

PROVIDING FOR CONSIDERATION OF THE BILL (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; PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM NOVEMBER 22, 2019, THROUGH DECEMBER 2, 2019; AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

NOVEMBER 19, 2019.—Referred to the House Calendar and ordered to be printed

Mr. DESAULNIER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 713]

The Committee on Rules, having had under consideration House Resolution 713, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1309, the Workplace Violence Prevention for Health Care and Social Service Workers Act, under a structured rule. The resolution provides one hour of general debate on the bill equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116-37, modified by the amendment printed in Part A of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The

resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions. Section 2 of the resolution provides that on any legislative day during the period from November 22, 2019, through December 2, 2019: the Journal of the proceedings of the previous day shall be considered as approved; and the Chair may at any time declare the House adjourned to meet at a date and time to be announced by the Chair in declaring the adjournment. The resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 2 of the resolution as though under clause 8(a) of rule I. The resolution provides that each day during the period addressed by section 2 of the resolution shall not constitute a calendar or legislative day for the purposes of clause 7(c)(1) of rule XXII. The resolution provides that it shall be in order at any time on the legislative day of November 21, 2019, for the Speaker to entertain motions that the House suspend the rules as though under clause 1 of rule XV, and that the Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 1309 includes waivers of the following:

- Clause 10 of rule XXI, which prohibits consideration of a measure that has a net effect of increasing the deficit or reducing the surplus over the five- or 10-year period.
- Clause 12(b) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the text of the bill as proposed to be considered differs from the text of the bill as reported.
- Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) or 302(b) allocation of such authority.
- Section 425 of the Congressional Budget Act, which prohibits consideration of (1) any legislation referred by a committee until the committee publishes the CBO's statement on the direct costs of Federal mandates and (2) any legislation that would increase the direct costs of Federal intergovernmental mandates beyond \$50,000,000 (adjusted for inflation) unless the legislation provides for new budget authority or the legislation appropriates sufficient funds to cover the new costs.

Although the resolution waives all points of order against provisions in H.R. 1309, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 211***Motion by Mr. Cole to report an open rule. Defeated: 2–9**

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	
Mr. Perlmutter	Nay	Mr. Burgess	
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

SUMMARY OF THE AMENDMENT TO H.R. 1309 IN PART A CONSIDERED
AS ADOPTED

1. Scott, Bobby (VA): Clarifies the scope of “covered facilities” and “covered services”.

SUMMARY OF THE AMENDMENTS TO H.R. 1309 IN PART B MADE IN
ORDER

1. Hastings (FL), DeSaulnier (CA): Requires covered employers to email their organization’s workplace violence prevention plan to the organization’s staff, following completion of annual training. (10 minutes)

2. DeSaulnier (CA), Hastings (FL): Includes procedures to provide information about available trauma and related counseling for employees in reporting, incident response, and post-incident investigation procedures. (10 minutes)

3. Byrne (AL): Requires the Occupational Safety and Health Administration to promulgate a final standard on workplace violence prevention for health care and social service workers. Requires OSHA to follow the established rulemaking process. (10 minutes)

4. Harder (CA): Ensures that nothing in this Act shall be construed to limit or prevent healthcare workers from reporting violent incidents to appropriate law enforcement. (10 minutes)

5. Levin, Andy (MI): Requires information about the bill’s anti-retaliation provision to be provided in its required workplace violence and prevention training. (10 minutes)

6. Green, Al (TX): Requires the Secretary of Labor to provide an annual report to Congress that would include statistics and a summary from the annual report submitted to the Secretary by employers. (10 minutes)

7. Brown (MD): States that additional training shall be provided for covered employees who work with victims of torture, trafficking, or domestic violence. (10 minutes)

8. Garcia, Sylvia (TX): Ensures that the annual evaluations include changes based on informed findings by employers. (10 minutes)

9. Wexton (VA): Ensures that nothing in this Act shall be construed to limit or diminish any protections in relevant federal, state or local law related to domestic violence, stalking, dating violence, and sexual assault. (10 minutes)

10. Delgado (NY): Directs OSHA to prioritize providing technical assistance and advice to employers throughout the first year of the Act to ensure businesses are in compliance. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 1309 CONSIDERED AS ADOPTED

In section 102(1), redesignate subparagraphs (A) through (J) as clauses (i) through (x), respectively, and adjust the margins accordingly.

