA issued a Request for Information
13 (RFI) soliciting information on this issue. On Janu-
14 ary 10, 2017, OSHA conducted a public meeting to
15 receive stakeholder input and to supplement the on-
16 line comments submitted in response to the RFI. At
17 that meeting, OSHA announced it accepted the peti-
18 tions and would develop a Federal standard to pre-
19 vent workplace violence in health care and social
20 service settings. OSHA’s efforts to move forward
21 with rulemaking have been halting, inconsistent, and
22 slow. Therefore, legislation is necessary to ensure
23 the timely development of a standard to protect
24 workers in health care and social service settings.

1 **SEC. 3. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Table of contents.

TITLE I—WORKPLACE VIOLENCE PREVENTION STANDARD

- Sec. 101. Workplace violence prevention standard.
- Sec. 102. Scope and application.
- Sec. 103. Requirements for workplace violence prevention standard.
- Sec. 104. Rules of construction.
- Sec. 105. Other definitions.

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

- Sec. 201. Application of the workplace violence prevention standard to certain facilities receiving Medicare funds.

3 **TITLE I—WORKPLACE VIOLENCE**
 4 **PREVENTION STANDARD**

5 **SEC. 101. WORKPLACE VIOLENCE PREVENTION STANDARD.**

6 (a) INTERIM FINAL STANDARD.—

7 (1) IN GENERAL.—Not later than 1 year after
 8 the date of enactment of this Act, the Secretary of
 9 Labor shall promulgate an interim final standard on
 10 workplace violence prevention—

11 (A) to require certain employers in the
 12 healthcare and social service sectors, and cer-
 13 tain employers in sectors that conduct activities
 14 similar to the activities in the healthcare and
 15 social service sectors, to develop and implement
 16 a comprehensive workplace violence prevention
 17 plan to protect health care workers, social serv-

1 ice workers, and other personnel from work-
2 place violence; and

3 (B) that shall, at a minimum, be based on
4 the Guidelines for Preventing Workplace Vio-
5 lence for Healthcare and Social Service Work-
6 ers published by the Occupational Safety and
7 Health Administration of the Department of
8 Labor in 2015 and adhere to the requirements
9 of this title.

10 (2) APPLICABILITY OF OTHER STATUTORY RE-
11 QUIREMENTS.—The following shall not apply to the
12 promulgation of the interim final standard under
13 this subsection:

14 (A) The requirements applicable to occupa-
15 tional safety and health standards under section
16 6(b) of the Occupational Safety and Health Act
17 of 1970 (29 U.S.C. 655(b)).

18 (B) The requirements of chapters 5 and 6
19 of title 5, United States Code, and titles 2 and
20 42, United States Code.

21 (3) EFFECTIVE DATE OF INTERIM STAND-
22 ARD.—The interim final standard shall—

23 (A) take effect on a date that is not later
24 than 30 days after promulgation, except that
25 such interim final standard may include a rea-

1 sonable phase-in period for the implementation
2 of required engineering controls that take effect
3 after such date;

4 (B) be enforced in the same manner and
5 to the same extent as any standard promul-
6 gated under section 6(b) of the Occupational
7 Safety and Health Act of 1970 (29 U.S.C.
8 655(b)); and

9 (C) be in effect until the final standard de-
10 scribed in subsection (b) becomes effective and
11 enforceable.

12 (4) FAILURE TO PROMULGATE.—If an interim
13 final standard described in paragraph (1) is not pro-
14 mulgated not later than 1 year of the date of enact-
15 ment of this Act, the provisions of this title shall be
16 in effect and enforced in the same manner and to
17 the same extent as any standard promulgated under
18 section 6(b) of the Occupational Safety and Health
19 Act (29 U.S.C. 655(b)) until such provisions are su-
20 perseded in whole by an interim final standard pro-
21 mulgated by the Secretary that meets the require-
22 ments of paragraph (1).

