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116TH CONGRESS
1ST SESSION

H. R. 1309

[Report No. 116–296, Part I]

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

NOVEMBER 18, 2019

Additional sponsors: Ms. WASSERMAN SCHULTZ, Mrs. DAVIS of California, Ms. PORTER, Mr. LEVIN of Michigan, Ms. JAYAPAL, Mr. TAKANO, Ms. LEE of California, Mr. MOULTON, Mrs. MCBATH, Ms. DELAURO, Ms. LOFGREN, Mr. VARGAS, Mr. SABLAN, Mr. COHEN, Mr. DEFazio, Mrs. NAPOLITANO, Ms. FUDGE, Ms. DEAN, Ms. HILL of California, Mrs. HAYES, Mr. VISCLOSKEY, Ms. MOORE, Mr. RYAN, Ms. PRESSLEY, Ms. MENG, Mr. GRIJALVA, Ms. SCANLON, Ms. CRAIG, Mr. ROSE of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. LOWENTHAL, Mr. CARSON of Indiana, Mr. THOMPSON of Mississippi, Ms. SHALALA, Mrs. LAWRENCE, Mr. CASE, Mr. CISNEROS, Mr. BLUMENAUER, Mr. PAPPAS, Ms. SÁNCHEZ, Mr. CRIST, Ms. SLOTKIN, Ms. STEFANIK, Ms. BROWNLEY of California, Mr. GOLDEN, Mr. LANGEVIN, Mr. HIGGINS of New York,

Mr. JOHNSON of Georgia, Mr. CICILLINE, Mr. DANNY K. DAVIS of Illinois, Mr. MCGOVERN, Mr. LYNCH, Mr. PAYNE, Mr. DAVID SCOTT of Georgia, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. KAPTUR, Ms. JUDY CHU of California, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. NORCROSS, Mrs. BUSTOS, Mr. MALINOWSKI, Ms. SCHRIER, Mr. HARDER of California, Mr. TRONE, Ms. MUCARSEL-POWELL, Mr. RUIZ, Ms. KUSTER of New Hampshire, Mr. PASCRELL, Ms. BLUNT ROCHESTER, Mrs. AXNE, Mr. CÁRDENAS, Mr. MORELLE, Mr. NEGUSE, Mr. KIM, Ms. JOHNSON of Texas, Mr. RUPPERSBERGER, Mr. JEFFRIES, Mr. HASTINGS, Mr. BROWN of Maryland, Ms. CLARK of Massachusetts, Mr. GOMEZ, Mr. TED LIEU of California, Ms. FINKENAUER, Mr. SERRANO, Ms. WATERS, Mrs. DINGELL, Ms. JACKSON LEE, Mr. SARBANES, Ms. BARRAGÁN, Mr. LAWSON of Florida, Mr. FOSTER, Mr. QUIGLEY, Mrs. TRAHAN, Mr. GALLEGO, Mr. LOEBSACK, Mr. DOGGETT, Ms. TITUS, Mr. KENNEDY, Mrs. WATSON COLEMAN, Ms. CASTOR of Florida, Mr. SOTO, Ms. SPANBERGER, Miss RICE of New York, Mrs. DEMINGS, Mr. COOPER, Mr. GARCÍA of Illinois, Ms. BASS, Mr. KRISHNAMOORTHY, Mr. GONZALEZ of Texas, Mr. TONKO, Mr. FITZPATRICK, Ms. DELBENE, Mrs. KIRKPATRICK, Mr. GREEN of Texas, Mr. PHILLIPS, Mr. CASTRO of Texas, Mr. MEEKS, Mr. SMITH of Washington, Mr. AGUILAR, Mr. CARTWRIGHT, Mr. BERA, Mrs. MURPHY of Florida, Mr. LARSEN of Washington, Mr. VAN DREW, Mr. KILDEE, Mrs. BEATTY, Mr. COX of California, Mr. CROW, Ms. KELLY of Illinois, Ms. SPEIER, Mr. HECK, Mrs. LEE of Nevada, Mr. YARMUTH, Mr. WELCH, Mr. CARBAJAL, Mr. PRICE of North Carolina, Mr. VELA, Mr. PERLMUTTER, Mr. ROUDA, Mrs. LOWEY, Ms. UNDERWOOD, Mr. CLAY, Ms. TLAIB, Mr. BACON, Ms. STEVENS, Mr. CLEAVER, Ms. GABBARD, Mr. SCHIFF, Mr. LUJÁN, Mr. BUTTERFIELD, Mr. KILMER, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. BRINDISI, Mr. KIND, Mr. PETERS, Mr. KEATING, Mr. HUFFMAN, Mr. SHERMAN, Ms. DEGETTE, Mr. SUOZZI, Mr. COLE, Ms. DAVIDS of Kansas, Mr. SMITH of New Jersey, Mr. YOUNG, Mr. CUMMINGS, Mr. LEVIN of California, Ms. MATSUI, Mr. VEASEY, Mr. DELGADO, Mrs. TORRES of California, Mr. CONNOLLY, Mrs. CAROLYN B. MALONEY of New York, Mr. NADLER, Mr. SWALWELL of California, Mr. DEUTCH, Mr. PANETTA, Mr. SCHRADER, Ms. TORRES SMALL of New Mexico, Mr. GOTTHEIMER, Mr. SCHNEIDER, Ms. KENDRA S. HORN of Oklahoma, Mr. LAMB, Ms. SEWELL of Alabama, Ms. GARCIA of Texas, Mr. LEWIS, Ms. HOULAHAN, Mr. STANTON, Ms. SHERRILL, Mr. BEYER, Mr. EVANS, Mr. MCNERNEY, Ms. FRANKEL, Mr. MCEACHIN, Mrs. LURLA, Mr. STAUBER, Mrs. FLETCHER, Ms. ESCOBAR, Mr. FORTENBERRY, Mr. RICHMOND, Mr. BISHOP of Georgia, and Mr. CASTEN of Illinois

