

NOVEMBER 14, 2019

RULES COMMITTEE PRINT 116–37
TEXT OF H.R. 1309, WORKPLACE VIOLENCE PRE-
VENTION FOR HEALTH CARE AND SOCIAL
SERVICE WORKERS ACT

[Showing the text of H.R. 1309, as ordered reported by the
Committee on Education and Labor]

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 promulgate an interim final standard on
4 workplace 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 to protect health care workers, social serv-
12 ice workers, and other personnel from work-
13 place violence; and

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

21 (2) APPLICABILITY OF OTHER STATUTORY RE-
22 QUIREMENTS.—The following shall not apply to the
23 promulgation of the interim final standard under
24 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, and titles 2 and
7 42, United States Code.

8 (3) NOTICE AND COMMENT.—Notwithstanding
9 paragraph (2)(B), the Secretary shall, prior to pro-
10 mulgating the interim final standard under this sub-
11 section, provide notice in the Federal Register of the
12 interim final standard and a 30-day period for pub-
13 lic comment.

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

16 (A) take effect on a date that is not later
17 than 30 days after promulgation, except that
18 such interim final standard may include a rea-
19 sonable phase-in period for the implementation
20 of required engineering controls that take effect
21 after such date;

22 (B) be enforced in the same manner and
23 to the same extent as any standard promul-
24 gated under section 6(b) of the Occupational

1 Safety and Health Act of 1970 (29 U.S.C.
2 655(b)); and

3 (C) be in effect until the final standard de-
4 scribed in subsection (b) becomes effective and
5 enforceable.

6 (5) FAILURE TO PROMULGATE.—If an interim
7 final standard described in paragraph (1) is not pro-
8 mulgated not later than 1 year of the date of enact-
9 ment of this Act, the provisions of this title shall be
10 in effect and enforced in the same manner and to
11 the same extent as any standard promulgated under
12 section 6(b) of the Occupational Safety and Health
13 Act (29 U.S.C. 655(b)) until such provisions are su-
14 perseded in whole by an interim final standard pro-
15 mulgated by the Secretary that meets the require-
16 ments of paragraph (1).

17 (b) FINAL STANDARD.—

18 (1) PROPOSED STANDARD.—Not later than 2
19 years after the date of enactment of this Act, the
20 Secretary of Labor shall, pursuant to section 6 of
21 the Occupational Safety and Health Act (29 U.S.C.
22 655), promulgate a proposed standard on workplace
23 violence prevention—

24 (A) for the purposes described in sub-
25 section (a)(1)(A); and

1 (B) that shall include, at a minimum, the
2 elements contained in the interim final standard
3 promulgated under subsection (a).

4 (2) FINAL STANDARD.—Not later than 42
5 months after the date of enactment of this Act, the
6 Secretary shall promulgate a final standard on such
7 proposed standard that shall—

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

13 (B) be effective and enforceable in the
14 same manner and to the same extent as any
15 standard promulgated under section 6(b) of the
16 Occupational Safety and Health Act of 1970
17 (29 U.S.C. 655(b)).

18 **SEC. 102. SCOPE AND APPLICATION.**

19 In this title:

20 (1) COVERED FACILITY.—The term “covered
21 facility” includes the following:

22 (A) Any hospital, including any specialty
23 hospital, in-patient or outpatient setting, or
24 clinic operating within a hospital license, or any
25 setting that provides outpatient services.

1 (B) Any residential treatment facility, in-
2 cluding any nursing home, skilled nursing facil-
3 ity, hospice facility, and long-term care facility.

4 (C) Any non-residential treatment or serv-
5 ice setting.

6 (D) Any medical treatment or social serv-
7 ice setting or clinic at a correctional or deten-
8 tion facility.

9 (E) Any community care setting, including
10 a community-based residential facility, group
11 home, and mental health clinic.

12 (F) Any psychiatric treatment facility.

13 (G) Any drug abuse or substance use dis-
14 order treatment center.

15 (H) Any independent freestanding emer-
16 gency centers.

17 (I) Any facility described in subparagraphs
18 (A) through (H) operated by a Federal Govern-
19 ment agency and required to comply with occu-
20 pational safety and health standards pursuant
21 to section 1960 of title 29, Code of Federal
22 Regulations (as such section is in effect on the
23 date of enactment of this Act).

1 (J) Any other facility the Secretary deter-
2 mines should be covered under the standards
3 promulgated under section 101.

4 (2) COVERED SERVICES.—The term “covered
5 service” includes the following services and oper-
6 ations:

7 (A) Any services and operations provided
8 in any field work setting, including home health
9 care, home-based hospice, and home-based so-
10 cial work.

11 (B) Any emergency services and transport,
12 including such services provided by firefighters
13 and emergency responders.

