

117TH CONGRESS
2D SESSION

S. 4182

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 SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 10), 2022

Ms. BALDWIN (for herself, Ms. WARREN, Mr. MURPHY, Ms. KLOBUCHAR, Mr. SANDERS, Mr. SCHATZ, Mr. MERKLEY, Ms. SMITH, Mr. WYDEN, Mr. BROWN, Mr. BOOKER, Mr. PADILLA, Mr. PETERS, Mr. VAN HOLLEN, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Ms. HASSAN, Mr. DURBIN, Ms. STABENOW, Mrs. MURRAY, Mr. BLUMENTHAL, Mr. MARKEY, Mr. CARDIN, Ms. DUCKWORTH, Mr. CASEY, Mr. COONS, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To direct the Secretary of Labor to issue an occupational safety and health standard that requires covered employers within the health care and social service industries to develop and implement a comprehensive workplace violence prevention plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Workplace Violence
3 Prevention for Health Care and Social Service Workers
4 Act”.

5 **SEC. 2. 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.—

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

15 (A) to require certain employers in the
16 health care and social service sectors, and cer-
17 tain employers in sectors that conduct activities
18 similar to the activities in the health care and
19 social service sectors, to develop and implement

1 a comprehensive workplace violence prevention
2 plan and carry out other activities or require-
3 ments described in section 103 to protect health
4 care workers, social service workers, and other
5 personnel from workplace violence;

6 (B) that shall, at a minimum, be based on
7 the Guidelines for Preventing Workplace Vio-
8 lence for Healthcare and Social Service Work-
9 ers published by the Occupational Safety and
10 Health Administration of the Department of
11 Labor in 2015 and adhere to the requirements
12 of this title; and

13 (C) that provides for a period determined
14 appropriate by the Secretary, not to exceed 1
15 year, during which the Secretary shall prioritize
16 technical assistance and advice consistent with
17 section 21(d) of the Occupational Safety and
18 Health Act of 1970 (29 U.S.C. 670(d)) to em-
19 ployers subject to the standard with respect to
20 compliance with the standard.

21 (2) INAPPLICABLE PROVISIONS OF LAW AND
22 EXECUTIVE ORDER.—The following provisions of law
23 and Executive orders shall not apply to the issuance
24 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 No. 12866 (58 Fed.
11 Reg. 51735; relating to regulatory planning and
12 review), 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 of 1970 (29 U.S.C. 655(b)) until such provisions are
19 superseded in whole by an interim final standard
20 issued by the Secretary that meets the requirements
21 of 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 of 1970 (29
2 U.S.C. 655), promulgate a proposed standard on
3 workplace 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 required 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, Alzheimer’s
14 and memory care facility, and long-term
15 care facility.

16 (iii) Any nonresidential treatment or
17 service setting.

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

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

25 (vi) Any psychiatric treatment facility.

1 (vii) Any drug abuse or substance use
2 disorder treatment center.

3 (viii) Any independent freestanding
4 emergency center.

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

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

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

22 (2) COVERED SERVICES.—

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

1 (i) Any services and operations pro-
2 vided in any field work setting, including
3 home health care, home-based hospice, and
4 home-based social work.

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

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

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

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

22 (3) COVERED EMPLOYER.—

23 (A) IN GENERAL.—The term “covered em-
24 ployer” includes a person (including a con-
25 tractor, a subcontractor, a temporary service

1 firm, or an employee leasing entity) that em-
 2 ploys an individual to work at a covered facility
 3 or to perform covered services.

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

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

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

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

17 (1) WORKPLACE VIOLENCE PREVENTION
 18 PLAN.—Not later than 6 months after the date of
 19 promulgation of the interim final standard under
 20 section 101(a), or 18 months after the date of enact-
 21 ment of this Act in a case described in section
 22 101(a)(5), a covered employer shall develop, imple-
 23 ment, and maintain an effective written workplace
 24 violence prevention plan (in this section referred to
 25 as the “Plan”) for covered employees at each cov-

1 ered facility and for covered employees performing a
2 covered service on behalf of such employer, which
3 meets the following:

4 (A) PLAN DEVELOPMENT.—Each Plan—

5 (i) shall be developed and imple-
6 mented with the meaningful participation
7 of direct care employees, other employees,
8 and employee representatives, for all as-
9 pects of the Plan;

10 (ii) shall be tailored and specific to
11 conditions and hazards for the covered fa-
12 cility or the covered service, including pa-
13 tient-specific risk factors and risk factors
14 specific to each work area or unit;

15 (iii) shall 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; and

19 (iv) may be in consultation with stake-
20 holders or experts who specialize in work-
21 place violence prevention, emergency re-
22 sponse, or other related areas of expertise
23 for all relevant aspects of the Plan.

24 (B) PLAN CONTENT.—Each Plan shall in-
25 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) Additional training shall be provided
20 for each such covered employee whose job cir-
21 cumstances require working with victims of tor-
22 ture, trafficking, or domestic violence.