In section 102(1)(ix), as so redesignated, strike “subparagraphs (A) through (H)” and insert “clauses (i) through (viii)”.

In section 102(1), strike “The term ‘covered facility’ includes the following:” and insert the following:

(A) IN GENERAL.—The term “covered facility” includes the following:

In clause 102(1), add at the end the following:

(B) EXCLUSION.—The term “covered facility” does not include an office of a physician, dentist, podiatrist, or any other health practitioner that is not physically located within a covered facility described in clauses (i) through (x) of subparagraph (A).

In section 102(2), redesignate subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjust the margins accordingly.

In section 102(2)(iii), as so redesignated, strike “subparagraphs (A) and (B)” and insert “clauses (i) and (ii)”.

In section 102(2), strike “The term ‘covered service’ includes the following services and operations:” and insert the following:

(A) IN GENERAL.—The term “covered service” includes the following services and operations:

In section 102(2), add at the end the following:

(B) EXCLUSION.—The term “covered service” does not include child day care services.

PART B—TEXT OF AMENDMENTS TO H.R. 1309 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 13, beginning on line 6, amend subparagraph (C) to read as follows:

(C) AVAILABILITY OF PLAN.—

(i) IN GENERAL.—Each Plan shall be—

(I) made available at all times to the covered employees who are covered under such Plan; and

(II) to the extent possible, emailed to each such employee upon completion of the employee’s annual training under paragraph (3)(A).

(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to serve in lieu of training or any other requirements under this Act.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DESAULNIER OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, line 23, strike “and”.

Page 11, line 25, strike the period and insert “; and”.

Page 11, after line 25, insert the following:

(V) to provide employees with information about available trauma and related counseling.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BYRNE OF ALABAMA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike all after section 1 and insert the following:

SECTION 2. FINDINGS.

Congress finds the following:

(1) In a 2016 report entitled, “Workplace Safety and Health: Additional Efforts Needed to Help Protect Health Care Workers from Workplace Violence”, the Government Accountability Office estimated over 730,000 cases of health care workplace assaults over the 5-year span from 2009 through 2013, based on Bureau of Justice Statistics data.

(2) The Bureau of Labor Statistics reported the health care and social service industries experience the highest rates of injuries caused by workplace violence. Nurses, social workers, psychiatric, home health, and personal care aides are all at increased risk for injury caused by workplace violence.

(3) The Bureau of Labor Statistics reports that health care and social service workers suffered 71 percent of all workplace violence injuries caused by persons in 2017 and are more than 4 times as likely to suffer a workplace violence injury than workers overall.

(4) According to a September 2018 survey of 3,500 American emergency physicians conducted by the American College of Emergency Physicians, 47 percent of emergency room doctors have been physically assaulted at work, and 8 in 10 report that this violence is affecting patient care.

(5) Workplace violence in health care and social service sectors is increasing. Bureau of Labor Statistics data show that private sector injury rates of workplace violence in health care and social service sectors increased by 63 percent between 2006 and 2016.

(6) Studies have found that proper staff education and the use of evidence based interventions (such as effective communication with patients using de-escalation techniques and non-coercive use of medications) can reduce the risks to the safety of both patients and staff, using least-restrictive measures.

(7) The Occupational Safety and Health Administration in 2015 updated its “Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers”, however, this guidance is not enforceable.