NOVEMBER 18, 2019

Reported from the Committee on Education and Labor with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

NOVEMBER 18, 2019

Committees on Energy and Commerce and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 19, 2019]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Workplace Violence Pre-*
 5 *vention for Health Care and Social Service Workers Act”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. 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 fa-
ilities receiving Medicare funds.

8 **TITLE I—WORKPLACE VIOLENCE**
 9 **PREVENTION STANDARD**

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

11 *(a) INTERIM FINAL STANDARD.—*

12 *(1) IN GENERAL.—Not later than 1 year after*
 13 *the date of enactment of this Act, the Secretary of*
 14 *Labor shall promulgate an interim final standard on*
 15 *workplace violence prevention—*

16 *(A) to require certain employers in the*
 17 *health care and social service sectors, and certain*
 18 *employers in sectors that conduct activities simi-*
 19 *lar to the activities in the health care and social*

1 *service sectors, to develop and implement a com-*
2 *prehensive workplace violence prevention plan to*
3 *protect health care workers, social service work-*
4 *ers, and other personnel from workplace violence;*
5 *and*

6 *(B) that shall, at a minimum, be based on*
7 *the Guidelines for Preventing Workplace Violence*
8 *for Health care and Social Service Workers pub-*
9 *lished by the Occupational Safety and Health*
10 *Administration of the Department of Labor in*
11 *2015 and adhere to the requirements of this title.*

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

16 (A) *The requirements applicable to occupa-*
17 *tional safety and health standards under section*
18 *6(b) of the Occupational Safety and Health Act*
19 *of 1970 (29 U.S.C. 655(b)).*

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

23 (3) *NOTICE AND COMMENT.—Notwithstanding*
24 *paragraph (2)(B), the Secretary shall, prior to pro-*
25 *mulgating the interim final standard under this sub-*

1 *section, provide notice in the Federal Register of the*
2 *interim final standard and a 30-day period for pub-*
3 *lic comment.*

4 (4) *EFFECTIVE DATE OF INTERIM STANDARD.—*

5 *The interim final standard shall—*

6 (A) *take effect on a date that is not later*
7 *than 30 days after promulgation, except that*
8 *such interim final standard may include a rea-*
9 *sonable phase-in period for the implementation*
10 *of required engineering controls that take effect*
11 *after such date;*

12 (B) *be enforced in the same manner and to*
13 *the same extent as any standard promulgated*
14 *under section 6(b) of the Occupational Safety*
15 *and Health Act of 1970 (29 U.S.C. 655(b)); and*

16 (C) *be in effect until the final standard de-*
17 *scribed in subsection (b) becomes effective and*
18 *enforceable.*

19 (5) *FAILURE TO PROMULGATE.—If an interim*
20 *final standard described in paragraph (1) is not pro-*
21 *mulgated not later than 1 year of the date of enact-*
22 *ment of this Act, the provisions of this title shall be*
23 *in effect and enforced in the same manner and to the*
24 *same extent as any standard promulgated under sec-*
25 *tion 6(b) of the Occupational Safety and Health Act*

1 (29 U.S.C. 655(b)) until such provisions are super-
2 seded in whole by an interim final standard promul-
3 gated by the Secretary that meets the requirements of
4 paragraph (1).