23 (b) FINAL STANDARD.—

24 (1) PROPOSED FINAL STANDARD.—Not later
25 than 2 years after the date of enactment of this Act,

1 the Secretary of Labor shall, pursuant to section 6
2 of the Occupational Safety and Health Act (29
3 U.S.C. 655), promulgate a proposed final standard
4 on workplace violence prevention—

5 (A) for the purposes described in sub-
6 section (a)(1)(A); and

7 (B) that shall include, at a minimum, the
8 elements contained in the interim final standard
9 promulgated under subsection (a).

10 (2) FINAL STANDARD.—Not later than 42
11 months after the date of enactment of this Act, the
12 Secretary shall promulgate a final standard on such
13 proposed standard that shall—

14 (A) provide no less protection than any
15 workplace violence standard adopted by a State
16 plan that has been approved by the Secretary
17 under section 18 of the Occupational Safety
18 and Health Act of 1970 (29 U.S.C. 667); and

19 (B) be effective and enforceable in the
20 same manner and to the same extent as any
21 standard promulgated under section 6(b) of the
22 Occupational Safety and Health Act of 1970
23 (29 U.S.C. 655(b)).

24 **SEC. 102. SCOPE AND APPLICATION.**

25 In this title:

1 (1) COVERED FACILITY.—The term “covered
2 facility” includes the following:

3 (A) Any hospital, including any specialty
4 hospital, in-patient or outpatient setting, or
5 clinic operating within a hospital license, or any
6 setting that provides outpatient services.

7 (B) Any residential treatment facility, in-
8 cluding any nursing home, skilled nursing facil-
9 ity, hospice facility, and long-term care facility.

10 (C) Any non-residential treatment or serv-
11 ice setting.

12 (D) Any medical treatment or social serv-
13 ice setting or clinic at a correctional or deten-
14 tion facility.

15 (E) Any community care setting, including
16 a community-based residential facility, group
17 home, and mental health clinic.

18 (F) Any psychiatric treatment facility.

19 (G) Any drug abuse or substance use dis-
20 order treatment center.

21 (H) Any independent freestanding emer-
22 gency centers.

23 (I) Any facility described in subparagraphs
24 (A) through (H) operated by a Federal Govern-
25 ment agency and required to comply with occu-

1 pational safety and health standards pursuant
2 to section 1960 of title 29, Code of Federal
3 Regulations.

4 (J) Any other facility the Secretary deter-
5 mines should be covered under the standards
6 promulgated under section 101.

7 (2) COVERED SERVICES.—The term “covered
8 service” includes the following services and oper-
9 ations:

10 (A) Any services and operations provided
11 in any field work setting, including home health
12 care, home-based hospice, and home-based so-
13 cial work.

14 (B) Any emergency services and transport,
15 including such services provided by firefighters
16 and emergency responders.

17 (C) Any services described in subpara-
18 graphs (A) and (B) performed by a Federal
19 Government agency and required to comply
20 with occupational safety and health standards
21 pursuant to section 1960 of title 29, Code of
22 Federal Regulations.

23 (D) Any other services and operations the
24 Secretary determines should be covered under
25 the standards promulgated under section 101.

1 (3) COVERED EMPLOYER.—

2 (A) IN GENERAL.—The term “covered em-
3 ployer” includes a person (including a con-
4 tractor, subcontractor, a temporary service
5 firm, or an employee leasing entity) that em-
6 ploys an individual to work at a covered facility
7 or to perform covered services.

8 (B) EXCLUSION.—The term “covered em-
9 ployer” does not include an individual who pri-
10 vately employs, in the individual’s residence, a
11 person to perform covered services for the indi-
12 vidual or a family member of the individual.

13 (4) COVERED EMPLOYEE.—The term “covered
14 employee” includes an individual employed by a cov-
15 ered employer to work at a covered facility or to per-
16 form covered services.