23 (E) Applicable training shall be provided
24 under this paragraph for each new covered em-
25 ployee prior to the employee's job assignment.

1 (F) All training shall provide such employ-
2 ees opportunities to ask questions, give feed-
3 back on training, and request additional in-
4 struction, clarification, or other followup.

5 (G) All training shall be provided in-person
6 and by an individual with knowledge of work-
7 place violence prevention and of the Plan, ex-
8 cept that any annual training described in sub-
9 paragraph (A) provided to an employee after
10 the first year such training is provided to such
11 employee may be conducted by live video if in-
12 person training is impracticable.

13 (H) All training shall be appropriate in
14 content and vocabulary to the language, edu-
15 cational level, and literacy of such covered em-
16 ployees.

17 (4) RECORDKEEPING AND ACCESS TO PLAN
18 RECORDS.—

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

21 (i) maintain for not less than 5
22 years—

23 (I) records related to each Plan
24 of the employer, including workplace
25 violence risk and hazard assessments,

1 and identification, evaluation, correc-
2 tion, and training procedures;

3 (II) a violent incident log de-
4 scribed in subparagraph (B) for re-
5 cording all workplace violence inci-
6 dents; and

7 (III) records of all incident inves-
8 tigations as required under paragraph
9 (2)(B); and

10 (ii)(I) make such records and logs
11 available, upon request, to covered employ-
12 ees and their representatives for examina-
13 tion and copying in accordance with sec-
14 tion 1910.1020 of title 29, Code of Federal
15 Regulations (as such section is in effect on
16 the date of enactment of this Act), and in
17 a manner consistent with HIPAA privacy
18 regulations (defined in section 1180(b)(3)
19 of the Social Security Act (42 U.S.C.
20 1320d-9(b)(3))) and part 2 of title 42,
21 Code of Federal Regulations (as such part
22 is in effect on the date of enactment of this
23 Act); and

24 (II) ensure that any such records and
25 logs that may be copied, transmitted elec-

1 tronically, or otherwise removed from the
2 employer's control for purposes of this
3 clause omit any element of personal identi-
4 fying information sufficient to allow identi-
5 fication of any patient, resident, client, or
6 other individual alleged to have committed
7 a violent incident (including the individ-
8 ual's name, address, electronic mail ad-
9 dress, telephone number, or social security
10 number, or other information that, alone
11 or in combination with other publicly avail-
12 able information, reveals such individual's
13 identity).

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

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

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

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

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

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

7 (III) the nature and extent of in-
8 juries to covered employees;

9 (IV) a classification of the pepe-
10 trator who committed the violence, in-
11 cluding whether the perpetrator was—

12 (aa) a patient, client, resi-
13 dent, or customer of a covered
14 employer;

15 (bb) a family or friend of a
16 patient, client, resident, or cus-
17 tomer of a covered employer;

18 (cc) a stranger;

19 (dd) a coworker, supervisor,
20 or manager of a covered em-
21 ployee;

22 (ee) a partner, spouse, par-
23 ent, or relative of a covered em-
24 ployee; or

1 (ff) any other appropriate
2 classification;

3 (V) the type of violent incident
4 (such as type 1 violence, type 2 vio-
5 lence, type 3 violence, or type 4 vio-
6 lence); and

7 (VI) how the incident was
8 abated;

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

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

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

23 (C) ANNUAL SUMMARY.—

24 (i) COVERED EMPLOYERS.—Each cov-
25 ered employer shall prepare and submit to

1 the Secretary an annual summary of each
2 violent incident log for the preceding cal-
3 endar year that shall—

4 (I) with respect to each covered
5 facility, and each covered service, for
6 which such a log has been maintained,
7 include—

8 (aa) the total number of vio-
9 lent incidents;

10 (bb) the number of record-
11 able injuries related to such inci-
12 dents; and

13 (cc) the total number of
14 hours worked by the covered em-
15 ployees for such preceding year;

16 (II) be completed on a form pro-
17 vided by the Secretary;

18 (III) be posted for 3 months be-
19 ginning February 1 of each year in a
20 manner consistent with the require-
21 ments of part 1904 of title 29, Code
22 of Federal Regulations (as such part
23 is in effect on the date of enactment
24 of this Act), relating to the posting of
25 summaries of injury and illness 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), or 2
9 years after the date of enactment of this
10 Act in a case described in section
11 101(a)(5), the Secretary shall make avail-
12 able a platform for the electronic submis-
13 sion of annual summaries required under
14 this subparagraph.

15 (5) ANNUAL REPORT.—

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

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). The contents of the summary of the
6 Secretary to Congress shall not disclose any
7 confidential information.

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

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

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

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

23 (8) ANTI-RETALIATION.—

24 (A) POLICY.—Each covered employer shall
25 adopt a policy prohibiting any person (including

1 an agent of the employer) from the discrimina-
2 tion or retaliation described in subparagraph
3 (B).

