

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

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

M. _____ introduced the following bill; which was referred to the
Committee on _____

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
5 Prevention for Health Care and Social Service Workers
6 Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

10 (2) The health care and social service industries
11 experience the highest rates of injuries caused by
12 workplace violence. Nurses, social workers, psy-
13 chiatric, home health, and personal care aides are all
14 at increased risk for injury caused by workplace vio-
15 lence. The Bureau of Labor Statistics reported that
16 in 2019, rates of violence and injury caused by per-
17 sons in these workplaces ranged from 3.8 times to
18 as high as 82 times the average American work-
19 place.

20 (3) The Bureau of Labor Statistics reports that
21 health care and social service workers suffered 73
22 percent of all workplace violence injuries caused by
23 persons in 2018 and are nearly 5 times as likely to
24 suffer a workplace violence injury than workers over-
25 all.

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

7 (5) Workplace violence in health care and social
8 service sectors is increasing. Bureau of Labor Statis-
9 tics data show that private sector injury rates of
10 workplace violence in health care and social service
11 sectors increased by 54 percent between 2001 and
12 2018. Due to under-reporting, actual injury rates
13 from workplace violence are widely recognized to be
14 higher than reported levels.

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

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

23 (8) Studies have found that proper staff train-
24 ing, appropriate staffing levels, sufficient resources,
25 and the use of evidence based interventions (such as

1 effective communication with patients using de-escala-
2 tion techniques and noncoercive use of medica-
3 tions) can reduce the risks to the safety of both pa-
4 tients and staff, using least-restrictive measures.

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

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

21 (11) Employer organizations have challenged
22 the Occupational Safety and Health Administra-
23 tion’s authority to utilize the General Duty Clause
24 of the Occupational Safety and Health Act of 1970
25 to enforce against workplace violence hazards, argu-

1 ing that Congress did not intend to cover workplace
2 violence under such clause when the Act was enacted
3 in 1970.

4 (12) The Occupational Safety and Health Ad-
5 ministration (OSHA) received two petitions for rule-
6 making in July of 2016, calling on OSHA to pro-
7 mulgate a violence prevention standard for health
8 care and social service sectors. On December 6,
9 2016, OSHA issued a Request for Information
10 (RFI) soliciting information on this issue. On Janu-
11 ary 10, 2017, OSHA conducted a public meeting to
12 receive stakeholder input and to supplement the on-
13 line comments submitted in response to the RFI. At
14 that meeting, OSHA announced it accepted the peti-
15 tions and would develop a Federal standard to pre-
16 vent workplace violence in health care and social
17 service settings. The Trump administration failed to
18 meet any of its deadlines to move the workplace vio-
19 lence rulemaking forward. It normally takes OSHA
20 ten to twenty years to finalize a major OSHA stand-
21 ard. Therefore, legislation is necessary to ensure the
22 timely development of a standard to protect workers
23 in health care and social service settings.

24 **SEC. 3. TABLE OF CONTENTS.**

25 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.

1 **TITLE I—WORKPLACE VIOLENCE**
2 **PREVENTION STANDARD**

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

4 (a) INTERIM FINAL STANDARD.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary of
7 Labor shall issue an interim final standard on work-
8 place violence prevention—

9 (A) to require certain employers in the
10 health care and social service sectors, and cer-
11 tain employers in sectors that conduct activities
12 similar to the activities in the health care and
13 social service sectors, to develop and implement
14 a comprehensive workplace violence prevention
15 plan and carry out other activities or require-
16 ments described in section 103 to protect health
17 care workers, social service workers, and other
18 personnel from workplace violence; and

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

8 (2) INAPPLICABLE PROVISIONS OF LAW AND
9 EXECUTIVE ORDER.—The following provisions of law
10 and Executive orders shall not apply to the issuance
11 of the interim final standard under this subsection:

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

16 (B) The requirements of chapters 5 and 6
17 of title 5, United States Code.

18 (C) Subchapter I of chapter 35 of title 44,
19 United States Code (commonly referred to as
20 the “Paperwork Reduction Act”).

21 (3) NOTICE AND COMMENT.—Notwithstanding
22 paragraph (2)(B), the Secretary shall, prior to
23 issuing the interim final standard under this sub-
24 section, provide notice in the Federal Register of the

1 interim final standard and a 30-day period for pub-
2 lic comment.

