

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1195
OFFERED BY MR. COURTNEY OF
CONNECTICUT**

Strike all after the enacting clause and insert the following:

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. TABLE OF CONTENTS.

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

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—WORKPLACE VIOLENCE PREVENTION STANDARD

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

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

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

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

9 SEC. 101. WORKPLACE VIOLENCE PREVENTION STANDARD.

10 (a) INTERIM FINAL STANDARD.—

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

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

15 (B) that shall, at a minimum, be based on
16 the Guidelines for Preventing Workplace Vio-
17 lence for Healthcare and Social Service Work-
18 ers published by the Occupational Safety and
19 Health Administration of the Department of
20 Labor in 2015 and adhere to the requirements
21 of this title.

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

1 (A) The requirements applicable to occupa-
2 tional safety and health standards under section
3 6(b) of the Occupational Safety and Health Act
4 of 1970 (29 U.S.C. 655(b)).

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

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

10 (D) Executive Order 12866 (58 Fed. Reg.
11 51735; relating to regulatory planning and re-
12 view), as amended.

13 (3) NOTICE AND COMMENT.—Notwithstanding
14 paragraph (2)(B), the Secretary shall, prior to
15 issuing the interim final standard under this sub-
16 section, provide notice in the Federal Register of the
17 interim final standard and a 30-day period for pub-
18 lic comment.

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

21 (A) take effect on a date that is not later
22 than 30 days after issuance, except that such
23 interim final standard may include a reasonable
24 phase-in period for the implementation of re-

1 required engineering controls that take effect
2 after such date;

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

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

11 (5) FAILURE TO PROMULGATE.—If an interim
12 final standard described in paragraph (1) is not
13 issued not later than 1 year of the date of enactment
14 of this Act, the provisions of this title shall be in ef-
15 fect and enforced in the same manner and to the
16 same extent as any standard promulgated under sec-
17 tion 6(b) of the Occupational Safety and Health Act
18 (29 U.S.C. 655(b)) until such provisions are super-
19 seded in whole by an interim final standard issued
20 by the Secretary that meets the requirements of
21 paragraph (1).

22 (b) FINAL STANDARD.—

23 (1) PROPOSED STANDARD.—Not later than 2
24 years after the date of enactment of this Act, the
25 Secretary of Labor shall, pursuant to section 6 of

1 the Occupational Safety and Health Act (29 U.S.C.
2 655), promulgate a proposed standard on workplace
3 violence prevention—

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

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

9 (2) FINAL STANDARD.—Not later than 42
10 months after the date of enactment of this Act, the
11 Secretary shall issue a final standard on such pro-
12 posed standard that shall—

13 (A) provide no less protection than any
14 workplace violence standard adopted by a State
15 plan that has been approved by the Secretary
16 under section 18 of the Occupational Safety
17 and Health Act of 1970 (29 U.S.C. 667), pro-
18 vided the Secretary finds that the final stand-
19 ard is feasible on the basis of the best available
20 evidence; and

21 (B) be effective and enforceable in the
22 same manner and to the same extent as any
23 standard promulgated under section 6(b) of the
24 Occupational Safety and Health Act of 1970
25 (29 U.S.C. 655(b)).

1 **SEC. 102. SCOPE AND APPLICATION.**

2 In this title:

3 (1) COVERED FACILITY.—

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

6 (i) Any hospital, including any spe-
7 cialty hospital, in-patient or outpatient set-
8 ting, or clinic operating within a hospital
9 license, or any setting that provides out-
10 patient services.

11 (ii) Any residential treatment facility,
12 including any nursing home, skilled nurs-
13 ing facility, hospice facility, and long-term
14 care facility.

15 (iii) Any non-residential treatment or
16 service setting.

17 (iv) Any medical treatment or social
18 service setting or clinic at a correctional or
19 detention facility.

20 (v) Any community care setting, in-
21 cluding a community-based residential fa-
22 cility, group home, and mental health clin-
23 ic.

24 (vi) Any psychiatric treatment facility.

25 (vii) Any drug abuse or substance use
26 disorder treatment center.

1 (viii) Any independent freestanding
2 emergency centers.