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

(9) The Occupational Safety and Health Administration (OSHA) received two petitions for rulemaking in July of 2016, calling on OSHA to promulgate a violence prevention standard for health care and social service sectors. On December 6, 2016, OSHA issued a Request for Information (RFI) soliciting information on this issue. On January 10, 2017, OSHA conducted a public meeting to receive stakeholder input and to supplement the online comments submitted in response to the RFI. At that meeting, OSHA announced it accepted the petitions and would develop a Federal standard to prevent workplace violence in health care and social service settings. OSHA's spring 2019 regulatory agenda listed a Small Business Regulatory Enforcement Fairness Act Panel for Prevention of Workplace Violence in Health Care and Social Assistance.

SEC. 3. TABLE OF CONTENTS.

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. Final 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.

TITLE I—WORKPLACE VIOLENCE PREVENTION STANDARD

SEC. 101. FINAL STANDARD.

(a) **IN GENERAL.**—The Secretary of Labor shall promulgate a final standard on workplace violence prevention—

(1) to require certain employers in the healthcare and social service sectors, and certain employers in sectors that conduct activities similar to the activities in the healthcare and social service sectors, to develop and implement a comprehensive workplace violence prevention plan to protect health care workers, social service workers, and other personnel from workplace violence; and

(2) that may be based on the Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers published by the Occupational Safety and Health Administration of the Department of Labor in 2015 and adhere to the requirements of this title.

(b) **EFFECTIVE DATE OF STANDARD.**—The final standard shall—

(1) take effect on a date that is not later than 60 days after promulgation, except that such final standard may include a reasonable phase-in period for the implementation of required engineering controls that take effect after such date; and

(2) be enforced in the same manner and to the same extent as any standard promulgated under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

(c) EDUCATIONAL OUTREACH.—

(1) DURING RULEMAKING.—During the period beginning on the date the Secretary commences rulemaking under this section and ending on the effective date of the final standard promulgated under this section, the Secretary of Labor shall engage in an educational campaign for covered employees and covered employers regarding workplace violence prevention in health care and social service industries on the materials of the Occupational Safety and Health Administration on workplace violence prevention for such industries.

(2) REQUIREMENTS OF FINAL STANDARD.—Beginning on the date on which the final standard is promulgated under this section, the Secretary shall engage in an educational campaign for covered employees and covered employers on the requirements of such final standard.

SEC. 102. SCOPE AND APPLICATION.

In this title:

(1) COVERED FACILITY.—The term “covered facility” means a facility with respect to which the Secretary determines that requirements of the final standard promulgated under section 101(a) would be reasonably necessary or appropriate, and which may include:

(A) Any hospital, including any specialty hospital.

(B) Any residential treatment facility, including any nursing home, skilled nursing facility, hospice facility, and long-term care facility.

(C) Any medical treatment or social service setting or clinic at a correctional or detention facility.

(D) Any community-based residential facility, group home, and mental health clinic.

(E) Any psychiatric treatment facility.

(F) Any drug abuse or substance use disorder treatment center.

(G) Any independent freestanding emergency centers.

(H) Any facility described in subparagraphs (A) through (G) operated by a Federal Government agency and required to comply with occupational safety and health standards pursuant to section 1960 of title 29, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act).

(2) COVERED SERVICES.—The term “covered service” includes the following services and operations:

(A) Any services and operations provided in home health care, home-based hospice, and home-based social work.

(B) Any emergency medical services and transport, including such services when provided by firefighters and emergency responders.

(C) Any services described in subparagraphs (A) and (B) performed by a Federal Government agency and required to comply with occupational safety and health standards pursuant to section 1960 of title 29, Code of Federal Regu-

lations (as such section is in effect on the date of enactment of this Act).

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

(3) COVERED EMPLOYER.—

(A) IN GENERAL.—The term “covered employer” includes a person (including a contractor, subcontractor, or a temporary service firm) that employs an individual to work at a covered facility or to perform covered services.

(B) EXCLUSION.—The term “covered employer” does not include an individual who privately employs a person to perform covered services for the individual or a friend or family member of the individual.