17 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
18 **PREVENTION STANDARD.**

19 Each standard described in section 101 shall include,
20 at a minimum, the following requirements:

21 (1) WORKPLACE VIOLENCE PREVENTION
22 PLAN.—Not later than 6 months after the date of
23 promulgation of the interim final standard under
24 section 101(a), a covered employer shall develop, im-
25 plement, and maintain an effective written workplace

1 violence prevention plan for covered employees at
2 each covered facility and for covered employees per-
3 forming a covered service on behalf of such em-
4 ployer, which meets the following:

5 (A) PLAN DEVELOPMENT.—Each Plan

6 shall—

7 (i) be developed and implemented with
8 the meaningful participation of direct care
9 employees and, where applicable, employee
10 representatives and collective bargaining
11 representatives, for all aspects of the Plan;

12 (ii) be tailored and specific to condi-
13 tions and hazards for the covered facility
14 or the covered service, including patient-
15 specific risk factors and risk factors spe-
16 cific to each work area or unit; and

17 (iii) be suitable for the size, com-
18 plexity, and type of operations at the cov-
19 ered facility or for the covered service, and
20 remain in effect at all times.

21 (B) PLAN CONTENT.—Each Plan shall in-
22 clude procedures and methods for the following:

23 (i) Identification of the individual re-
24 sponsible for implementation of the Plan.

1 (ii) With respect to each work area
2 and unit at the covered facility or while
3 covered employees are performing the cov-
4 ered service, risk assessment and identi-
5 fication of workplace violence risks and
6 hazards to employees exposed to such risks
7 and hazards (including environmental risk
8 factors and patient-specific risk factors),
9 which shall be—

10 (I) informed by past violent inci-
11 dents specific to such covered facility
12 or such covered service; and

13 (II) conducted with, at a min-
14 imum—

15 (aa) direct care employees;

16 (bb) where applicable, the
17 representatives of such employ-
18 ees; and

19 (cc) the employer.

20 (iii) Hazard prevention, engineering
21 controls, or work practice controls to cor-
22 rect, in a timely manner, hazards that the
23 employer creates or controls applying in-
24 dustrial hygiene principles of the hierarchy
25 of controls, which—

1 (I) may include security and
2 alarm systems, adequate exit routes,
3 monitoring systems, barrier protec-
4 tion, established areas for patients
5 and clients, lighting, entry procedures,
6 staffing and working in teams, and
7 systems to identify and flag clients
8 with a history of violence; and

9 (II) shall ensure that employers
10 correct, in a timely manner, hazards
11 identified in the annual report de-
12 scribed in paragraph (5) that the em-
13 ployer creates or controls.

14 (iv) Reporting, incident response, and
15 post-incident investigation procedures, in-
16 cluding procedures—

17 (I) for employees to report work-
18 place violence risks, hazards, and inci-
19 dents;

20 (II) for employers to respond to
21 reports of workplace violence;

22 (III) for employers to perform a
23 post-incident investigation and de-
24 briefing of all reports of workplace vi-

1 olence with the participation of em-
2 ployees and their representatives; and

3 (IV) to provide medical care or
4 first aid to affected employees.

5 (v) Procedures for emergency re-
6 sponse, including procedures for threats of
7 mass casualties and procedures for inci-
8 dents involving a firearm or a dangerous
9 weapon.

10 (vi) Procedures for communicating
11 with and training of covered employees on
12 workplace violence hazards, threats, and
13 work practice controls, the employer's plan,
14 and procedures for confronting, responding
15 to, and reporting workplace violence
16 threats, incidents, and concerns, and em-
17 ployee rights.

18 (vii) Procedures for coordination of
19 risk assessment efforts, Plan development,
20 and implementation of the Plan with other
21 employers who have employees who work
22 at the covered facility or who are per-
23 forming the covered service.

24 (viii) Procedures for conducting the
25 annual evaluation under paragraph (6).

1 (C) AVAILABILITY OF PLAN.—Each Plan
2 shall be made available at all times to the cov-
3 ered employees who are covered under such
4 Plan.

5 (2) VIOLENT INCIDENT INVESTIGATION.—

6 (A) IN GENERAL.—As soon as practicable
7 after a workplace violence incident, risk, or haz-
8 ard of which a covered employer has knowledge,
9 the employer shall conduct an investigation of
10 such incident, risk, or hazard under which the
11 employer shall—

12 (i) review the circumstances of the in-
13 cident, risk, or hazard, and whether any
14 controls or measures implemented pursu-
15 ant to the Plan of the employer were effec-
16 tive; and

17 (ii) solicit input from involved employ-
18 ees, their representatives, and supervisors,
19 about the cause of the incident, risk, or
20 hazard, and whether further corrective
21 measures (including system-level factors)
22 could have prevented the incident, risk, or
23 hazard.