5 (b) *FINAL STANDARD.*—

6 (1) *PROPOSED STANDARD.*—Not later than 2
7 years after the date of enactment of this Act, the Sec-
8 retary of Labor shall, pursuant to section 6 of the Oc-
9 cupational Safety and Health Act (29 U.S.C. 655),
10 promulgate a proposed standard on workplace vio-
11 lence prevention—

12 (A) for the purposes described in subsection

13 (a)(1)(A); and

14 (B) that shall include, at a minimum, the
15 elements contained in the interim final standard
16 promulgated under subsection (a).

17 (2) *FINAL STANDARD.*—Not later than 42 months
18 after the date of enactment of this Act, the Secretary
19 shall promulgate a final standard on such proposed
20 standard that shall—

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

1 (B) be effective and enforceable in the same
2 manner and to the same extent as any standard
3 promulgated under section 6(b) of the Occupa-
4 tional Safety and Health Act of 1970 (29 U.S.C.
5 655(b)).

6 **SEC. 102. SCOPE AND APPLICATION.**

7 *In this title:*

8 (1) *COVERED FACILITY.*—The term “covered fa-
9 cility” includes the following:

10 (A) *Any hospital, including any specialty*
11 *hospital, in-patient or outpatient setting, or clin-*
12 *ic operating within a hospital license, or any*
13 *setting that provides outpatient services.*

14 (B) *Any residential treatment facility, in-*
15 *cluding any nursing home, skilled nursing facil-*
16 *ity, hospice facility, and long-term care facility.*

17 (C) *Any non-residential treatment or serv-*
18 *ice setting.*

19 (D) *Any medical treatment or social service*
20 *setting or clinic at a correctional or detention fa-*
21 *cility.*

22 (E) *Any community care setting, including*
23 *a community-based residential facility, group*
24 *home, and mental health clinic.*

25 (F) *Any psychiatric treatment facility.*

1 (G) *Any drug abuse or substance use dis-*
2 *order treatment center.*

3 (H) *Any independent freestanding emer-*
4 *gency centers.*

5 (I) *Any facility described in subparagraphs*
6 *(A) through (H) operated by a Federal Govern-*
7 *ment agency and required to comply with occu-*
8 *pational safety and health standards pursuant to*
9 *section 1960 of title 29, Code of Federal Regula-*
10 *tions (as such section is in effect on the date of*
11 *enactment of this Act).*

12 (J) *Any other facility the Secretary deter-*
13 *mines should be covered under the standards pro-*
14 *mulgated under section 101.*

15 (2) *COVERED SERVICES.—The term “covered*
16 *service” includes the following services and oper-*
17 *ations:*

18 (A) *Any services and operations provided in*
19 *any field work setting, including home health*
20 *care, home-based hospice, and home-based social*
21 *work.*

22 (B) *Any emergency services and transport,*
23 *including such services provided by firefighters*
24 *and emergency responders.*

1 (C) Any services described in subparagraphs
2 (A) and (B) performed by a Federal Government
3 agency and required to comply with occupa-
4 tional safety and health standards pursuant to
5 section 1960 of title 29, Code of Federal Regula-
6 tions (as such section is in effect on the date of
7 enactment of this Act).

8 (D) Any other services and operations the
9 Secretary determines should be covered under the
10 standards promulgated under section 101.

11 (3) COVERED EMPLOYER.—

12 (A) IN GENERAL.—The term “covered em-
13 ployer” includes a person (including a con-
14 tractor, subcontractor, a temporary service firm,
15 or an employee leasing entity) that employs an
16 individual to work at a covered facility or to
17 perform covered services.

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

23 (4) COVERED EMPLOYEE.—The term “covered
24 employee” includes an individual employed by a cov-

1 *ered employer to work at a covered facility or to per-*
2 *form covered services.*

3 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE PRE-**
4 **VENTION STANDARD.**

5 *Each standard described in section 101 shall include,*
6 *at a minimum, the following requirements:*

7 (1) *WORKPLACE VIOLENCE PREVENTION PLAN.—*
8 *Not later than 6 months after the date of promulga-*
9 *tion of the interim final standard under section*
10 *101(a), a covered employer shall develop, implement,*
11 *and maintain an effective written workplace violence*
12 *prevention plan for covered employees at each covered*
13 *facility and for covered employees performing a cov-*
14 *ered service on behalf of such employer, which meets*
15 *the following:*

16 (A) *PLAN DEVELOPMENT.—Each Plan*
17 *shall—*

18 (i) *be developed and implemented with*
19 *the meaningful participation of direct care*
20 *employees, other employees, and employee*
21 *representatives, for all aspects of the Plan;*