(4) COVERED EMPLOYEE.—The term “covered employee” includes an individual employed by a covered employer to work at a covered facility or to perform covered services.

SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE PREVENTION STANDARD.

Each standard described in section 101 may include the following requirements:

(1) WORKPLACE VIOLENCE PREVENTION PLAN.—Not later than 6 months after the date of promulgation of the final standard under section 101(a), a covered employer shall develop, implement, and maintain a written workplace violence prevention plan for covered employees at each covered facility and for covered employees performing a covered service on behalf of such employer, which meets the following:

(A) PLAN DEVELOPMENT.—Each Plan shall—

(i) subject to subparagraph (D), be developed and implemented with the meaningful participation of direct care employees and, where applicable, employee representatives, for all aspects of the Plan;

(ii) be applicable to conditions and hazards for the covered facility or the covered service, including patient-specific risk factors and risk factors specific to each work area or unit; and

(iii) be suitable for the size, complexity, and type of operations at the covered facility or for the covered service, and remain in effect at all times.

(B) PLAN CONTENT.—Each Plan shall include procedures and methods for the following:

(i) Identification of each individual or the job title of each individual responsible for implementation of the Plan.

(ii) With respect to each work area and unit at the covered facility or while covered employees are performing the covered service, risk assessment and identification of workplace violence risks and hazards to employees exposed to such risks and hazards (including environmental risk factors and patient-specific risk factors), which may be—

(I) informed by past violent incidents specific to such covered facility or such covered service; and

(II) conducted with—

- (aa) representative direct care employees;
- (bb) where applicable, the representatives of such employees; and
- (cc) the employer.

(iii) Hazard prevention, engineering controls, or work practice controls to correct, in a timely manner, hazards that the employer creates or controls which—

(I) may include security and alarm systems, adequate exit routes, monitoring systems, barrier protection, established areas for patients and clients, lighting, entry procedures, staffing and working in teams, and systems to identify and flag clients with a history of violence; and

(II) shall ensure that employers correct, in a timely manner, hazards identified in the annual report described in paragraph (5) that the employer creates or controls.

(iv) Reporting, incident response, and post-incident investigation procedures, including procedures—

(I) for employees to report to the employer workplace violence risks, hazards, and incidents;

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

(III) for employers to perform a post-incident investigation and debriefing of all reports of workplace violence with the participation of employees and their representatives; and

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

(v) Procedures for emergency response, including procedures for threats of mass casualties and procedures for incidents involving a firearm or a dangerous weapon.

(vi) Procedures for communicating with and educating of covered employees on workplace violence hazards, threats, and work practice controls, the employer's plan, and procedures for confronting, responding to, and reporting workplace violence threats, incidents, and concerns, and employee rights.

(vii) Procedures for ensuring the coordination of risk assessment efforts, Plan development, and implementation of the Plan with other employers who have employees who work at the covered facility or who are performing the covered service.

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

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

(D) CLARIFICATION.—The requirement under subparagraph (A)(i) shall not be construed to require that all direct care employees and employee representatives participate in the development and implementation of the Plan.

(2) VIOLENT INCIDENT INVESTIGATION.—

(A) IN GENERAL.—As soon as practicable after a workplace violence incident, of which a covered employer has knowledge, the employer shall conduct an investigation of such incident, under which the employer shall—

(i) review the circumstances of the incident and whether any controls or measures implemented pursuant to the Plan of the employer were effective; and

(ii) solicit input from involved employees, their representatives, and supervisors, about the cause of the incident, and whether further corrective measures (including system-level factors) could have prevented the incident, risk, or hazard.

(B) DOCUMENTATION.—A covered employer shall document the findings, recommendations, and corrective measures taken for each investigation conducted under this paragraph.

