

115TH CONGRESS
2D SESSION

H. R. 7141

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

NOVEMBER 16, 2018

Mr. COURTNEY (for himself, Ms. BONAMICI, Mr. BRADY of Pennsylvania, Ms. DELAURO, Ms. NORTON, Ms. JACKSON LEE, Mr. KHANNA, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Mr. TAKANO, Ms. WILSON of Florida, Ms. SHEA-PORTER, Mr. SIRES, Mr. DESAULNIER, Mr. LARSON of Connecticut, Mr. PAYNE, Mr. HIMES, Mr. POCAN, Mr. CICILLINE, Ms. ESTY of Connecticut, Mr. NORCROSS, and Mr. ESPAILLAT) introduced the following bill; which was referred to the Committee on Education and the Workforce, 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 and nursing, psychiatric,
17 home health, and personal care aides all are at high
18 risk.

19 (3) The Bureau of Labor Statistics reports that
20 health care and social service workers suffered 69
21 percent of all workplace violence injuries caused by
22 persons in 2016 and are nearly 5 times as likely to
23 suffer a workplace violence injury than workers over-
24 all.

25 (4) According to a survey of 3,500 American
26 emergency physicians conducted by the American

1 College of Emergency Physicians, 47 percent of
2 emergency room doctors have been physically as-
3 saulted at work, and 8 in 10 report that this vio-
4 lence is affecting patient care.

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

13 (6) Violence against workers in health care set-
14 tings is most commonly due to assaults by patients
15 or clients, or persons accompanying patients or cli-
16 ents.

17 (7) The Occupational Safety and Health Ad-
18 ministration has issued “Guidelines for Preventing
19 Workplace Violence for Healthcare and Social Serv-
20 ice Workers”, however, this guidance is not enforce-
21 able. Absent an enforceable standard, employers lack
22 mandatory requirements to implement a violence
23 prevention program, and workers lack sufficient pro-
24 tection from workplace violence.

1 (8) Studies have demonstrated that workplace
2 violence prevention programs tailored to the needs of
3 specific work areas and State-based workplace vio-
4 lence prevention legislation are strongly associated
5 with reductions in workplace violence. Proper staff
6 training, appropriate staffing levels, sufficient re-
7 sources, and the use of evidence-based practices in
8 the provision of services (such as effective commu-
9 nication with patients using de-escalation tech-
10 niques) can reduce risks to the safety of both pa-
11 tients and staff.

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

20 (10) Employer organizations have challenged
21 the Occupational Safety and Health Administra-
22 tion’s authority to utilize the General Duty Clause
23 of the Occupational Safety and Health Act of 1970
24 to enforce against workplace violence hazards, argu-
25 ing that Congress did not intend to cover workplace

1 violence under such clause when the Act was enacted
2 in 1970.

3 (11) The Occupational Safety and Health Ad-
4 ministration (OSHA) received two petitions for rule-
5 making in July of 2016, calling on OSHA to pro-
6 mulgate a violence prevention standard for health
7 care and social service sectors. On December 6,
8 2016, OSHA issued a Request for Information
9 (RFI) soliciting information on this issue. On Janu-
10 ary 10, 2017, OSHA conducted a public meeting to
11 receive stakeholder input and to supplement the on-
12 line comments submitted in response to the RFI. At
13 that meeting, OSHA announced it accepted the peti-
14 tions and would develop a Federal standard to pre-
15 vent workplace violence in health care and social
16 service settings. In the spring of 2017, the work-
17 place violence prevention standard was removed from
18 active consideration and placed on the Department
19 of Labor’s “long-term agenda”. Subsequently, it was
20 placed back on the regulatory agenda. OSHA’s ef-
21 forts to move forward with rulemaking have been
22 halting and inconsistent. Therefore, legislation is
23 necessary to ensure the timely development of a
24 standard to protect workers in health care and social
25 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-

ice workers, and other personnel from workplace violence; and

(B) that shall, at a minimum, 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.

(2) APPLICABILITY OF OTHER STATUTORY REQUIREMENTS.—The following shall not apply to the promulgation of the interim final standard under this subsection:

(A) The requirements applicable to occupational safety and health standards under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

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

(3) EFFECTIVE DATE OF INTERIM STANDARD.—The interim final standard shall—

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

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

(B) 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)); and

(C) be in effect until the final standard described in subsection (b) becomes effective and enforceable.

(4) FAILURE TO PROMULGATE.—If an interim final standard described in paragraph (1) is not promulgated not later than 1 year of the date of enactment of this Act, the provisions of this title shall be in effect and 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 (29 U.S.C. 655(b)) until such provisions are superseded in whole by an interim final standard promulgated by the Secretary that meets the requirements of paragraph (1).