22 (ii) *be tailored and specific to condi-*
23 *tions and hazards for the covered facility or*
24 *the covered service, including patient-spe-*

1 *cific risk factors and risk factors specific to*
2 *each work area or unit; and*

3 (iii) *be suitable for the size, com-*
4 *plexity, and type of operations at the cov-*
5 *ered facility or for the covered service, and*
6 *remain in effect at all times.*

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

9 (i) *Identification of the individual re-*
10 *sponsible for implementation of the Plan.*

11 (ii) *With respect to each work area and*
12 *unit at the covered facility or while covered*
13 *employees are performing the covered serv-*
14 *ice, risk assessment and identification of*
15 *workplace violence risks and hazards to em-*
16 *ployees exposed to such risks and hazards*
17 *(including environmental risk factors and*
18 *patient-specific risk factors), which shall*
19 *be—*

20 (I) *informed by past violent inci-*
21 *dents specific to such covered facility*
22 *or such covered service; and*

23 (II) *conducted with, at a min-*
24 *imum—*

25 (aa) *direct care employees;*

1 *(bb) where applicable, the*
2 *representatives of such employees;*
3 *and*

4 *(cc) the employer.*

5 *(iii) Hazard prevention, engineering*
6 *controls, or work practice controls to correct*
7 *hazards, in a timely manner, applying in-*
8 *dustrial hygiene principles of the hierarchy*
9 *of controls, which—*

10 *(I) may include security and*
11 *alarm systems, adequate exit routes,*
12 *monitoring systems, barrier protection,*
13 *established areas for patients and cli-*
14 *ents, lighting, entry procedures, staff-*
15 *ing and working in teams, and systems*
16 *to identify and flag clients with a his-*
17 *tory of violence; and*

18 *(II) shall ensure that employers*
19 *correct, in a timely manner, hazards*
20 *identified in any violent incident in-*
21 *vestigation described in paragraph (2)*
22 *and any annual report described in*
23 *paragraph (5).*

1 (iv) *Reporting, incident response, and*
2 *post-incident investigation procedures, in-*
3 *cluding procedures—*

4 (I) *for employees to report work-*
5 *place violence risks, hazards, and inci-*
6 *dents;*

7 (II) *for employers to respond to*
8 *reports of workplace violence;*

9 (III) *for employers to perform a*
10 *post-incident investigation and debrief-*
11 *ing of all reports of workplace violence*
12 *with the participation of employees*
13 *and their representatives; and*

14 (IV) *to provide medical care or*
15 *first aid to affected employees.*

16 (v) *Procedures for emergency response,*
17 *including procedures for threats of mass*
18 *casualties and procedures for incidents in-*
19 *volving a firearm or a dangerous weapon.*

20 (vi) *Procedures for communicating*
21 *with and training the covered employees on*
22 *workplace violence hazards, threats, and*
23 *work practice controls, the employer's plan,*
24 *and procedures for confronting, responding*
25 *to, and reporting workplace violence threats,*

1 incidents, and concerns, and employee
2 rights.

3 (vii) Procedures for—

4 (I) ensuring the coordination of
5 risk assessment efforts, Plan develop-
6 ment, and implementation of the Plan
7 with other employers who have employ-
8 ees who work at the covered facility or
9 who are performing the covered service;
10 and

11 (II) determining which covered
12 employer or covered employers shall be
13 responsible for implementing and com-
14 plying with the provisions of the
15 standard applicable to the working
16 conditions over which such employers
17 have control.

18 (viii) Procedures for conducting the
19 annual evaluation under paragraph (6).

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

23 (2) VIOLENT INCIDENT INVESTIGATION.—

24 (A) IN GENERAL.—As soon as practicable
25 after a workplace violence incident, risk, or haz-

1 *ard of which a covered employer has knowledge,*
2 *the employer shall conduct an investigation of*
3 *such incident, risk, or hazard under which the*
4 *employer shall—*

5 *(i) review the circumstances of the in-*
6 *cident, risk, or hazard, and whether any*
7 *controls or measures implemented pursuant*
8 *to the Plan of the employer were effective;*
9 *and*

10 *(ii) solicit input from involved employ-*
11 *ees, their representatives, and supervisors*
12 *about the cause of the incident, risk, or haz-*
13 *ard, and whether further corrective meas-*
14 *ures (including system-level factors) could*
15 *have prevented the incident, risk, or hazard.*

16 *(B) DOCUMENTATION.—A covered employer*
17 *shall document the findings, recommendations,*
18 *and corrective measures taken for each investiga-*
19 *tion conducted under this paragraph.*

20 *(3) TRAINING AND EDUCATION.—With respect to*
21 *the covered employees covered under a Plan of a cov-*
22 *ered employer, the employer shall provide training*
23 *and education to such employees who may be exposed*
24 *to workplace violence hazards and risks, which meet*
25 *the following requirements:*

1 (A) Annual training and education shall
2 include information on the Plan, including iden-
3 tified workplace violence hazards, work practice
4 control measures, reporting procedures, record
5 keeping requirements, response procedures, and
6 employee rights.