(3) EDUCATION.—With respect to the covered employees covered under a Plan of a covered employer, the employer shall provide education to such employees who may be exposed to workplace violence hazards and risks, which meet the following requirements:

(A) Annual education includes information on the Plan, including identified workplace violence hazards, work practice control measures, reporting procedures, record keeping requirements, response procedures, and employee rights.

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

(C) Additional education for each such covered employee whose job circumstances has changed, within a reasonable timeframe after such change.

(D) Applicable new employee education prior to employee's job assignment.

(E) All education provides such employees opportunities to ask questions, give feedback on such education, and request additional instruction, clarification, or other followup.

(F) All education is provided in-person or online and by an individual with knowledge of workplace violence prevention and of the Plan.

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

(4) RECORDKEEPING AND ACCESS TO PLAN RECORDS.—

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

(i) maintain at all times records related to each Plan of the employer, including workplace violence risk and hazard assessments, and identification, evaluation, correction, and education procedures;

(ii) maintain for a minimum of 5 years—

(I) a violent incident log described in subparagraph (B) for recording all workplace violence incidents; and

(II) records of all incident investigations as required under paragraph (2)(B); and

(iii) make such records and logs available, upon request, to covered employees and their representatives for examination and copying in accordance with section 1910.1020 of title 29, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act), and in a manner consistent with HIPAA privacy regulations (defined in section 1180(b)(3) of the Social Security Act (42 U.S.C. 1320d–9(b)(3))) and part 2 of title 42, Code of Federal Regulations (as such part is in effect on the date of enactment of this part), and ensure that any such records and logs removed from the employer’s control for purposes of this clause omit any element of personal identifying information sufficient to allow identification of any patient, resident, client, or other individual alleged to have committed a violent incident (including the person’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals such person’s identity).

(B) VIOLENT INCIDENT LOG DESCRIPTION.—Each violent incident log—

(i) shall be maintained by a covered employer for each covered facility controlled by the employer and for each covered service being performed by a covered employee on behalf of such employer;

(ii) may be based on a template developed by the Secretary not later than 1 year after the date of promulgation of the standards under section 101(a);

(iii) may include a description of—

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

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

(III) the nature and extent of injuries to covered employees;

(IV) a classification of the perpetrator who committed the violence, including whether the perpetrator was—

(aa) a patient, client, resident, or customer of a covered employer;

(bb) a family or friend of a patient, client, resident, or customer of a covered employer;

(cc) a stranger;

(dd) a coworker, supervisor, or manager of a covered employee;

(ee) a partner, spouse, parent, or relative of a covered employee; or

(ff) any other appropriate classification;

(V) the type of violent incident (such as type 1 violence, type 2 violence, type 3 violence, or type 4 violence); and

(VI) how the incident was addressed;

(iv) not later than 7 days, depending on the availability or condition of the witness, after the employer learns of such incident, shall contain a record of each violent incident, which is updated to ensure completeness of such record;

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

(vi) in the case of a violent incident involving a privacy concern case as defined in section 1904.29(b)(7) of title 29, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act), shall protect the identity of employees in a manner consistent with that section.

(C) ANNUAL SUMMARY.—Each covered employer shall prepare an annual summary of each violent incident log for the preceding calendar year that shall—

(i) with respect to each covered facility, and each covered service, for which such a log has been maintained, include the total number of violent incidents, the number of recordable injuries related to such incidents, and the total number of hours worked by the covered employees for such preceding year;

(ii) be completed on a form provided by the Secretary;

(iii) be posted for three months beginning February 1 of each year in a manner consistent with the requirements of section 1904 of title 29, Code of Federal Regulations (as such section is in effect on the date of enactment of this Act), relating to the posting of summaries of injury and illness logs;

(iv) be located in a conspicuous place or places where notices to employees are customarily posted; and

(v) not be altered, defaced, or covered by other material by the employer.