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

5 (A) take effect on a date that is not later
6 than 30 days after issuance, except that such
7 interim final standard may include a reasonable
8 phase-in period for the implementation of re-
9 quired engineering controls that take effect
10 after such date;

11 (B) be enforced in the same manner and
12 to the same extent as any standard promul-
13 gated under section 6(b) of the Occupational
14 Safety and Health Act of 1970 (29 U.S.C.
15 655(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
21 issued not later than 1 year of the date of enactment
22 of this Act, the provisions of this title shall be in ef-
23 fect 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 issued
3 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
8 Secretary of Labor shall, pursuant to section 6 of
9 the Occupational Safety and Health Act (29 U.S.C.
10 655), promulgate a proposed standard on workplace
11 violence prevention—

12 (A) for the purposes described in sub-
13 section (a)(1)(A); and

14 (B) that shall include, at a minimum, re-
15 quirements contained in the interim final stand-
16 ard promulgated under subsection (a).

17 (2) FINAL STANDARD.—Not later than 42
18 months after the date of enactment of this Act, the
19 Secretary shall issue a final standard on such pro-
20 posed 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
25 and Health Act of 1970 (29 U.S.C. 667); and

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

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

7 In this title:

8 (1) COVERED FACILITY.—

9 (A) IN GENERAL.—The term “covered fa-
10 cility” includes the following:

11 (i) Any hospital, including any spe-
12 cialty hospital, in-patient or outpatient set-
13 ting, or clinic operating within a hospital
14 license, or any setting that provides out-
15 patient services.

16 (ii) Any residential treatment facility,
17 including any nursing home, skilled nurs-
18 ing facility, hospice facility, and long-term
19 care facility.

20 (iii) Any non-residential treatment or
21 service setting.

22 (iv) Any medical treatment or social
23 service setting or clinic at a correctional or
24 detention facility.

1 (v) Any community care setting, in-
2 cluding a community-based residential fa-
3 cility, group home, and mental health clin-
4 ic.

5 (vi) Any psychiatric treatment facility.

6 (vii) Any drug abuse or substance use
7 disorder treatment center.

8 (viii) Any independent freestanding
9 emergency centers.

10 (ix) Any facility described in clauses
11 (i) through (viii) operated by a Federal
12 Government agency and required to comply
13 with occupational safety and health stand-
14 ards pursuant to section 1960 of title 29,
15 Code of Federal Regulations (as such sec-
16 tion is in effect on the date of enactment
17 of this Act).

18 (x) Any other facility the Secretary
19 determines should be covered under the
20 standards promulgated under section 101.

21 (B) EXCLUSION.—The term “covered facil-
22 ity” does not include an office of a physician,
23 dentist, podiatrist, or any other health practi-
24 tioner that is not physically located within a

1 covered facility described in clauses (i) through
2 (x) of subparagraph (A).

3 (2) COVERED SERVICES.—

4 (A) IN GENERAL.—The term “covered
5 service” includes the following services and op-
6 erations:

7 (i) Any services and operations pro-
8 vided in any field work setting, including
9 home health care, home-based hospice, and
10 home-based social work.

11 (ii) Any emergency services and trans-
12 port, including such services provided by
13 firefighters and emergency responders.

14 (iii) Any services described in clauses
15 (i) and (ii) performed by a Federal Gov-
16 ernment agency and required to comply
17 with occupational safety and health stand-
18 ards pursuant to section 1960 of title 29,
19 Code of Federal Regulations (as such sec-
20 tion is in effect on the date of enactment
21 of this Act).

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

1 (B) EXCLUSION.—The term “covered serv-
2 ice” does not include child day care services.

3 (3) COVERED EMPLOYER.—

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

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

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

19 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
20 **PREVENTION STANDARD.**

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

23 (1) WORKPLACE VIOLENCE PREVENTION
24 PLAN.—Not later than 6 months after the date of
25 promulgation of the interim final standard under

1 section 101(a), a covered employer shall develop, im-
2 plement, and maintain an effective written workplace
3 violence prevention plan (in this section referred to
4 as the “Plan”) for covered employees at each cov-
5 ered facility and for covered employees performing a
6 covered service on behalf of such employer, which
7 meets the following:

8 (A) PLAN DEVELOPMENT.—Each Plan
9 shall—

10 (i) be developed and implemented with
11 the meaningful participation of direct care
12 employees, other employees, and employee
13 representatives, for all aspects of the Plan;

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

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

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

1 (i) Identification of the individual and
2 the individual's position responsible for im-
3 plementation of the Plan.