14 (C) Any services described in subpara-
15 graphs (A) and (B) performed by a Federal
16 Government agency and required to comply
17 with occupational safety and health standards
18 pursuant to section 1960 of title 29, Code of
19 Federal Regulations (as such section is in effect
20 on the date of enactment of this Act).

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

24 (3) COVERED EMPLOYER.—

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

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

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

16 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
17 **PREVENTION STANDARD.**

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

20 (1) WORKPLACE VIOLENCE PREVENTION
21 PLAN.—Not later than 6 months after the date of
22 promulgation of the interim final standard under
23 section 101(a), a covered employer shall develop, im-
24 plement, and maintain an effective written workplace
25 violence prevention plan for covered employees at

1 each covered facility and for covered employees per-
2 forming a covered service on behalf of such em-
3 ployer, which meets the following:

4 (A) PLAN DEVELOPMENT.—Each Plan
5 shall—

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

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

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

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

21 (i) Identification of the individual re-
22 sponsible for implementation of the Plan.

23 (ii) With respect to each work area
24 and unit at the covered facility or while
25 covered employees are performing the cov-

1 ered service, risk assessment and identi-
2 fication of workplace violence risks and
3 hazards to employees exposed to such risks
4 and hazards (including environmental risk
5 factors and patient-specific risk factors),
6 which shall be—

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

10 (II) conducted with, at a min-
11 imum—

12 (aa) direct care employees;

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

16 (cc) the employer.

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

22 (I) may include security and
23 alarm systems, adequate exit routes,
24 monitoring systems, barrier protec-
25 tion, established areas for patients

1 and clients, lighting, entry procedures,
2 staffing and working in teams, and
3 systems to identify and flag clients
4 with a history of violence; and

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

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

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

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

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

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

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

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

14 (vii) Procedures for—

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

22 (II) determining which covered
23 employer or covered employers shall
24 be responsible for implementing and
25 complying with the provisions of the

1 standard applicable to the working
2 conditions over which such employers
3 have control.

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

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

10 (2) VIOLENT INCIDENT INVESTIGATION.—

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

17 (i) review the circumstances of the in-
18 cident, risk, or hazard, and whether any
19 controls or measures implemented pursu-
20 ant to the Plan of the employer were effec-
21 tive; and

22 (ii) solicit input from involved employ-
23 ees, their representatives, and supervisors
24 about the cause of the incident, risk, or
25 hazard, and whether further corrective

1 measures (including system-level factors)
2 could have prevented the incident, risk, or
3 hazard.

4 (B) DOCUMENTATION.—A covered em-
5 ployer shall document the findings, rec-
6 ommendations, and corrective measures taken
7 for each investigation conducted under this
8 paragraph.

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

15 (A) Annual training and education shall
16 include information on the Plan, including iden-
17 tified workplace violence hazards, work practice
18 control measures, reporting procedures, record
19 keeping requirements, response procedures, and
20 employee rights.

21 (B) Additional hazard recognition training
22 shall be provided for supervisors and managers
23 to ensure they—

24 (i) can recognize high-risk situations;
25 and

1 (ii) do not assign employees to situa-
2 tions that predictably compromise the safe-
3 ty of such employees.

4 (C) Additional training shall be provided
5 for each such covered employee whose job cir-
6 cumstances have changed, within a reasonable
7 timeframe after such change.

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

11 (E) All training shall provide such employ-
12 ees opportunities to ask questions, give feed-
13 back on training, and request additional in-
14 struction, clarification, or other followup.

15 (F) All training shall be provided in-person
16 and by an individual with knowledge of work-
17 place violence prevention and of the Plan, ex-
18 cept that any annual training described in sub-
19 paragraph (A) provided to an employee after
20 the first year such training is provided to such
21 employee may be conducted by live video if in-
22 person training is impracticable.

23 (G) All training shall be appropriate in
24 content and vocabulary to the language, edu-

1 cational level, and literacy of such covered em-
2 ployees.

3 (4) RECORDKEEPING AND ACCESS TO PLAN
4 RECORDS.—

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

7 (i) maintain for not less than 5
8 years—

9 (I) records related to each Plan
10 of the employer, including workplace
11 violence risk and hazard assessments,
12 and identification, evaluation, correc-
13 tion, and training procedures;

14 (II) a violent incident log de-
15 scribed in subparagraph (B) for re-
16 cording all workplace violence inci-
17 dents; and

18 (III) records of all incident inves-
19 tigations as required under paragraph
20 (2)(B); and

21 (ii)(I) make such records and logs
22 available, upon request, to covered employ-
23 ees and their representatives for examina-
24 tion and copying in accordance with sec-
25 tion 1910.1020 of title 29, Code of Federal