24 (B) DOCUMENTATION.—A covered em-
25 ployer shall document the findings, rec-

1 ommendations, and corrective measures taken
2 for each investigation conducted under this
3 paragraph.

4 (3) TRAINING AND EDUCATION.—With respect
5 to the covered employees covered under a Plan of a
6 covered employer, the employer shall provide train-
7 ing and education to such employees who may be ex-
8 posed to workplace violence hazards and risks, which
9 meet the following requirements:

10 (A) Annual training and education includes
11 information on the Plan, including identified
12 workplace violence hazards, work practice con-
13 trol measures, reporting procedures, record
14 keeping requirements, response procedures, and
15 employee rights.

16 (B) Additional hazard recognition training
17 for supervisors and managers to ensure they
18 can recognize high-risk situations and do not
19 assign employees to situations that predictably
20 compromise their safety.

21 (C) Additional training for each such cov-
22 ered employee whose job circumstances has
23 changed, within a reasonable timeframe after
24 such change.

1 (D) New employee training prior to assign-
2 ment.

3 (E) All training provides such employees
4 opportunities to ask questions, give feedback on
5 such training, and request additional instruc-
6 tion, clarification, or other followup.

7 (F) All training is provided in-person and
8 by an individual with knowledge of workplace
9 violence prevention and of the Plan.

10 (G) All training is appropriate in content
11 and vocabulary to the language, educational
12 level, and literacy of such covered employees.

13 (4) RECORDKEEPING AND ACCESS TO PLAN
14 RECORDS.—

15 (A) IN GENERAL.—Each covered employer
16 shall—

17 (i) maintain at all times—

18 (I) records related to each Plan
19 of the employer, including workplace
20 violence risk and hazard assessments,
21 and identification, evaluation, correc-
22 tion, and training procedures;

23 (II) a violent incident log de-
24 scribed in subparagraph (B) for re-

1 cording all workplace violence inci-
2 dents; and

3 (III) records of all incident inves-
4 tigations as required under paragraph
5 (2)(B); and

6 (ii) make such records and logs avail-
7 able, upon request, to covered employees
8 and their representatives for examination
9 and copying in accordance with section
10 1910.1020 of title 29, Code of Federal
11 Regulations, and in a manner consistent
12 with HIPAA privacy regulations (defined
13 in section 1180(b)(3) of the Social Security
14 Act (42 U.S.C. 1320d–9(b)(3))) and part
15 2 of title 42, Code of Federal Regulations,
16 and ensure that any such records and logs
17 removed from the employer’s control for
18 purposes of this clause omit any element of
19 personal identifying information sufficient
20 to allow identification of any patient, resi-
21 dent or client alleged to have committed a
22 violent incident (including the person’s
23 name, address, electronic mail address,
24 telephone number, or social security num-
25 ber, or other information that, alone or in

1 combination with other publicly available
2 information, reveals such person's iden-
3 tity).

4 (B) VIOLENT INCIDENT LOG DESCRIP-
5 TION.—Each violent incident log shall—

6 (i) be maintained by a covered em-
7 ployer for each covered facility controlled
8 by the employer and for each covered serv-
9 ice being performed by a covered employee
10 on behalf of such employer;

11 (ii) be based on a template developed
12 by the Secretary not later than 1 year
13 after the date of enactment of this Act;

14 (iii) include, at a minimum, a descrip-
15 tion of—

16 (I) the violent incident (including
17 environmental risk factors present at
18 the time of the incident);

19 (II) the date, time, and location
20 of the incident, names and job titles
21 of involved employees;

22 (III) the nature and extent of in-
23 juries to covered employees;