3 (ix) Any facility described in clauses
4 (i) through (viii) operated by a Federal
5 Government agency and required to comply
6 with occupational safety and health stand-
7 ards pursuant to section 1960 of title 29,
8 Code of Federal Regulations (as such sec-
9 tion is in effect on the date of enactment
10 of this Act).

11 (x) Any other facility the Secretary
12 determines should be covered under the
13 standards promulgated under section 101.

14 (B) EXCLUSION.—The term “covered facil-
15 ity” does not include an office of a physician,
16 dentist, podiatrist, or any other health practi-
17 tioner that is not physically located within a
18 covered facility described in clauses (i) through
19 (x) of subparagraph (A).

20 (2) COVERED SERVICES.—

21 (A) IN GENERAL.—The term “covered
22 service” includes the following services and op-
23 erations:

24 (i) Any services and operations pro-
25 vided in any field work setting, including

1 home health care, home-based hospice, and
2 home-based social work.

3 (ii) Any emergency services and trans-
4 port, including such services provided by
5 firefighters and emergency responders.

6 (iii) Any services described in clauses
7 (i) and (ii) performed by a Federal Gov-
8 ernment agency and required to comply
9 with occupational safety and health stand-
10 ards pursuant to section 1960 of title 29,
11 Code of Federal Regulations (as such sec-
12 tion is in effect on the date of enactment
13 of this Act).

14 (iv) Any other services and operations
15 the Secretary determines should be covered
16 under the standards promulgated under
17 section 101.

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

20 (3) COVERED EMPLOYER.—

21 (A) IN GENERAL.—The term “covered em-
22 ployer” includes a person (including a con-
23 tractor, subcontractor, a temporary service
24 firm, or an employee leasing entity) that em-

1 employs an individual to work at a covered facility
2 or to perform covered services.

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

8 (4) COVERED EMPLOYEE.—The term “covered
9 employee” includes an individual employed by a cov-
10 ered employer to work at a covered facility or to per-
11 form covered services.

12 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
13 **PREVENTION STANDARD.**

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

16 (1) WORKPLACE VIOLENCE PREVENTION
17 PLAN.—Not later than 6 months after the date of
18 promulgation of the interim final standard under
19 section 101(a), a covered employer shall develop, im-
20 plement, and maintain an effective written workplace
21 violence prevention plan (in this section referred to
22 as the “Plan”) for covered employees at each cov-
23 ered facility and for covered employees performing a
24 covered service on behalf of such employer, which
25 meets the following:

1 (A) PLAN DEVELOPMENT.—Each Plan
2 shall—

3 (i) be developed and implemented with
4 the meaningful participation of direct care
5 employees, other employees, and employee
6 representatives, for all aspects of the Plan;

7 (ii) be tailored and specific to condi-
8 tions and hazards for the covered facility
9 or the covered service, including patient-
10 specific risk factors and risk factors spe-
11 cific to each work area or unit; and

12 (iii) be suitable for the size, com-
13 plexity, and type of operations at the cov-
14 ered facility or for the covered service, and
15 remain in effect at all times.

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

18 (i) Identification of the individual and
19 the individual's position responsible for im-
20 plementation of the Plan.

21 (ii) With respect to each work area
22 and unit at the covered facility or while
23 covered employees are performing the cov-
24 ered service, risk assessment and identi-
25 fication of workplace violence risks and

1 hazards to employees exposed to such risks
2 and hazards (including environmental risk
3 factors and patient-specific risk factors),
4 which shall be—

5 (I) informed by past violent inci-
6 dents specific to such covered facility
7 or such covered service; and

8 (II) conducted with, at a min-
9 imum—

10 (aa) direct care employees;

11 (bb) where applicable, the
12 representatives of such employ-
13 ees; and

14 (cc) the employer.

15 (iii) Hazard prevention, engineering
16 controls, or work practice controls to cor-
17 rect hazards, in a timely manner, applying
18 industrial hygiene principles of the hier-
19 archy of controls, which—

20 (I) may include security and
21 alarm systems, adequate exit routes,
22 monitoring systems, barrier protec-
23 tion, established areas for patients
24 and clients, lighting, entry procedures,
25 staffing and working in teams, and

1 systems to identify and flag clients
2 with a history of violence; and

3 (II) shall ensure that employers
4 correct, in a timely manner, hazards
5 identified in any violent incident in-
6 vestigation described in paragraph (2)
7 and any annual report described in
8 paragraph (5).