7 (B) Additional hazard recognition training
8 shall be provided for supervisors and managers
9 to ensure they—

10 (i) can recognize high-risk situations;

11 and

12 (ii) do not assign employees to situa-
13 tions that predictably compromise the safety
14 of such employees.

15 (C) Additional training shall be provided
16 for each such covered employee whose job cir-
17 cumstances have changed, within a reasonable
18 timeframe after such change.

19 (D) Applicable training shall be provided
20 under this paragraph for each new covered em-
21 ployee prior to the employee's job assignment.

22 (E) All training shall provide such employ-
23 ees opportunities to ask questions, give feedback
24 on training, and request additional instruction,
25 clarification, or other followup.

1 (F) All training shall be provided in-person
2 and by an individual with knowledge of work-
3 place violence prevention and of the Plan, except
4 that any annual training described in subpara-
5 graph (A) provided to an employee after the first
6 year such training is provided to such employee
7 may be conducted by live video if in-person
8 training is impracticable.

9 (G) All training shall be appropriate in
10 content and vocabulary to the language, edu-
11 cational level, and literacy of such covered em-
12 ployees.

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

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

17 (i) maintain for not less than 5
18 years—

19 (I) records related to each Plan of
20 the employer, including workplace vio-
21 lence risk and hazard assessments, and
22 identification, evaluation, correction,
23 and training procedures;

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

1 *ording 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)(I) make such records and logs*
7 *available, upon request, to covered employ-*
8 *ees and their representatives for examina-*
9 *tion and copying in accordance with section*
10 *1910.1020 of title 29, Code of Federal Regu-*
11 *lations (as such section is in effect on the*
12 *date of enactment of this Act), and in a*
13 *manner consistent with HIPAA privacy*
14 *regulations (defined in section 1180(b)(3) of*
15 *the Social Security Act (42 U.S.C. 1320d-*
16 *9(b)(3))) and part 2 of title 42, Code of*
17 *Federal Regulations (as such part is in ef-*
18 *fect on the date of enactment of this Act);*
19 *and*

20 *(II) ensure that any such records and*
21 *logs that may be copied, transmitted elec-*
22 *tronically, or otherwise removed from the*
23 *employer's control for purposes of this*
24 *clause omit any element of personal identi-*
25 *fying information sufficient to allow identi-*

1 *fication of any patient, resident, client, or*
2 *other individual alleged to have committed*
3 *a violent incident (including the individ-*
4 *ual's name, address, electronic mail address,*
5 *telephone number, or social security num-*
6 *ber, or other information that, alone or in*
7 *combination with other publicly available*
8 *information, reveals such individual's iden-*
9 *tity).*

10 *(B) VIOLENT INCIDENT LOG DESCRIP-*
11 *TION.—Each violent incident log shall—*

12 *(i) be maintained by a covered em-*
13 *ployer for each covered facility controlled by*
14 *the employer and for each covered service*
15 *being performed by a covered employee on*
16 *behalf of such employer;*

17 *(ii) be based on a template developed*
18 *by the Secretary not later than 1 year after*
19 *the date of enactment of this Act;*

20 *(iii) include, at a minimum, a descrip-*
21 *tion of—*

22 *(I) the violent incident (including*
23 *environmental risk factors present at*
24 *the time of the incident);*

- 1 (II) the date, time, and location of
2 the incident, and the names and job ti-
3 tles of involved employees;
- 4 (III) the nature and extent of in-
5 juries to covered employees;
- 6 (IV) a classification of the pepe-
7 trator who committed the violence, in-
8 cluding whether the perpetrator was—
- 9 (aa) a patient, client, resi-
10 dent, or customer of a covered em-
11 ployer;
- 12 (bb) a family or friend of a
13 patient, client, resident, or cus-
14 tomer of a covered employer;
- 15 (cc) a stranger;
- 16 (dd) a coworker, supervisor,
17 or manager of a covered employee;
- 18 (ee) a partner, spouse, par-
19 ent, or relative of a covered em-
20 ployee; or
- 21 (ff) any other appropriate
22 classification;
- 23 (V) the type of violent incident
24 (such as type 1 violence, type 2 vio-