- 1 (IV) a classification of the pepe-
2 trator who committed the violence, in-
3 cluding whether the perpetrator was—
- 4 (aa) a patient, client, or cus-
5 tomer of a covered employer;
- 6 (bb) a family or friend of a
7 patient, client, or customer of a
8 covered employer;
- 9 (cc) a stranger with criminal
10 intent;
- 11 (dd) a coworker, supervisor,
12 or manager of a covered em-
13 ployee;
- 14 (ee) a partner, spouse, par-
15 ent, or relative of a covered em-
16 ployee; or
- 17 (ff) any other appropriate
18 classification;
- 19 (V) the type of violent incident
20 (such as type 1 violence, type 2 vio-
21 lence, type 3 violence, or type 4 vio-
22 lence); and
- 23 (VI) how the incident was
24 abated;

1 (iv) not later than 7 days after the
2 employer learns of such incident, contain a
3 record of each violent incident, which is
4 updated to ensure completeness of such
5 record;

6 (v) be maintained for not less than 5
7 years; and

8 (vi) in the case of a violent incident
9 involving a privacy concern case, protect
10 the identity of employees in a manner con-
11 sistent with section 1904.29(b) of title 29,
12 Code of Federal Regulations.

13 (C) ANNUAL SUMMARY.—

14 (i) COVERED EMPLOYERS.—Each cov-
15 ered employer shall prepare an annual
16 summary of each violent incident log for
17 the preceding calendar year that shall—

18 (I) with respect to each covered
19 facility, and each covered service, for
20 which such a log has been maintained,
21 include the total number of violent in-
22 cidents, the number of recordable in-
23 juries related to such incidents, and
24 the total number of hours worked by

1 the covered employees for such pre-
2 ceding year;

3 (II) be completed on a form pro-
4 vided by the Secretary;

5 (III) be posted for three months
6 beginning February 1 of each year in
7 a manner consistent with the require-
8 ments of section 1904 of title 29,
9 Code of Federal Regulations, relating
10 to the posting of summaries of injury
11 and illness logs;

12 (IV) be located in a conspicuous
13 place or places where notices to em-
14 ployees are customarily posted; and

15 (V) not be altered, defaced, or
16 covered by other material.

17 (ii) SECRETARY.—Not later than 1
18 year after the promulgation of the interim
19 final standard under section 101(a), the
20 Secretary shall make available a platform
21 for the electronic submission of annual
22 summaries required under this paragraph.

23 (5) ANNUAL REPORT.—Not later than Feb-
24 ruary 15 of each year, each covered employer shall
25 report to the Secretary, the frequency, quantity, and

1 severity of workplace violence, and any incident re-
2 sponse and post-incident investigation (including
3 abatement measures for the incidents) set forth in
4 the annual summary of the violent incident log de-
5 scribed in paragraph (4)(C).

6 (6) ANNUAL EVALUATION.—Each covered em-
7 ployer shall conduct an annual written evaluation,
8 conducted with the full, active participation of cov-
9 ered employees and employee representatives, of—

10 (A) the implementation and effectiveness
11 of the Plan, including a review of the violent in-
12 cident log; and

13 (B) compliance with training required by
14 each standard described in section 101, and
15 specified in the Plan.

16 (7) ANTI-RETALIATION.—

17 (A) POLICY.—Each covered employer shall
18 adopt a policy prohibiting any person (including
19 an agent of the employer) from discriminating
20 or retaliating against any employee for report-
21 ing, or seeking assistance or intervention from,
22 a workplace violence incident, threat, or concern
23 to the employer, law enforcement, local emer-
24 gency services, or a government agency, or par-
25 ticipating in an incident investigation.

1 (B) PROHIBITION.—No covered employer
2 shall discriminate or retaliate against any em-
3 ployee for reporting, or seeking assistance or
4 intervention from, a workplace violence incident,
5 threat, or concern to the employer, law enforce-
6 ment, local emergency services, or a government
7 agency, or for exercising any other rights under
8 this paragraph.

9 (C) ENFORCEMENT.—This paragraph shall
10 be enforced in the same manner and to the
11 same extent as any standard promulgated
12 under section 6(b) of the Occupational Safety
13 and Health Act (29 U.S.C. 655(b)).