9 (iv) Reporting, incident response, and
10 post-incident investigation procedures, in-
11 cluding procedures—

12 (I) for employees to report work-
13 place violence risks, hazards, and inci-
14 dents;

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

17 (III) for employers to perform a
18 post-incident investigation and de-
19 briefing of all reports of workplace vi-
20 olence with the participation of em-
21 ployees and their representatives;

22 (IV) to provide medical care or
23 first aid to affected employees; and

1 (V) to provide employees with in-
2 formation about available trauma and
3 related counseling.

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

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

17 (vii) Procedures for—

18 (I) ensuring the coordination of
19 risk assessment efforts, Plan develop-
20 ment, and implementation of the Plan
21 with other employers who have em-
22 ployees who work at the covered facil-
23 ity or who are performing the covered
24 service; and

1 (II) determining which covered
2 employer or covered employers shall
3 be responsible for implementing and
4 complying with the provisions of the
5 standard applicable to the working
6 conditions over which such employers
7 have control.

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

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

14 (2) VIOLENT INCIDENT INVESTIGATION.—

15 (A) IN GENERAL.—As soon as practicable
16 after a workplace violence incident, risk, or haz-
17 ard of which a covered employer has knowledge,
18 the employer shall conduct an investigation of
19 such incident, risk, or hazard under which the
20 employer shall—

21 (i) review the circumstances of the in-
22 cident, risk, or hazard, and whether any
23 controls or measures implemented pursu-
24 ant to the Plan of the employer were effec-
25 tive; and

1 (ii) solicit input from involved employ-
2 ees, their representatives, and supervisors
3 about the cause of the incident, risk, or
4 hazard, and whether further corrective
5 measures (including system-level factors)
6 could have prevented the incident, risk, or
7 hazard.

8 (B) DOCUMENTATION.—A covered em-
9 ployer shall document the findings, rec-
10 ommendations, and corrective measures taken
11 for each investigation conducted under this
12 paragraph.

13 (3) TRAINING AND EDUCATION.—With respect
14 to the covered employees covered under a Plan of a
15 covered employer, the employer shall provide train-
16 ing and education to such employees who may be ex-
17 posed to workplace violence hazards and risks, which
18 meet the following requirements:

19 (A) Annual training and education shall
20 include information on the Plan, including iden-
21 tified workplace violence hazards, work practice
22 control measures, reporting procedures, record
23 keeping requirements, response procedures,
24 anti-retaliation policies, and employee rights.

1 (B) Additional hazard recognition training
2 shall be provided for supervisors and managers
3 to ensure they—

4 (i) can recognize high-risk situations;

5 and

6 (ii) do not assign employees to situa-
7 tions that predictably compromise the safe-
8 ty of such employees.

9 (C) Additional training shall be provided
10 for each such covered employee whose job cir-
11 cumstances have changed, within a reasonable
12 timeframe after such change.

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

16 (E) All training shall provide such employ-
17 ees opportunities to ask questions, give feed-
18 back on training, and request additional in-
19 struction, clarification, or other followup.

20 (F) All training shall be provided in-person
21 and by an individual with knowledge of work-
22 place violence prevention and of the Plan, ex-
23 cept that any annual training described in sub-
24 paragraph (A) provided to an employee after
25 the first year such training is provided to such

1 employee may be conducted by live video if in-
2 person training is impracticable.

3 (G) All training shall be appropriate in
4 content and vocabulary to the language, edu-
5 cational level, and literacy of such covered em-
6 ployees.

7 (4) RECORDKEEPING AND ACCESS TO PLAN
8 RECORDS.—

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

11 (i) maintain for not less than 5
12 years—

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

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

22 (III) records of all incident inves-
23 tigations as required under paragraph
24 (2)(B); and

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

15 (II) ensure that any such records and
16 logs that may be copied, transmitted elec-
17 tronically, or otherwise removed from the
18 employer's control for purposes of this
19 clause omit any element of personal identi-
20 fying information sufficient to allow identi-
21 fication of any patient, resident, client, or
22 other individual alleged to have committed
23 a violent incident (including the individ-
24 ual's name, address, electronic mail ad-
25 dress, telephone number, or social security

1 number, or other information that, alone
2 or in combination with other publicly avail-
3 able information, reveals such individual's
4 identity).