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

13 (I) informed by past violent inci-
14 dents specific to such covered facility
15 or such covered service; and

16 (II) conducted with, at a min-
17 imum—

18 (aa) direct care employees;

19 (bb) where applicable, the
20 representatives of such employ-
21 ees; and

22 (cc) the employer.

23 (iii) Hazard prevention, engineering
24 controls, or work practice controls to cor-
25 rect hazards, in a timely manner, applying

1 industrial hygiene principles of the hier-
2 archy of controls, which—

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

11 (II) shall ensure that employers
12 correct, in a timely manner, hazards
13 identified in any violent incident in-
14 vestigation described in paragraph (2)
15 and any annual report described in
16 paragraph (5).

17 (iv) Reporting, incident response, and
18 post-incident investigation procedures, in-
19 cluding procedures—

20 (I) for employees to report work-
21 place violence risks, hazards, and inci-
22 dents;

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

1 (III) for employers to perform a
2 post-incident investigation and de-
3 briefing of all reports of workplace vi-
4 olence with the participation of em-
5 ployees and their representatives;

6 (IV) to provide medical care or
7 first aid to affected employees; and

8 (V) to provide employees with in-
9 formation about available trauma and
10 related counseling.

11 (v) Procedures for emergency re-
12 sponse, including procedures for threats of
13 mass casualties and procedures for inci-
14 dents involving a firearm or a dangerous
15 weapon.

16 (vi) Procedures for communicating
17 with and training the covered employees on
18 workplace violence hazards, threats, and
19 work practice controls, the employer's plan,
20 and procedures for confronting, responding
21 to, and reporting workplace violence
22 threats, incidents, and concerns, and em-
23 ployee rights.

24 (vii) Procedures for—

1 (I) ensuring the coordination of
2 risk assessment efforts, Plan develop-
3 ment, and implementation of the Plan
4 with other employers who have em-
5 ployees who work at the covered facil-
6 ity or who are performing the covered
7 service; and

8 (II) determining which covered
9 employer or covered employers shall
10 be responsible for implementing and
11 complying with the provisions of the
12 standard applicable to the working
13 conditions over which such employers
14 have control.

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

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

21 (2) VIOLENT INCIDENT INVESTIGATION.—

22 (A) IN GENERAL.—As soon as practicable
23 after a workplace violence incident, risk, or haz-
24 ard of which a covered employer has knowledge,
25 the employer shall conduct an investigation of

1 such incident, risk, or hazard under which the
2 employer shall—

3 (i) review the circumstances of the in-
4 cident, risk, or hazard, and whether any
5 controls or measures implemented pursu-
6 ant to the Plan of the employer were effec-
7 tive; and

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

15 (B) DOCUMENTATION.—A covered em-
16 ployer shall document the findings, rec-
17 ommendations, and corrective measures taken
18 for each investigation conducted under this
19 paragraph.

20 (3) TRAINING AND EDUCATION.—With respect
21 to the covered employees covered under a Plan of a
22 covered employer, the employer shall provide train-
23 ing and education to such employees who may be ex-
24 posed to workplace violence hazards and risks, which
25 meet 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,
6 anti-retaliation policies, and 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 safe-
14 ty 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 feed-
24 back on training, and request additional in-
25 struction, 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, ex-
4 cept that any annual training described in sub-
5 paragraph (A) provided to an employee after
6 the first year such training is provided to such
7 employee may be conducted by live video if in-
8 person 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
20 of the employer, including workplace
21 violence risk and hazard assessments,
22 and identification, evaluation, correc-
23 tion, and training procedures;

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

1 cording all workplace violence inci-
2 dents; and

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

6 (ii)(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 sec-
10 tion 1910.1020 of title 29, Code of Federal
11 Regulations (as such section is in effect on
12 the date of enactment of this Act), and in
13 a manner consistent with HIPAA privacy
14 regulations (defined in section 1180(b)(3)
15 of the Social Security Act (42 U.S.C.
16 1320d-9(b)(3))) and part 2 of title 42,
17 Code of Federal Regulations (as such part
18 is in effect on the date of enactment of this
19 Act); 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 ad-
5 dress, telephone number, or social security
6 number, or other information that, alone
7 or in combination with other publicly avail-
8 able information, reveals such individual's
9 identity).