1 *lence, type 3 violence, or type 4 vio-*
2 *lence); and*

3 *(VI) how the incident was abated;*

4 *(iv) not later than 7 days after the em-*
5 *ployer learns of such incident, contain a*
6 *record of each violent incident, which is up-*
7 *dated to ensure completeness of such record;*

8 *(v) be maintained for not less than 5*
9 *years; and*

10 *(vi) in the case of a violent incident*
11 *involving a privacy concern case, protect*
12 *the identity of employees in a manner con-*
13 *sistent with section 1904.29(b) of title 29,*
14 *Code of Federal Regulations (as such section*
15 *is in effect on the date of enactment of this*
16 *Act).*

17 *(C) ANNUAL SUMMARY.—*

18 *(i) COVERED EMPLOYERS.—Each cov-*
19 *ered employer shall prepare an annual*
20 *summary of each violent incident log for the*
21 *preceding calendar year that shall—*

22 *(I) with respect to each covered fa-*
23 *cility, and each covered service, for*
24 *which such a log has been maintained,*
25 *include the total number of violent in-*

1 *idents, the number of recordable inju-*
2 *ries related to such incidents, and the*
3 *total number of hours worked by the*
4 *covered employees for such preceding*
5 *year;*

6 *(II) be completed on a form pro-*
7 *vided by the Secretary;*

8 *(III) be posted for three months*
9 *beginning February 1 of each year in*
10 *a manner consistent with the require-*
11 *ments of section 1904 of title 29, Code*
12 *of Federal Regulations (as such section*
13 *is in effect on the date of enactment of*
14 *this Act), relating to the posting of*
15 *summaries of injury and illness logs;*

16 *(IV) be located in a conspicuous*
17 *place or places where notices to em-*
18 *ployees are customarily posted; and*

19 *(V) not be altered, defaced, or cov-*
20 *ered by other material.*

21 *(ii) SECRETARY.—Not later than 1*
22 *year after the promulgation of the interim*
23 *final standard under section 101(a), the*
24 *Secretary shall make available a platform*

1 *for the electronic submission of annual sum-*
2 *maries required under this paragraph.*

3 (5) *ANNUAL REPORT.*—*Not later than February*
4 *15 of each year, each covered employer shall report to*
5 *the Secretary, the frequency, quantity, and severity of*
6 *workplace violence, and any incident response and*
7 *post-incident investigation (including abatement*
8 *measures) for the incidents set forth in the annual*
9 *summary of the violent incident log described in*
10 *paragraph (4)(C).*

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

15 (A) *the implementation and effectiveness of*
16 *the Plan, including a review of the violent inci-*
17 *dent log; and*

18 (B) *compliance with training required by*
19 *each standard described in section 101, and spec-*
20 *ified in the Plan.*

21 (7) *ANTI-RETALIATION.*—

22 (A) *POLICY.*—*Each covered employer shall*
23 *adopt a policy prohibiting any person (includ-*
24 *ing an agent of the employer) from discrimi-*
25 *nating or retaliating against any employee for*

1 *reporting, or seeking assistance or intervention*
2 *from, a workplace violence incident, threat, or*
3 *concern to the employer, law enforcement, local*
4 *emergency services, or a government agency, or*
5 *participating in an incident investigation.*

6 (B) *PROHIBITION.*—*No covered employer*
7 *shall discriminate or retaliate against any em-*
8 *ployee for—*

9 (i) *reporting a workplace violence inci-*
10 *dent, threat, or concern to, or seeking assist-*
11 *ance or intervention with respect to such in-*
12 *cident, threat, or concern from, the em-*
13 *ployer, law enforcement, local emergency*
14 *services, or a local, State, or Federal gov-*
15 *ernment agency; or*

16 (ii) *exercising any other rights under*
17 *this paragraph.*

18 (C) *ENFORCEMENT.*—*This paragraph shall*
19 *be enforced in the same manner and to the same*
20 *extent as any standard promulgated under sec-*
21 *tion 6(b) of the Occupational Safety and Health*
22 *Act (29 U.S.C. 655(b)).*

23 **SEC. 104. RULES OF CONSTRUCTION.**

24 *Notwithstanding section 18 of the Occupational Safety*
25 *and Health Act of 1970 (29 U.S.C. 667)—*

1 (1) *nothing in this title shall be construed to cur-*
2 *tail or limit authority of the Secretary under any*
3 *other provision of the law; and*