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

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

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

16 (C) ENFORCEMENT.—This paragraph shall
17 be enforced in the same manner and to the
18 same extent as any standard promulgated
19 under section 6(b) of the Occupational Safety
20 and Health Act of 1970 (29 U.S.C. 655(b)).

21 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

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

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

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

15 (A) domestic violence;

16 (B) stalking;

17 (C) dating violence; and

18 (D) sexual assault.

19 **SEC. 105. OTHER DEFINITIONS.**

20 In this title:

21 (1) **WORKPLACE VIOLENCE.**—

22 (A) **IN GENERAL.**—The term “workplace
23 violence” means any act of violence or threat of
24 violence, without regard to intent, that occurs

1 at a covered facility or while a covered employee
2 performs a covered service.

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

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

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

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

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

23 (A) means workplace violence directed at a
24 covered employee at a covered facility or while
25 performing a covered service by an individual

1 who has no legitimate business at the covered
2 facility or with respect to such covered service;
3 and

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

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

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

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

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

3 (A) causes an individual to fear for such
4 individual’s safety because there is a reasonable
5 possibility the individual might be physically in-
6 jured; and

7 (B) serves no legitimate purpose.

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

12 (8) DANGEROUS WEAPON.—The term “dan-
13 gerous weapon” means an instrument capable of in-
14 flicting death or serious bodily injury, without re-
15 gard to whether such instrument was designed for
16 that purpose.

17 (9) ENGINEERING CONTROLS.—

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

23 (B) INCLUSIONS.—For purposes of reduc-
24 ing workplace violence hazards, the term “engi-
25 neering controls” includes electronic access con-

1 controls to employee occupied areas, weapon detec-
2 tors (installed or handheld), enclosed work-
3 stations with shatter-resistant glass, deep serv-
4 ice counters, separate rooms or areas for high-
5 risk patients, locks on doors, removing access to
6 or securing items that could be used as weap-
7 ons, furniture affixed to the floor, opaque glass
8 in patient rooms (which protects privacy, but
9 allows the health care provider to see where the
10 patient is before entering the room), closed-cir-
11 cuit television monitoring and video recording,
12 sight-aids, and personal alarm devices.

13 (10) ENVIRONMENTAL RISK FACTORS.—

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

20 (B) CLARIFICATION.—Environmental risk
21 factors may be associated with the specific task
22 being performed or the work area, such as
23 working in an isolated area, poor illumination
24 or blocked visibility, and lack of physical bar-

1 riers between individuals and persons at risk of
2 committing workplace violence.

3 (11) PATIENT-SPECIFIC RISK FACTORS.—The
4 term “patient-specific risk factors” means factors
5 specific to a patient that may increase the likelihood
6 or severity of a workplace violence incident, includ-
7 ing—

8 (A) a patient’s treatment and medication
9 status, and history of violence and use of drugs
10 or alcohol; and

11 (B) any conditions or disease processes of
12 the patient that may cause the patient to expe-
13 rience confusion or disorientation, be non-
14 responsive to instruction, behave unpredictably,
15 or engage in disruptive, threatening, or violent
16 behavior.

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

19 (13) WORK PRACTICE CONTROLS.—

20 (A) IN GENERAL.—The term “work prac-
21 tice controls” means procedures and rules that
22 are used to effectively reduce workplace violence
23 hazards.

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

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

4 (ii) provision of dedicated and avail-
 5 able safety personnel such as security
 6 guards;

7 (iii) employee training on workplace
 8 violence prevention methods and tech-
 9 niques to de-escalate and minimize violent
 10 behavior; and

11 (iv) employee training on procedures
 12 for response in the event of a workplace vi-
 13 olence incident and for post-incident re-
 14 sponse.

15 **TITLE II—AMENDMENTS TO THE**
 16 **SOCIAL SECURITY ACT**

17 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE**

18 **PREVENTION STANDARD TO CERTAIN FACILI-**

19 **TIES RECEIVING MEDICARE FUNDS.**

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

22 (1) in subsection (a)(1)—

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

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

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

5 “(Z) in the case of hospitals that are not other-
6 wise subject to the Occupational Safety and Health
7 Act of 1970 (or a State occupational safety and
8 health plan that is approved under 18(b) of such
9 Act) and skilled nursing facilities that are not other-
10 wise subject to such Act (or such a State occupa-
11 tional safety and health plan), to comply with the
12 Workplace Violence Prevention Standard (as pro-
13 mulgated under section 101 of the Workplace Vio-
14 lence Prevention for Health Care and Social Service
15 Workers Act).”;

16 (2) in subsection (b)(4)—

17 (A) in subparagraph (A), by inserting
18 “and a hospital or skilled nursing facility that
19 fails to comply with the requirement of sub-
20 section (a)(1)(Z) (relating to the Workplace Vi-
21 olence Prevention Standard)” after
22 “Bloodborne Pathogens standard”;

23 (B) in subparagraph (B)—

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

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

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall apply beginning on the date that is
11 1 year after the date of issuance of the interim final stand-
12 ard on workplace violence prevention required under sec-
13 tion 101.

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