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
14 by the employer and for each covered serv-
15 ice being performed by a covered employee
16 on behalf of such employer;

17 (ii) be based on a template developed
18 by the Secretary not later than 1 year
19 after 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
2 of the incident, and the names and
3 job titles 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
11 employer;

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 em-
18 ployee;

19 (ee) a partner, spouse, par-
20 ent, or relative of a covered em-
21 ployee; or

22 (ff) any other appropriate
23 classification;

24 (V) the type of violent incident
25 (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
4 abated;

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

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

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

19 (C) ANNUAL SUMMARY.—

20 (i) COVERED EMPLOYERS.—Each cov-
21 ered employer shall prepare and submit to
22 the Secretary an annual summary of each
23 violent incident log for the preceding cal-
24 endar year that shall—

1 (I) with respect to each covered
2 facility, and each covered service, for
3 which such a log has been maintained,
4 include—

5 (aa) the total number of vio-
6 lent incidents;

7 (bb) the number of record-
8 able injuries related to such inci-
9 dents; and

10 (cc) the total number of
11 hours worked by the covered em-
12 ployees for such preceding year;

13 (II) be completed on a form pro-
14 vided by the Secretary;

15 (III) be posted for 3 months be-
16 ginning February 1 of each year in a
17 manner consistent with the require-
18 ments of section 1904 of title 29,
19 Code of Federal Regulations (as such
20 section is in effect on the date of en-
21 actment of this Act), relating to the
22 posting of summaries of injury and ill-
23 ness logs;

1 (IV) be located in a conspicuous
2 place or places where notices to em-
3 ployees are customarily posted; and

4 (V) not be altered, defaced, or
5 covered by other material.

6 (ii) SECRETARY.—Not later than 1
7 year after the promulgation of the interim
8 final standard under section 101(a), the
9 Secretary shall make available a platform
10 for the electronic submission of annual
11 summaries required under this subpara-
12 graph.

13 (5) ANNUAL REPORT.—

14 (A) REPORT TO SECRETARY.—Not later
15 than February 15 of each year, each covered
16 employer shall report to the Secretary, on a
17 form provided by the Secretary, the frequency,
18 quantity, and severity of workplace violence,
19 and any incident response and post-incident in-
20 vestigation (including abatement measures) for
21 the incidents set forth in the annual summary
22 of the violent incident log described in para-
23 graph (4)(C). The contents of the report of the
24 Secretary to Congress shall not disclose any
25 confidential information.

1 (B) REPORT TO CONGRESS.—Not later
2 than 6 months after February 15 of each year,
3 the Secretary shall submit to Congress a sum-
4 mary of the reports received under subpara-
5 graph (A).

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

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

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

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

21 (8) ANTI-RETALIATION.—

22 (A) POLICY.—Each covered employer shall
23 adopt a policy prohibiting any person (including
24 an agent of the employer) from the discrimina-

1 tion or retaliation described in subparagraph
2 (B).

3 (B) PROHIBITION.—No covered employer
4 shall discriminate or retaliate against any em-
5 ployee for—

6 (i) reporting a workplace violence inci-
7 dent, threat, or concern to, or seeking as-
8 sistance or intervention with respect to
9 such incident, threat, or concern from, the
10 employer, law enforcement, local emer-
11 gency services, or a local, State, or Federal
12 government agency; or

13 (ii) exercising any other rights under
14 this paragraph.

15 (C) ENFORCEMENT.—This paragraph shall
16 be enforced in the same manner and to the
17 same extent as any standard promulgated
18 under section 6(b) of the Occupational Safety
19 and Health Act (29 U.S.C. 655(b)).

20 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

1 (2) the rights, privileges, or remedies of covered
2 employees shall be in addition to the rights, privi-
3 leges, or remedies provided under any Federal or
4 State law, or any collective bargaining agreement;
5 and

6 (3) nothing in this Act shall be construed to
7 limit or prevent health care workers, social service
8 workers, and other personnel from reporting violent
9 incidents to appropriate law enforcement.

10 **SEC. 105. OTHER DEFINITIONS.**

11 In this title:

12 (1) **WORKPLACE VIOLENCE.**—

13 (A) **IN GENERAL.**—The term “workplace
14 violence” means any act of violence or threat of
15 violence, without regard to intent, that occurs
16 at a covered facility or while a covered employee
17 performs a covered service.