14 **SEC. 104. RULES OF CONSTRUCTION.**

15 Notwithstanding section 18 of the Occupational Safe-
16 ty and Health Act of 1970 (29 U.S.C. 667)—

17 (1) nothing in this title shall be construed to
18 curtail or limit authority of the Secretary under any
19 other provision of the law; and

20 (2) the rights, privileges, or remedies of covered
21 employees shall be in addition to the rights, privi-
22 leges, or remedies provided under any Federal or
23 State law, or any collective bargaining agreement.

24 **SEC. 105. OTHER DEFINITIONS.**

25 In this title:

1 (1) WORKPLACE VIOLENCE.—

2 (A) IN GENERAL.—The term “workplace
3 violence” means any act of violence or threat of
4 violence, without regard to intent, that occurs
5 at a covered facility or while a covered employee
6 performs a covered service.

7 (B) EXCLUSIONS.—The term “workplace
8 violence” does not include lawful acts of self-de-
9 fense or defense of others.

10 (C) INCLUSIONS.—The term “workplace
11 violence” includes—

12 (i) the threat or use of physical force
13 against a covered employee that results in
14 or has a high likelihood of resulting in in-
15 jury, psychological trauma, or stress, with-
16 out regard to whether the covered em-
17 ployee sustains an injury, psychological
18 trauma, or stress; and

19 (ii) an incident involving the threat or
20 use of a firearm or a dangerous weapon,
21 including the use of common objects as
22 weapons, without regard to whether the
23 employee sustains an injury, psychological
24 trauma, or stress.

1 (2) TYPE 1 VIOLENCE.—The term “type 1 vio-
2 lence”—

3 (A) means workplace violence directed at a
4 covered employee at a covered facility or while
5 performing a covered service by an individual
6 who has no legitimate business at the covered
7 facility or with respect to such covered service;
8 and

9 (B) includes violent acts by any individual
10 who enters the covered facility or worksite
11 where a covered service is being performed with
12 the intent to commit a crime.

13 (3) TYPE 2 VIOLENCE.—The term “type 2 vio-
14 lence” means workplace violence directed at a cov-
15 ered employee by customers, clients, patients, stu-
16 dents, inmates, or any individual for whom a covered
17 facility provides services or for whom the employee
18 performs covered services.

19 (4) TYPE 3 VIOLENCE.—The term “type 3 vio-
20 lence” means workplace violence directed at a cov-
21 ered employee by a present or former employee, su-
22 pervisor, or manager.

23 (5) TYPE 4 VIOLENCE.—The term “type 4 vio-
24 lence” means workplace violence directed at a cov-
25 ered employee by an individual who is not an em-

1 ployee, but has or is known to have had a personal
2 relationship with such employee.

3 (6) THREAT OF VIOLENCE.—The term “threat
4 of violence” means a statement or conduct that
5 causes a person to fear for his or her safety because
6 there is a reasonable possibility the person might be
7 physically injured, and that serves no legitimate pur-
8 pose.

9 (7) ALARM.—The term “alarm” means a me-
10 chanical, electrical, or electronic device that does not
11 rely upon an employee’s vocalization in order to alert
12 others.

13 (8) DANGEROUS WEAPON.—The term “dan-
14 gerous weapon” means an instrument capable of in-
15 flicting death or serious bodily injury, regardless of
16 whether such instrument was designed for that pur-
17 pose.

18 (9) ENGINEERING CONTROLS.—

19 (A) IN GENERAL.—The term “engineering
20 controls” means an aspect of the built space or
21 a device that removes a hazard from the work-
22 place or creates a barrier between a covered
23 employee and the hazard.

24 (B) INCLUSIONS.—For purposes of reduc-
25 ing workplace violence hazards, the term “engi-

1 neering controls” includes electronic access con-
2 trols to employee occupied areas, weapon detec-
3 tors (installed or handheld), enclosed work-
4 stations with shatter-resistant glass, deep serv-
5 ice counters, separate rooms or areas for high-
6 risk patients, locks on doors, removing access to
7 or securing items that could be used as weap-
8 ons, furniture affixed to the floor, opaque glass
9 in patient rooms (which protects privacy, but
10 allows the health care provider to see where the
11 patient is before entering the room), closed-cir-
12 cuit television monitoring and video recording,
13 sight-aids, and personal alarm devices.