(5) ANNUAL EVALUATION.—Each covered employer shall conduct an annual written evaluation, conducted with the full, active participation of covered employees and employee representatives, of—

(A) the implementation and effectiveness of the Plan, including a review of the violent incident log; and

(B) compliance with education required by each standard described in section 101, and specified in the Plan.

(6) ANTI-RETALIATION.—

(A) POLICY.—Each covered employer shall adopt a policy prohibiting any person (including an agent of the employer) from discriminating or retaliating against any employee for reporting, or seeking assistance or intervention from, a workplace violence incident, threat, or concern to the employer, law enforcement, local emergency services, or a government agency, or participating in an incident investigation.

(B) ENFORCEMENT.—Each violation of the policy shall be enforced in the same manner and to the same extent as a

violation of section 11(c) of the Occupational Safety and Health Act (29 U.S.C. 660(c)) is enforced.

SEC. 104. RULES OF CONSTRUCTION.

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

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

(2) the rights, privileges, or remedies of covered employees shall be in addition to the rights, privileges, or remedies provided under any Federal or State law, or any collective bargaining agreement.

SEC. 105. OTHER DEFINITIONS.

In this title:

(1) **WORKPLACE VIOLENCE.**—

(A) **IN GENERAL.**—The term “workplace violence” means any act of violence or threat of violence, that occurs at a covered facility or while a covered employee performs a covered service.

(B) **EXCLUSIONS.**—The term “workplace violence” does not include lawful acts of self-defense or lawful acts of defense of others.

(C) **INCLUSIONS.**—The term “workplace violence” includes an incident involving the threat or use of a firearm or a dangerous weapon, including the use of common objects as weapons, without regard to whether the employee sustains an injury.

(2) **TYPE 1 VIOLENCE.**—The term “type 1 violence”—

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

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

(3) **TYPE 2 VIOLENCE.**—The term “type 2 violence” means workplace violence directed at a covered employee by customers, clients, patients, students, inmates, or any individual for whom a covered facility provides services or for whom the employee performs covered services.

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

(5) **TYPE 4 VIOLENCE.**—The term “type 4 violence” means workplace violence directed at a covered employee by an individual who is not an employee, but has or is known to have had a personal relationship with such employee.

(6) **ALARM.**—The term “alarm” means a mechanical, electrical, or electronic device that can alert others but does not rely upon an employee’s vocalization in order to alert others.

(7) **ENGINEERING CONTROLS.**—

(A) **IN GENERAL.**—The term “engineering controls” means an aspect of the built space or a device that re-

moves or minimizes a hazard from the workplace or creates a barrier between a covered employee and the hazard.

(B) INCLUSIONS.—For purposes of reducing workplace violence hazards, the term “engineering controls” includes electronic access controls to employee occupied areas, weapon detectors (installed or handheld), enclosed workstations with shatter-resistant glass, deep service counters, separate rooms or areas for high-risk patients, locks on doors, removing access to or securing items that could be used as weapons, furniture affixed to the floor, opaque glass in patient rooms (which protects privacy, but allows the health care provider to see where the patient is before entering the room), closed-circuit television monitoring and video recording, sight-aids, and personal alarm devices.

(8) ENVIRONMENTAL RISK FACTORS.—

(A) IN GENERAL.—The term “environmental risk factors” means factors in the covered facility or area in which a covered service is performed that may contribute to the likelihood or severity of a workplace violence incident.

(B) CLARIFICATION.—Environmental risk factors may be associated with the specific task being performed or the work area, such as working in an isolated area, poor illumination or blocked visibility, and lack of physical barriers between individuals and persons at risk of committing workplace violence.

(9) PATIENT-SPECIFIC RISK FACTORS.—The term “patient-specific risk factors” means factors specific to a patient that may increase the likelihood or severity of a workplace violence incident, including—

(A) a patient’s psychiatric condition, treatment and medication status, history of violence, and known or recorded use of drugs or alcohol; and

(B) any conditions or disease processes of the patient that may cause the patient to experience confusion or disorientation, to be non-responsive to instruction, or to behave unpredictably.