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

21 (C) **INCLUSIONS.**—The term “workplace
22 violence” includes—

23 (i) the threat or use of physical force
24 against a covered employee that results in
25 or has a high likelihood of resulting in in-

1 jury, psychological trauma, or stress, with-
2 out regard to whether the covered em-
3 ployee sustains an injury, psychological
4 trauma, or stress; and

5 (ii) an incident involving the threat or
6 use of a firearm or a dangerous weapon,
7 including the use of common objects as
8 weapons, without regard to whether the
9 employee sustains an injury, psychological
10 trauma, or stress.

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

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

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

23 (3) TYPE 2 VIOLENCE.—The term “type 2 vio-
24 lence” means workplace violence directed at a cov-
25 ered employee by customers, clients, patients, stu-

1 dents, inmates, or any individual for whom a covered
2 facility provides services or for whom the employee
3 performs covered services.

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

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

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

18 (A) causes an individual to fear for such
19 individual’s safety because there is a reasonable
20 possibility the individual might be physically in-
21 jured; and

22 (B) serves no legitimate purpose.

23 (7) ALARM.—The term “alarm” means a me-
24 chanical, electrical, or electronic device that does not

1 rely upon an employee’s vocalization in order to alert
2 others.

3 (8) DANGEROUS WEAPON.—The term “dan-
4 gerous weapon” means an instrument capable of in-
5 flicting death or serious bodily injury, without re-
6 gard to whether such instrument was designed for
7 that purpose.

8 (9) ENGINEERING CONTROLS.—

9 (A) IN GENERAL.—The term “engineering
10 controls” means an aspect of the built space or
11 a device that removes a hazard from the work-
12 place or creates a barrier between a covered
13 employee and the hazard.

14 (B) INCLUSIONS.—For purposes of reduc-
15 ing workplace violence hazards, the term “engi-
16 neering controls” includes electronic access con-
17 trols to employee occupied areas, weapon detec-
18 tors (installed or handheld), enclosed work-
19 stations with shatter-resistant glass, deep serv-
20 ice counters, separate rooms or areas for high-
21 risk patients, locks on doors, removing access to
22 or securing items that could be used as weap-
23 ons, furniture affixed to the floor, opaque glass
24 in patient rooms (which protects privacy, but
25 allows the health care provider to see where the

1 patient is before entering the room), closed-cir-
2 cuit television monitoring and video recording,
3 sight-aids, and personal alarm devices.

4 (10) ENVIRONMENTAL RISK FACTORS.—

5 (A) IN GENERAL.—The term “environ-
6 mental risk factors” means factors in the cov-
7 ered facility or area in which a covered service
8 is performed that may contribute to the likeli-
9 hood or severity of a workplace violence inci-
10 dent.

11 (B) CLARIFICATION.—Environmental risk
12 factors may be associated with the specific task
13 being performed or the work area, such as
14 working in an isolated area, poor illumination
15 or blocked visibility, and lack of physical bar-
16 riers between individuals and persons at risk of
17 committing workplace violence.

18 (11) PATIENT-SPECIFIC RISK FACTORS.—The
19 term “patient-specific risk factors” means factors
20 specific to a patient that may increase the likelihood
21 or severity of a workplace violence incident, includ-
22 ing—

23 (A) a patient’s treatment and medication
24 status, and history of violence and use of drugs
25 or alcohol; and

1 (B) any conditions or disease processes of
2 the patient that may cause the patient to expe-
3 rience confusion or disorientation, be non-re-
4 sponsive to instruction, behave unpredictably, or
5 engage in disruptive, threatening, or violent be-
6 havior.

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

9 (13) WORK PRACTICE CONTROLS.—

10 (A) IN GENERAL.—The term “work prac-
11 tice controls” means procedures and rules that
12 are used to effectively reduce workplace violence
13 hazards.

14 (B) INCLUSIONS.—The term “work prac-
15 tice controls” includes—

16 (i) assigning and placing sufficient
17 numbers of staff to reduce patient-specific
18 type 2 violence hazards;

19 (ii) provision of dedicated and avail-
20 able safety personnel such as security
21 guards;

22 (iii) employee training on workplace
23 violence prevention methods and tech-
24 niques to de-escalate and minimize violent
25 behavior; and

1 (iv) employee training on procedures
2 for response in the event of a workplace vi-
3 olence incident and for post-incident re-
4 sponse.

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 Workplace Vio-
3 lence Prevention for Health Care and Social Service
4 Workers Act).”; and

5 (2) in subsection (b)(4)—

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

12 (B) in subparagraph (B)—

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

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

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply beginning on the date that is
25 1 year after the date of issuance of the interim final stand-

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