(b) FINAL STANDARD.—

(1) PROPOSED FINAL STANDARD.—Not later 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 controlled by the employer and
3 for covered employees performing a covered service
4 on behalf of such employer, which meet the fol-
5 lowing:

6 (A) PLAN DEVELOPMENT.—Each Plan
7 shall—

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

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

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

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

24 (i) Identification of the individual re-
25 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, and work practice controls to cor-
22 rect hazards in a timely manner applying
23 industrial hygiene principles of the hier-
24 archy 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).

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

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

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

21 (III) for employers to perform a
22 post-incident investigation and de-
23 briefing of all reports of workplace vi-
24 olence with the participation of em-
25 ployees and their representatives; and

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

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

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

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

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

24 (C) AVAILABILITY OF PLAN.—Each Plan
25 shall be made available at all times to the cov-

1 ered employees who are covered under such
2 Plan.

3 (2) VIOLENT INCIDENT INVESTIGATION.—

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

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

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

22 (B) DOCUMENTATION.—A covered em-
23 ployer shall document the findings, rec-
24 ommendations, and corrective measures taken

1 for each investigation conducted under this
2 paragraph.

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

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

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

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

24 (D) New employee training prior to assign-
25 ment.

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

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

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

11 (4) RECORDKEEPING AND ACCESS TO PLAN
12 RECORDS.—

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

15 (i) maintain at all times—

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

21 (II) a violent incident log de-
22 scribed in subparagraph (B) for re-
23 cording all workplace violence inci-
24 dents; and

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

4 (ii) make such records and logs avail-
5 able, upon request, to covered employees
6 and their representatives for examination
7 and copying in accordance with section
8 1910.1020 of title 29, Code of Federal
9 Regulations, and in a manner consistent
10 with HIPAA privacy regulations (defined
11 in section 1180(b)(3) of the Social Security
12 Act (42 U.S.C. 1320d–9(b)(3))) and part
13 2 of title 42, Code of Federal Regulations.

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

16 (i) be maintained by a covered em-
17 ployer for each covered facility controlled
18 by the employer and for each covered serv-
19 ice being performed by a covered employee
20 on behalf of such employer;

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

24 (iii) include, at a minimum, a descrip-
25 tion of—

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

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

7 (III) identification of the alleged
8 individual who committed the violence,
9 in a manner consistent with HIPAA
10 privacy regulations (defined in section
11 1180(b)(3) of the Social Security Act
12 (42 U.S.C. 1320d–9(b)(3))) and part
13 2 of title 42, Code of Federal Regula-
14 tions;

15 (IV) the nature and extent of in-
16 juries to covered employees;

17 (V) the type of violent incident
18 (such as type 1 violence, type 2 vio-
19 lence, type 3 violence, or type 4 vio-
20 lence); and

21 (VI) how the incident was
22 abated;

23 (iv) not later than 7 days after the
24 employer learns of such incident, contain a
25 record of each violent incident, which is

1 updated to ensure completeness of such
2 record;

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

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

10 (C) ANNUAL SUMMARY.—

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

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

24 (II) be completed on a form pro-
25 vided by the Secretary;

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

8 (IV) be located in a conspicuous
9 place or places where notices to em-
10 ployees are customarily posted; and

11 (V) not be altered, defaced, or
12 covered by other material.

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

19 (5) ANNUAL REPORT.—Not later than Feb-
20 ruary 15 of each year, each covered employer shall
21 report to the Secretary, the frequency, quantity, and
22 severity of workplace violence, and any incident re-
23 sponse and post-incident investigation (including
24 abatement measures for the incidents) set forth in

1 the annual summary of the violent incident log de-
2 scribed in paragraph (4)(C).

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

7 (A) the implementation and effectiveness
8 of the Plan, including a review of the violent in-
9 cident log; and

10 (B) compliance with training required by
11 each standard described in section 101, and
12 specified in the Plan.

13 (7) ANTI-RETALIATION.—

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

23 (B) PROHIBITION.—No covered employer
24 shall discriminate or retaliate against any em-
25 ployee for reporting, or seeking assistance or

1 intervention from, a workplace violence incident,
2 threat, or concern to the employer, law enforce-
3 ment, local emergency services, or a government
4 agency, or for exercising any other rights under
5 this paragraph.