14 (10) ENVIRONMENTAL RISK FACTORS.—

15 (A) IN GENERAL.—The term “environ-
16 mental risk factors” means factors in the cov-
17 ered facility or area in which a covered service
18 is performed that may contribute to the likeli-
19 hood or severity of a workplace violence inci-
20 dent.

21 (B) CLARIFICATION.—Environmental risk
22 factors may be associated with the specific task
23 being performed or the work area, such as
24 working in an isolated area, poor illumination
25 or blocked visibility, and lack of physical bar-

1 riers between employees and persons at risk of
2 committing workplace violence.

3 (11) PATIENT-SPECIFIC RISK FACTORS.—The
4 term “patient-specific risk factors” means factors
5 specific to a patient that may increase the likelihood
6 or severity of a workplace violence incident, includ-
7 ing—

8 (A) a patient’s psychiatric condition, treat-
9 ment and medication status, history of violence,
10 and use of drugs or alcohol; and

11 (B) any conditions or disease processes of
12 the patient that may cause the patient to expe-
13 rience confusion or disorientation, to be non-re-
14 sponsive to instruction, or to behave unpredict-
15 ably.

16 (12) SECRETARY.—The term “Secretary”
17 means the Secretary of Labor.

18 (13) WORK PRACTICE CONTROLS.—

19 (A) IN GENERAL.—The term “work prac-
20 tice controls” means procedures and rules that
21 are used to effectively reduce workplace violence
22 hazards.

23 (B) INCLUSIONS.—The term “work prac-
24 tice controls” includes assigning and placing
25 sufficient numbers of staff to reduce patient-

1 specific Type 2 workplace violence hazards, pro-
2 vision of dedicated and available safety per-
3 sonnel such as security guards, employee train-
4 ing on workplace violence prevention method
5 and techniques to de-escalate and minimize vio-
6 lent behavior, and employee training on proce-
7 dures for response in the event of a workplace
8 violence incident and for post-incident response.

9 **TITLE II—AMENDMENTS TO THE** 10 **SOCIAL SECURITY ACT**

11 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE** 12 **PREVENTION STANDARD TO CERTAIN FACILI-** 13 **TIES RECEIVING MEDICARE FUNDS.**

14 (a) IN GENERAL.—Section 1866 of the Social Secu-
15 rity Act (42 U.S.C. 1395ee) is amended—

16 (1) in subsection (a)(1)—

17 (A) in subparagraph (X), by striking
18 “and” at the end;

19 (B) in subparagraph (Y), by striking at
20 the end the period and inserting “; and”; and

21 (C) by inserting after subparagraph (Y)
22 the following new subparagraph:

23 “(Z) in the case of hospitals that are not other-
24 wise subject to the Occupational Safety and Health
25 Act of 1970 (or a State occupational safety and

1 health plan that is approved under 18(b) of such
2 Act) and skilled nursing facilities that are not other-
3 wise subject to such Act (or such a State occupa-
4 tional safety and health plan), to comply with the
5 Workplace Violence Prevention Standard (as pro-
6 mulgated under section 101 of the Health Care
7 Workplace Violence Prevention Act of 2018).”; and

8 (2) in subsection (b)(4)—

9 (A) in subparagraph (A), by inserting
10 “and a hospital or skilled nursing facility that
11 fails to comply with the requirement of sub-
12 section (a)(1)(Z) (relating to the Workplace Vi-
13 olence Prevention Standard)” after “Blood-
14 borne Pathogens Standard”); and

15 (B) in subparagraph (B)—

16 (i) by striking “(a)(1)(U)” and insert-
17 ing “(a)(1)(V)”); and

18 (ii) by inserting “(or, in the case of a
19 failure to comply with the requirement of
20 subsection (a)(1)(Z), for a violation of the
21 Workplace Violence Prevention standard
22 referred to in such subsection by a hospital
23 or skilled nursing facility, as applicable,
24 that is subject to the provisions of such
25 Act)” before the period at the end.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 subsection (a) shall apply beginning on the date that is
3 1 year after the date of issuance of the interim final stand-
4 ard on workplace violence prevention required under sec-
5 tion 101.

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