(10) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(11) WORK PRACTICE CONTROLS.—

(A) IN GENERAL.—The term “work practice controls” means procedures and rules that are used to effectively reduce workplace violence hazards.

(B) INCLUSIONS.—The term “work practice controls” includes assigning and placing sufficient numbers of staff to reduce patient-specific Type 2 workplace violence hazards, provision of dedicated and available safety personnel such as security guards, employee training on workplace violence prevention method and techniques to de-escalate and minimize violent behavior, and employee training on procedures for response in the event of a workplace violence incident and for post-incident response.

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE PREVENTION STANDARD TO CERTAIN FACILITIES RECEIVING MEDI- CARE FUNDS.

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

(1) in subsection (a)(1)—

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

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

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

“(Z) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970 (or a State occupational safety and health plan that is approved under 18(b) of such Act) and skilled nursing facilities that are not otherwise subject to such Act (or such a State occupational safety and health plan), to comply with the Workplace Violence Prevention Standard (as promulgated under section 101 of the Workplace Violence Prevention for Health Care and Social Service Workers Act).”; and

(2) in subsection (b)(4)—

(A) in subparagraph (A), by inserting “and a hospital or skilled nursing facility that fails to comply with the requirement of subsection (a)(1)(Z) (relating to the Workplace Violence Prevention Standard)” after “Bloodborne Pathogens Standard”; and

(B) in subparagraph (B)—

(i) by striking “(a)(1)(U)” and inserting “(a)(1)(V); and

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

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning on the date that is 1 year after the date of issuance of the final standard on workplace violence prevention required under section 101.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HARDER OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 23, line 23, strike “and”.

Page 24, line 2, strike the period and insert a semicolon.

Page 24, after line 2, insert the following:

(3) nothing in this Act shall be construed to limit or prevent health care workers, social service workers, and other per-

sonnel from reporting violent incidents to appropriate law enforcement.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LEVIN OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 14, line 19, insert “anti-retaliation policies,” after “response procedures,”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GREEN OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, line 5, after “(4)(C).” insert the following: “Not later than May 15 of each year, the Secretary shall provide to Congress a report containing statistical data with respect to, and a summary of, reports submitted to the Secretary under this paragraph. The contents of the report of the Secretary shall not disclose any confidential information.””

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BROWN OF MARYLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, after line 7, insert the following:

(D) Additional training shall be provided for each such covered employee whose job circumstances require working with victims of torture, trafficking, or domestic violence.

Page 15, line 8, redesignate subparagraph (D) as subparagraph (E).

Page 15, line 11, redesignate subparagraph (E) as subparagraph (F).

Page 15, line 15, redesignate subparagraph (F) as subparagraph (G).

Page 15, line 23, redesignate subparagraph (G) as subparagraph (H).

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GARCIA OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 22, line 16, redesignate paragraph (7) as paragraph (8).

Page 22, after line 15, insert the following:

(7) PLAN UPDATES.—Each covered employer shall incorporate changes to the Plan, in a manner consistent with paragraph (1)(A)(i) and based on findings from the most recent annual evaluation conducted under paragraph (6), as appropriate.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WEXTON OF VIRGINIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 23, line 23, strike “and”.

Page 24, line 2, strike the period and insert a semicolon.

Page 24, after line 2, insert the following:

(3) nothing in this Act shall be construed to limit or diminish any protections in relevant Federal, State, or local law related to—

- (A) domestic violence;
 - (B) stalking;
 - (C) dating violence; and
 - (D) sexual assault.
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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DELGADO
OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 13, strike “and”.

Page 2, line 20, strike the period and insert “; and”.

Page 2, after line 20, insert the following:

(C) that provides for a period determined appropriate by the Secretary, not to exceed 1 year, during which the Secretary shall prioritize technical assistance and advice consistent with section 21(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(d)) to employers subject to the standard with respect to compliance with the standard.