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

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

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

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

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

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

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

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

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

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

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

15 (C) ANNUAL SUMMARY.—

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

21 (I) with respect to each covered
22 facility, and each covered service, for
23 which such a log has been maintained,
24 include—

1 (aa) the total number of vio-
2 lent incidents;

3 (bb) the number of record-
4 able injuries related to such inci-
5 dents; and

6 (cc) the total number of
7 hours worked by the covered em-
8 ployees for such preceding year;

9 (II) be completed on a form pro-
10 vided by the Secretary;

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

20 (IV) be located in a conspicuous
21 place or places where notices to em-
22 ployees are customarily posted; and

23 (V) not be altered, defaced, or
24 covered by other material.

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

8 (5) ANNUAL REPORT.—

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

21 (B) REPORT TO CONGRESS.—Not later
22 than 6 months after February 15 of each year,
23 the Secretary shall submit to Congress a sum-
24 mary of the reports received under subpara-
25 graph (A).

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

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

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

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

16 (8) ANTI-RETALIATION.—

17 (A) POLICY.—Each covered employer shall
18 adopt a policy prohibiting any person (including
19 an agent of the employer) from the discrimina-
20 tion or retaliation described in subparagraph
21 (B).

22 (B) PROHIBITION.—No covered employer
23 shall discriminate or retaliate against any em-
24 ployee for—

1 (i) reporting a workplace violence inci-
2 dent, threat, or concern to, or seeking as-
3 sistance or intervention with respect to
4 such incident, threat, or concern from, the
5 employer, law enforcement, local emer-
6 gency services, or a local, State, or Federal
7 government agency; or

8 (ii) exercising any other rights under
9 this paragraph.

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

15 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

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

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

5 **SEC. 105. OTHER DEFINITIONS.**

6 In this title:

7 (1) **WORKPLACE VIOLENCE.**—

8 (A) **IN GENERAL.**—The term “workplace
9 violence” means any act of violence or threat of
10 violence, without regard to intent, that occurs
11 at a covered facility or while a covered employee
12 performs a covered service.

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

16 (C) **INCLUSIONS.**—The term “workplace
17 violence” includes—

18 (i) the threat or use of physical force
19 against a covered employee that results in
20 or has a high likelihood of resulting in in-
21 jury, psychological trauma, or stress, with-
22 out regard to whether the covered em-
23 ployee sustains an injury, psychological
24 trauma, or stress; and

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

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

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

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

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

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

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

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

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

19 (B) serves no legitimate purpose.

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

24 (8) DANGEROUS WEAPON.—The term “dan-
25 gerous weapon” means an instrument capable of in-

1 flicting death or serious bodily injury, without re-
2 gard to whether such instrument was designed for
3 that purpose.

4 (9) ENGINEERING CONTROLS.—

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

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

25 (10) ENVIRONMENTAL RISK FACTORS.—

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

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

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

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

22 (B) any conditions or disease processes of
23 the patient that may cause the patient to expe-
24 rience confusion or disorientation, be non-re-
25 sponsive to instruction, behave unpredictably, or

1 engage in disruptive, threatening, or violent be-
2 havior.

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

5 (13) WORK PRACTICE CONTROLS.—

6 (A) IN GENERAL.—The term “work prac-
7 tice controls” means procedures and rules that
8 are used to effectively reduce workplace violence
9 hazards.

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

12 (i) assigning and placing sufficient
13 numbers of staff to reduce patient-specific
14 type 2 violence hazards;

15 (ii) provision of dedicated and avail-
16 able safety personnel such as security
17 guards;

18 (iii) employee training on workplace
19 violence prevention methods and tech-
20 niques to de-escalate and minimize violent
21 behavior; and

22 (iv) employee training on procedures
23 for response in the event of a workplace vi-
24 olence incident and for post-incident re-
25 sponse.

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

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

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

8 (1) in subsection (a)(1)—

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

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

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

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

1 (2) in subsection (b)(4)—

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

8 (B) in subparagraph (B)—

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

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

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply beginning on the date that is
21 1 year after the date of issuance of the interim final stand-
22 ard on workplace violence prevention required under sec-
23 tion 101.