1 Regulations (as such section is in effect on
2 the date of enactment of this Act), and in
3 a manner consistent with HIPAA privacy
4 regulations (defined in section 1180(b)(3)
5 of the Social Security Act (42 U.S.C.
6 1320d-9(b)(3))) and part 2 of title 42,
7 Code of Federal Regulations (as such part
8 is in effect on the date of enactment of this
9 Act); and

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

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

3 (i) be maintained by a covered em-
4 ployer for each covered facility controlled
5 by the employer and for each covered serv-
6 ice being performed by a covered employee
7 on behalf of such employer;

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

11 (iii) include, at a minimum, a descrip-
12 tion of—

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

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

19 (III) the nature and extent of in-
20 juries to covered employees;

21 (IV) a classification of the pepe-
22 trator who committed the violence, in-
23 cluding whether the perpetrator was—

1 (aa) a patient, client, resi-
2 dent, or customer of a covered
3 employer;

4 (bb) a family or friend of a
5 patient, client, resident, or cus-
6 tomer of a covered employer;

7 (cc) a stranger;

8 (dd) a coworker, supervisor,
9 or manager of a covered em-
10 ployee;

11 (ee) a partner, spouse, par-
12 ent, or relative of a covered em-
13 ployee; or

14 (ff) any other appropriate
15 classification;

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

20 (VI) how the incident was
21 abated;

22 (iv) not later than 7 days after the
23 employer learns of such incident, contain a
24 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 (as such sec-
10 tion is in effect on the date of enactment
11 of this Act).

12 (C) ANNUAL SUMMARY.—

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

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

1 (II) be completed on a form pro-
2 vided by the Secretary;

3 (III) be posted for three months
4 beginning February 1 of each year in
5 a manner consistent with the require-
6 ments of section 1904 of title 29,
7 Code of Federal Regulations (as such
8 section is in effect on the date of en-
9 actment of this Act), relating to the
10 posting of summaries of injury and ill-
11 ness logs;

12 (IV) be located in a conspicuous
13 place or places where notices to em-
14 ployees are customarily posted; and

15 (V) not be altered, defaced, or
16 covered by other material.

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

23 (5) ANNUAL REPORT.—Not later than Feb-
24 ruary 15 of each year, each covered employer shall
25 report to the Secretary, the frequency, quantity, and

1 severity of workplace violence, and any incident re-
2 sponse and post-incident investigation (including
3 abatement measures) for the incidents set forth in
4 the annual summary of the violent incident log de-
5 scribed in paragraph (4)(C).

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) ANTI-RETALIATION.—

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

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

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

11 (ii) exercising any other rights under
12 this paragraph.

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

18 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

24 (2) the rights, privileges, or remedies of covered
25 employees shall be in addition to the rights, privi-

1 leges, or remedies provided under any Federal or
2 State law, or any collective bargaining agreement.

3 **SEC. 105. OTHER DEFINITIONS.**

4 In this title:

5 (1) WORKPLACE VIOLENCE.—

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

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

14 (C) INCLUSIONS.—The term “workplace
15 violence” includes—

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

23 (ii) an incident involving the threat or
24 use of a firearm or a dangerous weapon,
25 including the use of common objects as

1 weapons, without regard to whether the
2 employee sustains an injury, psychological
3 trauma, or stress.

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

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

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

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

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

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

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

11 (A) causes an individual to fear for such
12 individual’s safety because there is a reasonable
13 possibility the individual might be physically in-
14 jured; and

15 (B) serves no legitimate purpose.

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

20 (8) DANGEROUS WEAPON.—The term “dan-
21 gerous weapon” means an instrument capable of in-
22 flicting death or serious bodily injury, without re-
23 gard to whether such instrument was designed for
24 that purpose.

25 (9) ENGINEERING CONTROLS.—

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

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

21 (10) ENVIRONMENTAL RISK FACTORS.—

22 (A) IN GENERAL.—The term “environ-
23 mental risk factors” means factors in the cov-
24 ered facility or area in which a covered service
25 is performed that may contribute to the likeli-

1 hood or severity of a workplace violence inci-
2 dent.

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

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

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

18 (B) any conditions or disease processes of
19 the patient that may cause the patient to expe-
20 rience confusion or disorientation, be non-re-
21 sponsive to instruction, behave unpredictably, or
22 engage in disruptive, threatening, or violent be-
23 havior.

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

1 (13) WORK PRACTICE CONTROLS.—

2 (A) IN GENERAL.—The term “work prac-
3 tice controls” means procedures and rules that
4 are used to effectively reduce workplace violence
5 hazards.

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

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

11 (ii) provision of dedicated and avail-
12 able safety personnel such as security
13 guards;

14 (iii) employee training on workplace
15 violence prevention methods and tech-
16 niques to de-escalate and minimize violent
17 behavior; and

18 (iv) employee training on procedures
19 for response in the event of a workplace vi-
20 olence incident and for post-incident re-
21 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.