4 (2) *the rights, privileges, or remedies of covered*
5 *employees shall be in addition to the rights, privi-*
6 *leges, or remedies provided under any Federal or*
7 *State law, or any collective bargaining agreement.*

8 **SEC. 105. OTHER DEFINITIONS.**

9 *In this title:*

10 (1) **WORKPLACE VIOLENCE.**—

11 (A) **IN GENERAL.**—*The term “workplace vi-*
12 *olence” means any act of violence or threat of vi-*
13 *olence, without regard to intent, that occurs at a*
14 *covered facility or while a covered employee per-*
15 *forms a covered service.*

16 (B) **EXCLUSIONS.**—*The term “workplace vi-*
17 *olence” does not include lawful acts of self-de-*
18 *fense or lawful acts of defense of others.*

19 (C) **INCLUSIONS.**—*The term “workplace vio-*
20 *lence” includes—*

21 (i) *the threat or use of physical force*
22 *against a covered employee that results in*
23 *or has a high likelihood of resulting in in-*
24 *jury, psychological trauma, or stress, with-*
25 *out regard to whether the covered employee*

1 *sustains an injury, psychological trauma,*
2 *or stress; and*

3 *(ii) an incident involving the threat or*
4 *use of a firearm or a dangerous weapon, in-*
5 *cluding the use of common objects as weap-*
6 *ons, without regard to whether the employee*
7 *sustains an injury, psychological trauma,*
8 *or stress.*

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

11 *(A) means workplace violence directed at a*
12 *covered employee at a covered facility or while*
13 *performing a covered service by an individual*
14 *who has no legitimate business at the covered fa-*
15 *ility or with respect to such covered service; and*

16 *(B) includes violent acts by any individual*
17 *who enters the covered facility or worksite where*
18 *a covered service is being performed with the in-*
19 *tent to commit a crime.*

20 (3) *TYPE 2 VIOLENCE.*—*The term “type 2 vio-*
21 *lence” means workplace violence directed at a covered*
22 *employee by customers, clients, patients, students, in-*
23 *mates, or any individual for whom a covered facility*
24 *provides services or for whom the employee performs*
25 *covered services.*

1 (4) *TYPE 3 VIOLENCE.*—*The term “type 3 vio-*
2 *lence” means workplace violence directed at a covered*
3 *employee by a present or former employee, supervisor,*
4 *or manager.*

5 (5) *TYPE 4 VIOLENCE.*—*The term “type 4 vio-*
6 *lence” means workplace violence directed at a covered*
7 *employee by an individual who is not an employee,*
8 *but has or is known to have had a personal relation-*
9 *ship with such employee, or with a customer, client,*
10 *patient, student, inmate, or any individual for whom*
11 *a covered facility provides services or for whom the*
12 *employee performs covered services.*

13 (6) *THREAT OF VIOLENCE.*—*The term “threat of*
14 *violence” means a statement or conduct that—*

15 (A) *causes an individual to fear for such in-*
16 *dividual’s safety because there is a reasonable*
17 *possibility the individual might be physically in-*
18 *jured; and*

19 (B) *serves no legitimate purpose.*

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

24 (8) *DANGEROUS WEAPON.*—*The term “dangerous*
25 *weapon” means an instrument capable of inflicting*

1 *death or serious bodily injury, without regard to*
2 *whether such instrument was designed for that pur-*
3 *pose.*

4 (9) *ENGINEERING CONTROLS.—*

5 (A) *IN GENERAL.—The term “engineering*
6 *controls” means an aspect of the built space or*
7 *a device that removes a hazard from the work-*
8 *place or creates a barrier between a covered em-*
9 *ployee and the hazard.*

10 (B) *INCLUSIONS.—For purposes of reducing*
11 *workplace violence hazards, the term “engineer-*
12 *ing controls” includes electronic access controls*
13 *to employee occupied areas, weapon detectors*
14 *(installed or handheld), enclosed workstations*
15 *with shatter-resistant glass, deep service*
16 *counters, separate rooms or areas for high-risk*
17 *patients, locks on doors, removing access to or se-*
18 *curing items that could be used as weapons, fur-*
19 *niture affixed to the floor, opaque glass in pa-*
20 *tient rooms (which protects privacy, but allows*
21 *the health care provider to see where the patient*
22 *is before entering the room), closed-circuit tele-*
23 *vision monitoring and video recording, sight-*
24 *aids, and personal alarm devices.*

25 (10) *ENVIRONMENTAL RISK FACTORS.—*

1 (A) *IN GENERAL.*—*The term “environ-*
2 *mental risk factors” means factors in the covered*
3 *facility or area in which a covered service is per-*
4 *formed that may contribute to the likelihood or*
5 *severity of a workplace violence incident.*