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

11 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

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

21 **SEC. 105. OTHER DEFINITIONS.**

22 In this title:

23 (1) WORKPLACE VIOLENCE.—

24 (A) IN GENERAL.—The term “workplace
25 violence” means any act of violence or threat of

1 violence, without regard to intent, that occurs
2 at a covered facility or while a covered employee
3 performs a covered service.

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

7 (C) INCLUSIONS.—The term “workplace
8 violence” includes—

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

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

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

24 (A) means workplace violence directed at a
25 covered employee at a covered facility or while

1 performing a covered service by an individual
2 who has no legitimate business at the covered
3 facility or with respect to such covered service;
4 and

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

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

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

19 (5) TYPE 4 VIOLENCE.—The term “type 4 vio-
20 lence” means workplace violence directed at a cov-
21 ered employee by an individual who is not an em-
22 ployee, but has or is known to have had a personal
23 relationship with such employee.

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

1 causes a person to fear for his or her safety because
2 there is a reasonable possibility the person might be
3 physically injured, and that serves no legitimate pur-
4 pose.

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

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

14 (9) ENGINEERING CONTROLS.—

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

20 (B) INCLUSIONS.—For purposes of reduc-
21 ing workplace violence hazards, the term “engi-
22 neering controls” includes electronic access con-
23 trols to employee occupied areas, weapon detec-
24 tors (installed or handheld), enclosed worksta-
25 tions with shatter-resistant glass, deep service

1 counters, separate rooms or areas for high-risk
2 patients, locks on doors, removing access to or
3 securing items that could be used as weapons,
4 furniture affixed to the floor, opaque glass in
5 patient rooms (which protects privacy, but al-
6 lows the health care provider to see where the
7 patient is before entering the room), closed-cir-
8 cuit television monitoring and video recording,
9 sight-aids, and personal alarm devices.

10 (10) ENVIRONMENTAL RISK FACTORS.—

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

17 (B) CLARIFICATION.—Environmental risk
18 factors may be associated with the specific task
19 being performed or the work area, such as
20 working in an isolated area, poor illumination
21 or blocked visibility, and lack of physical bar-
22 riers between employees and persons at risk of
23 committing workplace violence.

24 (11) PATIENT-SPECIFIC RISK FACTORS.—The
25 term “patient-specific risk factors” means factors

1 specific to a patient that may increase the likelihood
2 or severity of a workplace violence incident, includ-
3 ing a patient’s mental status, treatment and medica-
4 tion status, history of violence as known to a covered
5 employee at a covered facility or while performing a
6 covered service, use of drugs or alcohol as known to
7 a covered employee at a covered facility or while per-
8 forming a covered service, and any other conditions
9 or disease processes that may cause the patient to
10 experience confusion or disorientation, to be non-re-
11 sponsive to instruction, or to behave unpredictably.

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

14 (13) WORK PRACTICE CONTROLS.—

15 (A) IN GENERAL.—The term “work prac-
16 tice controls” means procedures and rules that
17 are used to effectively reduce workplace violence
18 hazards.

19 (B) INCLUSIONS.—The term “work prac-
20 tice controls” includes assigning and placing
21 sufficient numbers of staff to reduce patient-
22 specific Type 2 workplace violence hazards, pro-
23 vision of dedicated and available safety per-
24 sonnel such as security guards, employee train-
25 ing on workplace violence prevention method

1 and techniques to de-escalate and minimize vio-
 2 lent behavior, and employee training on proce-
 3 dures for response in the event of a workplace
 4 violence incident and for post-incident response.

5 **TITLE II—AMENDMENTS TO THE** 6 **SOCIAL SECURITY ACT**

7 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE** 8 **PREVENTION STANDARD TO CERTAIN FACILI-** 9 **TIES RECEIVING MEDICARE FUNDS.**

10 (a) IN GENERAL.—Section 1866 of the Social Secu-
 11 rity Act (42 U.S.C. 1395cc) is amended—

12 (1) in subsection (a)(1)—

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

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

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

19 “(Z) in the case of hospitals that are not other-
 20 wise subject to the Occupational Safety and Health
 21 Act of 1970 (or a State occupational safety and
 22 health plan that is approved under 18(b) of such
 23 Act) and skilled nursing facilities that are not other-
 24 wise subject to such Act (or such a State occupa-
 25 tional safety and health plan), to comply with the

1 Workplace Violence Prevention Standard (as pro-
2 mulgated under section 101 of the Health Care
3 Workplace Violence Prevention Act of 2018).”; and

4 (2) in subsection (b)(4)—

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

11 (B) in subparagraph (B)—

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

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

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply beginning on the date that is
24 1 year after the date of issuance of the interim final stand-

1 ard on workplace violence prevention required under sec-
2 tion 101.