6 (B) *CLARIFICATION.*—*Environmental risk*
7 *factors may be associated with the specific task*
8 *being performed or the work area, such as work-*
9 *ing in an isolated area, poor illumination or*
10 *blocked visibility, and lack of physical barriers*
11 *between individuals and persons at risk of com-*
12 *mitting workplace violence.*

13 (11) *PATIENT-SPECIFIC RISK FACTORS.*—*The*
14 *term “patient-specific risk factors” means factors spe-*
15 *cific to a patient that may increase the likelihood or*
16 *severity of a workplace violence incident, including—*

17 (A) *a patient’s treatment and medication*
18 *status, and history of violence and use of drugs*
19 *or alcohol; and*

20 (B) *any conditions or disease processes of*
21 *the patient that may cause the patient to experi-*
22 *ence confusion or disorientation, be non-respon-*
23 *sive to instruction, behave unpredictably, or en-*
24 *gage in disruptive, threatening, or violent behav-*
25 *ior.*

1 (12) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of Labor.*

3 (13) *WORK PRACTICE CONTROLS.*—

4 (A) *IN GENERAL.*—*The term “work practice*
5 *controls” means procedures and rules that are*
6 *used to effectively reduce workplace violence haz-*
7 *ards.*

8 (B) *INCLUSIONS.*—*The term “work practice*
9 *controls” includes—*

10 (i) *assigning and placing sufficient*
11 *numbers of staff to reduce patient-specific*
12 *Type 2 workplace violence hazards;*

13 (ii) *provision of dedicated and avail-*
14 *able safety personnel such as security*
15 *guards;*

16 (iii) *employee training on workplace*
17 *violence prevention methods and techniques*
18 *to de-escalate and minimize violent behav-*
19 *ior; and*

20 (iv) *employee training on procedures*
21 *for response in the event of a workplace vio-*
22 *lence incident and for post-incident re-*
23 *sponse.*

1 **TITLE II—AMENDMENTS TO THE**
2 **SOCIAL SECURITY ACT**

3 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE**
4 **PREVENTION STANDARD TO CERTAIN FACILI-**
5 **TIES RECEIVING MEDICARE FUNDS.**

6 (a) *IN GENERAL.*—Section 1866 of the Social Security
7 Act (42 U.S.C. 1395cc) is amended—

8 (1) *in subsection (a)(1)—*

9 (A) *in subparagraph (X), by striking “and”*
10 *at the end;*

11 (B) *in subparagraph (Y), by striking at the*
12 *end the period and inserting “; and”; and*

13 (C) *by inserting after subparagraph (Y) the*
14 *following new subparagraph:*

15 “(Z) *in the case of hospitals that are not other-*
16 *wise subject to the Occupational Safety and Health*
17 *Act of 1970 (or a State occupational safety and*
18 *health plan that is approved under 18(b) of such Act)*
19 *and skilled nursing facilities that are not otherwise*
20 *subject to such Act (or such a State occupational safe-*
21 *ty and health plan), to comply with the Workplace*
22 *Violence Prevention Standard (as promulgated under*
23 *section 101 of the Workplace Violence Prevention for*
24 *Health Care and Social Service Workers Act).”;*

25 (2) *in subsection (b)(4)—*

1 (A) in subparagraph (A), by inserting “and
2 a hospital or skilled nursing facility that fails to
3 comply with the requirement of subsection
4 (a)(1)(Z) (relating to the Workplace Violence
5 Prevention Standard)” after “Bloodborne Patho-
6 gens standard”); and

7 (B) in subparagraph (B)—

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

10 (ii) by inserting “(or, in the case of a
11 failure to comply with the requirement of
12 subsection (a)(1)(Z), for a violation of the
13 Workplace Violence Prevention standard re-
14 ferred to in such subsection by a hospital or
15 skilled nursing facility, as applicable, that
16 is subject to the provisions of such Act)” be-
17 fore the period at the end.

18 (b) *EFFECTIVE DATE.*—The amendments made by sub-
19 section (a) shall apply beginning on the date that is 1 year
20 after the date of issuance of the interim final standard on
21 workplace violence prevention required under section 101.

Union Calendar No. 239

116TH CONGRESS
1ST Session

H. R. 1309

[Report No. 116-296, Part I]

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.

NOVEMBER 18, 2019

Reported from the Committee on Education and Labor
with an amendment

NOVEMBER 18, 2019

Committees on Energy and Commerce and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed