

115TH CONGRESS  
2D SESSION

# H. R. 5223

To direct the Secretary of Labor to issue an occupational safety and health rule that requires covered health care employers to adopt a comprehensive workplace violence prevention plan and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2018

Mr. KHANNA (for himself, Mr. BRADY of Pennsylvania, Ms. NORTON, Mr. KRISHNAMOORTHY, Mr. POCAN, Ms. VELÁZQUEZ, Mr. RASKIN, Ms. JACKSON LEE, Ms. JAYAPAL, Ms. JUDY CHU of California, Ms. GABBARD, Mr. MOULTON, and Ms. LEE) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Secretary of Labor to issue an occupational safety and health rule that requires covered health care employers to adopt a comprehensive workplace violence prevention plan and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Health Care Workplace Violence Prevention Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Workplace violence prevention standard.

Sec. 3. Application of the workplace violence prevention standard to facilities  
receiving Medicare and Medicaid funds.

Sec. 4. Rules of construction.

Sec. 5. Definitions.

3 **SEC. 2. WORKPLACE VIOLENCE PREVENTION STANDARD.**

4 (a) RULEMAKING.—

5 (1) Notwithstanding any other provisions of  
6 law, not later than one year of the enactment of the  
7 Act, the Secretary of Labor (“Secretary”) shall, pur-  
8 suant to section 6 of the Occupational Safety and  
9 Health Act of 1970 (29 U.S.C. 655), promulgate an  
10 interim final standard on workplace violence preven-  
11 tion (in this section such standard is referred to as  
12 the “workplace violence prevention standard”) to re-  
13 quire certain health care employers (hereinafter col-  
14 lectively referred to as “covered health care employ-  
15 ers”), including hospitals, any outpatient settings or  
16 clinics operating within a hospital license or any set-  
17 ting or clinic that provides outpatient hospital serv-  
18 ices, psychiatric hospitals, rehabilitation hospitals,  
19 long-term care hospitals, and any hospital operated  
20 by any United States department or agency, to  
21 adopt a comprehensive plan to protect health care  
22 workers and other personnel from workplace vio-

1 lence. The interim final standard shall meet the  
2 specifications of this section, at a minimum, but may  
3 exceed the requirements for covered health care fa-  
4 cilities. The Secretary shall accept and consider pub-  
5 lic comments on any interim final standard pub-  
6 lished under this paragraph for 60 days after the  
7 date of such publication. The interim final standard  
8 shall remain in effect until it is replaced by a final  
9 standard on workplace violence prevention referred  
10 to in paragraph (2).

11 (2) Notwithstanding any other provisions of  
12 law, not later than two years of the enactment of the  
13 Act, the Secretary shall, pursuant to section 6 of the  
14 Occupational Safety and Health Act of 1970 (29  
15 U.S.C. 655), promulgate a final standard on work-  
16 place violence prevention. The final standard shall be  
17 based on the interim final standard as promulgated  
18 under paragraph (1) of this subsection and shall  
19 meet the specifications of this section, at a min-  
20 imum, but may exceed the requirements for covered  
21 health care facilities.

22 (3) Not later than two years of the enactment  
23 of the Act, the Secretary shall also promulgate a  
24 final standard on workplace violence prevention to  
25 require home health agencies or organizations and

1 hospice agencies or organizations to adopt a com-  
2 prehensive workplace violence prevention plan with  
3 comparable workplace protections at home health  
4 agencies or organizations and hospice agencies or or-  
5 ganizations. The standard promulgated under this  
6 paragraph shall include procedures for hazard eval-  
7 uation and control that fit the work settings unique  
8 to home health and hospice, which shall include, but  
9 not be limited to, each of the following:

10 (A) Procedures to identify and evaluate en-  
11 vironmental and patient-specific risk factors  
12 such as the presence of weapons, evidence of  
13 substance abuse, or the presence of uncoopera-  
14 tive cohabitants. At minimum, such procedures  
15 must be utilized during intake procedures, at  
16 the time of the initial visit, and during any sub-  
17 sequent visit when there has been a change in  
18 conditions.

19 (B) Procedures to correct workplace vio-  
20 lence hazards in a timely manner, which shall  
21 include, at minimum, procedures to ensure em-  
22 ployees will not work alone in households where  
23 there is a high risk for violence, provision of  
24 functional and maintained security or commu-  
25 nication devices for all employees working in a

1 patient or client's home or community, and pro-  
2 vision of dedicated and available security per-  
3 sonnel to respond to reports of violent incidents  
4 or threats.

5 (C) Procedures for responding to actual or  
6 potential workplace violence emergencies that  
7 shall include, at minimum, obtaining help from  
8 security personnel required under subparagraph  
9 (B), or law enforcement agencies as appro-  
10 priate.

11 (4) Not later than two years of the enactment  
12 of the Act, the Secretary shall also promulgate a  
13 final standard on workplace violence prevention to  
14 require skilled nursing facilities and nursing facili-  
15 ties to adopt a comprehensive workplace violence  
16 prevention plan with comparable workplace protec-  
17 tions at skilled nursing facilities and nursing facili-  
18 ties.

19 (b) WORKPLACE VIOLENCE PROTECTION STANDARD  
20 REQUIREMENTS.—The interim final standard promul-  
21 gated pursuant to paragraph (1) of subsection (a) shall  
22 include each of the following:

23 (1) PLAN DEVELOPMENT.—A requirement that  
24 each covered health care employer shall, within six  
25 months of the date of promulgation of the interim

1 final standard, develop and implement an effective  
2 written workplace violence prevention plan (in this  
3 section such a plan is referred to as a “Workplace  
4 Violence Prevention Plan”), which shall be main-  
5 tained and implemented at all times in every health  
6 care facility unit, service, and operation, be available  
7 to all employees at all times; and include, at min-  
8 imum, each of the following for every health care fa-  
9 cility unit, service, and operation:

10 (A) The names or job titles of the individ-  
11 uals responsible for implementing the Work-  
12 place Violence Prevention Plan.

13 (B) Effective procedures that meet the re-  
14 quirements under paragraph (2) to obtain the  
15 active involvement of employees and, where  
16 such employees are represented through a col-  
17 lective bargaining agent, the applicable recog-  
18 nized or certified collective bargaining agent in  
19 developing, implementing, and reviewing the  
20 Workplace Violence Prevention Plan.

21 (C) Effective procedures that meet the re-  
22 quirements under paragraph (2) to obtain the  
23 active involvement of security personnel who  
24 provide security services to the employer and,  
25 where such security personnel are represented

1 through a collective bargaining agent, the appli-  
2 cable recognized or certified collective bar-  
3 gaining agent in developing, implementing, and  
4 reviewing the Workplace Violence Prevention  
5 Plan.

6 (D) Methods that meet the requirements  
7 under paragraph (2) that the employer will use  
8 to coordinate the implementation of the Work-  
9 place Violence Prevention Plan with other em-  
10 ployers whose employees work in the health  
11 care facility.

12 (E) Procedures that meet the requirements  
13 under paragraph (3) for identifying and evalu-  
14 ating workplace violence risks and hazards.

15 (F) Procedures that meet the requirements  
16 under paragraph (3) on communicating work-  
17 place violence risks and hazards to employees.

18 (G) Procedures that meet the requirements  
19 under paragraph (3) for employees to report  
20 concerns regarding workplace violence risks and  
21 hazards and potential workplace violence risks  
22 and hazards.

23 (H) Procedures that meet the require-  
24 ments under paragraph (4) for correcting work-  
25 place violence hazards in a timely manner.

1 (I) Procedures that meet the requirements  
2 of paragraph (5) for post-incident response and  
3 investigation.

4 (J) Procedures that meet the requirements  
5 of paragraph (6) for reporting, documenting,  
6 and retaining a written record of every work-  
7 place violence incident, post-incident response,  
8 and workplace violence injury investigation.

9 (K) Procedures that meet the requirements  
10 of paragraph (6) for reviewing the effectiveness  
11 of the Workplace Violence Prevention Plan at  
12 least annually.

13 (L) The nonretaliation policy that the cov-  
14 ered health care employer is required to estab-  
15 lish under paragraph (7).

16 (M) Procedures that meet the require-  
17 ments of paragraph (8) for providing effective  
18 education and in-person training to all employ-  
19 ees, including temporary employees and per-  
20 sonnel working in the facility but not directly  
21 employed by the employer.

22 (N) A copy of the most recent annual writ-  
23 ten evaluation of the Workplace Violence Pre-  
24 vention Plan as conducted under the require-  
25 ments of paragraph (9).



1 (O) A copy of the current notice to employ-  
2 ees that is required under paragraph (10).

3 (2) EMPLOYEE AND SECURITY PERSONNEL  
4 PARTICIPATION.—

5 (A) A requirement that each covered  
6 health care employer shall obtain active involve-  
7 ment from employees and, where such employ-  
8 ees are represented through a collective bar-  
9 gaining agent, the applicable recognized or cer-  
10 tified collective bargaining agent, in developing,  
11 implementing, and reviewing the Workplace Vi-  
12 olence Prevention Plan. Active involvement shall  
13 include the participation of employees or their  
14 applicable representatives in—

15 (i) identifying, evaluating, and cor-  
16 recting workplace violence hazards;

17 (ii) designing and implementing train-  
18 ing; and

19 (iii) reporting and investigating work-  
20 place violence incidents.

21 (B) Where security personnel are not em-  
22 ployees of the health care facility, the covered  
23 health care employer shall be required to obtain  
24 active involvement with security personnel and,  
25 where such security personnel are represented

1 through a collective bargaining agent, the appli-  
2 cable recognized or certified collective bar-  
3 gaining agent. Active involvement shall include  
4 the participation of security personnel or their  
5 applicable representatives in—

6 (i) identifying, evaluating, and cor-  
7 recting workplace violence hazards;

8 (ii) designing and implementing train-  
9 ing; and

10 (iii) reporting and investigating work-  
11 place violence incidents.

12 (C) A requirement that each covered  
13 health care employer shall establish methods to  
14 coordinate the implementation of the Workplace  
15 Violence Prevention Plan with other employers  
16 whose employees work in the health care facil-  
17 ity.

18 (3) WORKPLACE VIOLENCE HAZARD IDENTI-  
19 FICATION AND EVALUATION.—

20 (A) A requirement that each covered  
21 health care employer shall assess factors in  
22 each unit, area of the establishment, and areas  
23 surrounding the facility that may contribute to  
24 or help prevent workplace violence incidents.

1 Factors assessed shall include, at minimum,  
2 each of the following:

3 (i) Staffing, including staffing pat-  
4 terns that contribute to or are insufficient  
5 to address the risk of violence.

6 (ii) Sufficiency of security systems, in-  
7 cluding alarms, emergency response sys-  
8 tems, and availability of security personnel.

9 (iii) Job design, equipment, and facili-  
10 ties.

11 (iv) Environmental risk factors, as de-  
12 fined in subparagraph (a)(6) of section 5.

13 (v) Patient-specific risk factors, as de-  
14 fined in subparagraph (a)(10) of section 5.

15 (B) A requirement that each covered  
16 health care employer shall establish procedures  
17 for employees to report concerns regarding  
18 workplace violence risks and hazards or poten-  
19 tial workplace violence risks or hazards, includ-  
20 ing but not limited to, concerns regarding—

21 (i) the availability, condition, and  
22 maintenance of any engineering controls  
23 identified in the Workplace Violence Pre-  
24 vention Plan as corrective measures;

1           (ii) the implementation or enforce-  
2           ment of any work practice controls identi-  
3           fied in the Workplace Violence Prevention  
4           Plan as corrective measures;

5           (iii) the sufficiency, availability, condi-  
6           tion, and maintenance of security systems,  
7           including alarms, and emergency response  
8           systems;

9           (iv) potential or unaddressed hazards  
10          and risks related to job design, equipment,  
11          or facilities with regard to workplace vio-  
12          lence;

13          (v) potential or unaddressed hazards  
14          and risks related to environmental and pa-  
15          tient-specific risk factors with regard to  
16          workplace violence; and

17          (vi) the availability of sufficient staff  
18          or security personnel to implement the  
19          Workplace Violence Prevention Plan.

20          (C) A requirement that each covered  
21          health care employer establish procedures for  
22          how employee concerns will be investigated, and  
23          how employees will be informed of the results of  
24          the investigation and any correct actions to be  
25          taken.

1 (D) A requirement that each covered  
2 health care employer establish communication  
3 procedures regarding the Workplace Violence  
4 Prevention Plan, including how employees can  
5 document and communicate information regard-  
6 ing conditions that may increase the potential  
7 for workplace violence incidents to other em-  
8 ployees and between shifts and units.

9 (4) WORKPLACE VIOLENCE HAZARD CORREC-  
10 TION.—

11 (A) A requirement that each covered  
12 health care employer shall correct workplace vi-  
13 olence hazards in a timely manner. Each cov-  
14 ered health care employer shall be required to  
15 use engineering controls and work practice con-  
16 trols to eliminate or minimize employee expo-  
17 sure to the identified hazards. Corrective meas-  
18 ures taken under this paragraph shall include,  
19 at minimum, each of the following as appro-  
20 priate:

21 (i) Assigning or placing sufficient  
22 numbers of staff to reduce patient-specific  
23 Type 2 workplace violence hazards.

24 (ii) Maintenance of sufficient numbers  
25 of trained staff, including security per-

1           sonnel, who are available to prevent and  
2           immediately respond to workplace violence  
3           incidents during each shift. A staff person  
4           is not considered to be available if other  
5           assignments prevent him or her from im-  
6           mediately responding to an alarm or other  
7           notification of a violent incident.

8           (iii) Reconfiguration of facility spaces  
9           so that—

10                   (I) employee access to doors and  
11                   alarm systems cannot be impeded;

12                   (II) employees can maintain line  
13                   of sight and other immediate means  
14                   of communication in all areas where  
15                   patients or members of the public may  
16                   be present; and

17                   (III) furnishings and other ob-  
18                   jects cannot be used as improvised  
19                   weapons.

20           (iv) Procedures to prevent the trans-  
21           port of unauthorized firearms and other  
22           weapons into the facility.

23           (v) Procedures by which employees  
24           can summon security and other aid and be

1 alerted to the presence, location, and na-  
2 ture of a security threat.

3 (vi) Establishment of an effective re-  
4 sponse plan for actual or potential work-  
5 place violence emergencies that shall in-  
6 clude, at minimum—

7 (I) procedures for warning em-  
8 ployees of the situation;

9 (II) procedures for obtaining help  
10 from security or law enforcement  
11 agencies as appropriate; and

12 (III) procedures to respond to  
13 mass casualty threats, such as active  
14 shooters, by developing evacuation or  
15 sheltering plans that are appropriate  
16 and feasible for the facility.

17 (5) INCIDENT RESPONSE AND POST-INCIDENT  
18 INVESTIGATION.—A requirement that each covered  
19 health care employer shall establish procedures to  
20 accept and respond to reports of workplace violence,  
21 and to perform a post-incident investigation of each  
22 workplace violence incident based on information so-  
23 licited from the employees who experienced the vio-  
24 lence that shall include, at minimum, each of the fol-  
25 lowing:

1 (A) Procedures for how an employee can  
2 report a violent incident, threat, or other work-  
3 place violence concern.

4 (B) Procedures for response to reports of  
5 violent incidents, threats, or other workplace vi-  
6 olence concerns.

7 (C) Procedures for providing immediate  
8 medical care or first aid to employees who have  
9 been injured in the incident.

10 (D) Procedures for making individual trau-  
11 ma counseling available to all employees af-  
12 fected by the incident.

13 (E) Conducting a post-incident debriefing  
14 as soon as possible after the incident with all  
15 employees, supervisors, security personnel, and  
16 other personnel involved in the incident.

17 (F) A review of whether the Workplace Vi-  
18 olence Prevention Plan and any corrective  
19 measures developed under the plan were effec-  
20 tively implemented and the circumstances sur-  
21 rounding the workplace violence incident.

22 (G) Procedures for investigating the cir-  
23 cumstances of each employee injury, if any, re-  
24 lated to the workplace violence incident.



1 (H) Solicitation of opinions from all em-  
2 ployees or personnel involved in the incident, in-  
3 cluding any injured employee, regarding the  
4 cause of the incident and whether any correc-  
5 tive measures could have prevented the incident  
6 from occurring.

7 (I) A policy prohibiting the employer from  
8 holding any employee or personnel who partici-  
9 pates in an incident investigation at fault for  
10 workplace violence.

11 (6) VIOLENT INCIDENT LOG MAINTENANCE AND  
12 REVIEW.—

13 (A) A requirement that each covered  
14 health care employer establish procedures for  
15 reporting and maintaining a written log of—

16 (i) each violent incident against health  
17 care facility employees or personnel regard-  
18 less of whether the employee or personnel  
19 sustains an injury, and regardless of  
20 whether the report is made by the per-  
21 sonnel who is the subject of the violent in-  
22 cident or any other personnel;

23 (ii) each post-incident response; and

24 (iii) each workplace violence injury in-  
25 vestigation.

1 (B) Written records of violent incidents  
2 maintained under this paragraph shall be based  
3 on reports made by employees and personnel  
4 and shall include, each of the following:

5 (i) A detailed description of the inci-  
6 dent.

7 (ii) A classification of the perpetrator,  
8 circumstances surrounding the incident,  
9 and location of the incident.

10 (iii) The type of incident and con-  
11 sequences of the incident, including any in-  
12 juries.

13 (C) As part of the procedures required  
14 under subparagraph (A), each covered health  
15 care employer shall be required to provide all  
16 employees or personnel the opportunity to pro-  
17 vide input pertaining to their own experience of  
18 the incident.

19 (D) A requirement that each covered  
20 health care employer shall establish a review  
21 program to analyze data relevant to the imple-  
22 mentation of the covered health care employer's  
23 Workplace Violence Prevention Plan.

24 (E) Each covered health care employer  
25 shall, upon request, make available their find-

1           ings and data used in such review to employees,  
2           any designated representatives or collective bar-  
3           gaining agents, and the Secretary or other Fed-  
4           eral agency. Each covered health care employer  
5           shall maintain the data and findings from their  
6           review for at least five years.

7           (7) NONRETALIATION.—

8           (A) A requirement that each covered  
9           health care employer establish a policy prohib-  
10          iting the employer from disallowing an employee  
11          from, or taking punitive or retaliatory action  
12          against an employee for, seeking assistance and  
13          intervention from local emergency services or  
14          law enforcement when a violent incident occurs.

15          (B) A requirement that each covered  
16          health care employer establish a policy prohib-  
17          iting the employer from disallowing an employee  
18          from, or taking punitive or retaliatory action  
19          against an employee for, reporting violent inci-  
20          dents, threats, or other workplace violence con-  
21          cerns.

22          (8) EDUCATION AND TRAINING.—A require-  
23          ment that each covered health care employer shall  
24          provide in-person training to all employees, including  
25          temporary employees and personnel working in the

1 facility but not directly employed by the employer.  
2 Such training shall be on the Workplace Violence  
3 Prevention Plan as established under paragraph (1)  
4 and shall—

5 (A) address the workplace violence hazards  
6 identified in the facility, unit, work area, or op-  
7 eration;

8 (B) address the corrective measures the  
9 employer has implemented with regard to work-  
10 place violence hazards identified;

11 (C) address the activities that each em-  
12 ployee is reasonably anticipated to perform  
13 under the Workplace Violence Prevention Plan;

14 (D) be provided—

15 (i) upon entering employment;

16 (ii) on an annual basis;

17 (iii) when such employee is trans-  
18 ferred to a new patient care unit;

19 (iv) when conditions change or pre-  
20 viously unrecognized hazards are identi-  
21 fied;

22 (v) when requested by an employee;

23 and

24 (vi) as otherwise necessary;

1 (E) provide an opportunity for in-person  
2 interactive questions and answers;

3 (F) be conducted in-person by an indi-  
4 vidual with knowledge of workplace violence  
5 prevention and the covered health care employ-  
6 er's Workplace Violence Prevention Plan and  
7 procedures;

8 (G) include training on emergency re-  
9 sponse plans and procedures related to work-  
10 place violence and practice drills on emergency  
11 response plans and procedures, including any  
12 procedures adopted for responding to mass cas-  
13 ualty threats; and

14 (H) utilize material appropriate in content  
15 and vocabulary to the educational level, literacy,  
16 and language of employees.

17 (9) ANNUAL EVALUATION.—

18 (A) IN GENERAL.—A requirement that  
19 each covered health care employer shall conduct  
20 an annual written evaluation with employees re-  
21 garding their respective work areas, services,  
22 and operations of the implementation and effec-  
23 tiveness of the Workplace Violence Prevention  
24 Plan, including hazard assessment and evalua-  
25 tion procedures and findings, hazard correction

1 procedures, selection of engineering and work  
2 practice controls, and post-incident response  
3 and investigation.

4 (B) ACTIVE INVOLVEMENT.—The evalua-  
5 tion shall—

6 (i) be conducted with the active in-  
7 volvement of employees, and if applicable,  
8 the representatives and collective bar-  
9 gaining agents of such employees; and

10 (ii) document the input of the individ-  
11 uals described in clause (i) regarding em-  
12 ployees' respective work areas, services,  
13 and operations.

14 (C) CORRECTIVE ACTION.—Each covered  
15 health care employer shall correct unsafe condi-  
16 tions, work practices, and work procedures  
17 identified in the annual written evaluation in a  
18 timely manner.

19 (10) NOTICE OF WORKPLACE VIOLENCE PRE-  
20 VENTION PLAN AND RIGHTS UNDER THIS ACT.—A  
21 requirement that each covered health care employer  
22 shall post a uniform notice in a form specified by the  
23 Secretary that—

24 (A) explains the workplace violence preven-  
25 tion standard;

1 (B) includes information regarding work-  
2 place violence prevention policies and training;

3 (C) explains procedures to report and  
4 record information on workplace violence inci-  
5 dents and workplace violence-related injuries;  
6 and

7 (D) explains employees' rights under this  
8 Act, including rights to report concerns regard-  
9 ing potential workplace violence risks or haz-  
10 ards without punitive or retaliatory action taken  
11 by the employer.

12 (c) EMERGENCIES.—The Secretary shall establish  
13 procedures to be followed in cases where emergency situa-  
14 tions affect the operation of a workplace violence preven-  
15 tion plan.

16 (d) INSPECTIONS.—The Secretary shall conduct un-  
17 scheduled inspections under section 8 of the Occupational  
18 Safety and Health Act of 1970 (29 U.S.C. 657) to ensure  
19 implementation of and compliance with the workplace vio-  
20 lence prevention standard.

21 **SEC. 3. APPLICATION OF THE WORKPLACE VIOLENCE PRE-**  
22 **VENTION STANDARD TO FACILITIES RECEIV-**  
23 **ING MEDICARE AND MEDICAID FUNDS.**

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

1           (1) in subsection (a)(1)(V), by inserting “and  
2           Workplace Violence Prevention Standard (as initially  
3           promulgated under section 2 of the Health Care  
4           Workplace Violence Prevention Act of 2018)” before  
5           the period at the end; and

6           (2) in subsection (b)(4)—

7                 (A) in subparagraph (A), by inserting  
8                 “and Workplace Violence Prevention Standard  
9                 after Bloodborne Pathogens standard”; and

10                (B) in subparagraph (B), by inserting “or  
11                Workplace Violence Prevention Standard” after  
12                “Bloodborne Pathogens standard”.

13           (b) **EFFECTIVE DATE.**—The amendments made by  
14           subsection (a) shall apply to health care facilities begin-  
15           ning on the date that is 1 year after the date of issuance  
16           of the interim final standard on workplace violence preven-  
17           tion required under section 2.

18           **SEC. 4. RULES OF CONSTRUCTION.**

19           (a) **EFFECT ON OTHER LAWS.**—Nothing in this Act  
20           shall be construed to—

21                 (1) curtail or limit authority of the Secretary  
22                 under any other provision of the law, including the  
23                 application of other safety orders in health care fa-  
24                 cilities, services, and operations not covered by this  
25                 Act;



1           (2) preempt the application of any other statute  
2           or regulation of any State or local government re-  
3           lated to workplace violence in health care facilities  
4           except to the extent that such provisions are incon-  
5           sistent with this Act, an interim final standard, or  
6           a final standard promulgated under this Act, and  
7           then only to the extent of the inconsistency. A provi-  
8           sion of law of a State or local government is not in-  
9           consistent with this Act, an interim final standard,  
10          or a final standard promulgated under this Act if  
11          such provision provides equal or greater protection  
12          to workers than the protection provided under this  
13          Act or such regulation;

14          (3) impair or diminish the rights, privileges, or  
15          remedies of any health care worker or other em-  
16          ployee under any Federal or State law, or under any  
17          collective bargaining agreement.

18 **SEC. 5. DEFINITIONS.**

19          (a) DEFINITIONS.—For the purposes of this Act.

20                (1) 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                (2) COVERED HEALTH CARE EMPLOYER.—The  
25                term “covered health care employer” includes—

1 (A) hospitals (as defined in section 1861(e)  
2 of the Social Security Act (42 U.S.C.  
3 1395x(e)), and any outpatient settings or clinics  
4 operating within a hospital license or any set-  
5 ting or clinic that provides outpatient hospital  
6 services;

7 (B) psychiatric hospitals (as defined in sec-  
8 tion 1861(e) of the Social Security Act (42  
9 U.S.C. 1395x(f));

10 (C) rehabilitation hospitals (as defined by  
11 the Secretary of Health and Human Services  
12 under section 1886(d)(1)(B)(ii) of the Social  
13 Security Act (42 U.S.C. 1395ww(d)(1)(B)(ii));

14 (D) long-term care hospitals as defined in  
15 section 1861 of the Social Security Act (42  
16 U.S.C. 1395x(ccc)); and

17 (E) hospitals operated by the Department  
18 of Veterans Affairs, the Department of De-  
19 fense, the Indian Health Service under the De-  
20 partment of Health and Human Services, or  
21 any other department or agency of the United  
22 States.

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

1       fllicting death or serious bodily injury, regardless of  
2       whether it was designed for that purpose.

3               (4) EMPLOYEE.—The term “employee” includes  
4       any individual employed by a covered health care  
5       employer, including independent contractors.

6               (5) ENGINEERING CONTROLS.—The term “en-  
7       gineering controls” means an aspect of the built  
8       space or a device that removes a hazard from the  
9       workplace or creates a barrier between the worker  
10      and the hazard. For purposes of reducing workplace  
11      violence hazards, engineering controls include, but  
12      are not limited to, electronic access controls to em-  
13      ployee occupied areas, weapon detectors (installed or  
14      handheld), enclosed workstations with shatter-resist-  
15      ant glass, deep service counters; separate rooms or  
16      areas for high risk patients, locks on doors; fur-  
17      niture affixed to the floor, opaque glass in patient  
18      rooms (protects privacy, but allows the health care  
19      provider to see where the patient is before entering  
20      the room), closed-circuit television monitoring and  
21      video recording, sight-aids, and personal alarm de-  
22      vices.

23              (6) ENVIRONMENTAL RISK FACTORS.—The  
24      term “environmental risk factors” means factors in  
25      the facility or area in which health care services or

1 operations are conducted that may contribute to the  
2 likelihood or severity of a workplace violence inci-  
3 dent. Environmental risk factors may be associated  
4 with the specific task being performed or the work  
5 area, such as working in an isolated area, poor illu-  
6 mination or blocked visibility, lack of physical bar-  
7 riers between employees and persons at risk of com-  
8 mitting workplace violence.

9 (7) HOME HEALTH AGENCY.—The term “home  
10 health agency” has the meaning given such term in  
11 section 1861(o) of the Social Security Act (42  
12 U.S.C. 1395x(o)).

13 (8) HOSPICE.—The term “hospice” has the  
14 meaning given such term in section 1861(d) of the  
15 Social Security Act (42 U.S.C. 1395x(dd)(1)).

16 (9) NURSING FACILITY.—The term “nursing  
17 facility” has the meaning given such term in section  
18 1919 of the Social Security Act (42 U.S.C.  
19 1396r(a)).

20 (10) PATIENT-SPECIFIC RISK FACTORS.—The  
21 term “patient-specific risk factors” means factors  
22 specific to a patient that may increase the likelihood  
23 or severity of a workplace violence incident, includ-  
24 ing a patient’s mental status, treatment and medica-  
25 tion status, history of violence as known to the

1 health care facility, use of drugs or alcohol as known  
2 to the health care facility, and any other conditions  
3 or disease processes that may cause the patient to  
4 experience confusion or disorientation, to be non-re-  
5 sponsive to instruction, or to behave unpredictably.

6 (11) SKILLED NURSING FACILITY.—The term  
7 “skilled nursing facility” has the meaning given such  
8 term in section 1819(a) of the Social Security Act  
9 (42 U.S.C. 1395i–3(a)).

10 (12) THREAT OF VIOLENCE.—The term “threat  
11 of violence” means a statement or conduct that  
12 causes a person to fear for his or her safety because  
13 there is a reasonable possibility the person might be  
14 physically injured, and that serves no legitimate pur-  
15 pose.

16 (13) WORKPLACE VIOLENCE.—The term  
17 “workplace violence” means any act of violence or  
18 threat of violence that occurs at the work site. The  
19 term workplace violence shall not include lawful acts  
20 of self-defense or defense of others. The term work-  
21 place violence includes the following:

22 (A) The threat or use of physical force  
23 against an employee that results in or has a  
24 high likelihood of resulting in injury, psycho-

1           logical trauma, or stress, regardless of whether  
2           the employee sustains an injury.

3           (B) An incident involving the threat or use  
4           of a firearm or other dangerous weapon, includ-  
5           ing the use of common objects as weapons, re-  
6           gardless of whether the employee sustains an  
7           injury.

8           (C) Four workplace violence types:

9           (i) “Type 1 violence” means work-  
10          place violence directed at an employee by a  
11          person who has no legitimate business at  
12          the work site, and includes violent acts by  
13          anyone who enters the workplace with the  
14          intent to commit a crime.

15          (ii) “Type 2 violence” means work-  
16          place violence directed at an employee by  
17          customers, clients, patients, students, in-  
18          mates, or any others for whom an organi-  
19          zation provides services.

20          (iii) “Type 3 violence” means work-  
21          place violence directed at an employee by a  
22          present or former employee, supervisor, or  
23          manager.

24          (iv) “Type 4 violence” means work-  
25          place violence directed at an employee by

1           someone who does not work there, but has  
2           or is known to have had a personal rela-  
3           tionship with an employee.

4           (14) WORK PRACTICE CONTROLS.—The term  
5           “work practice controls” means procedures, and  
6           rules which are used to effectively reduce workplace  
7           violence hazards. Work practice controls include, but  
8           are not limited to, assigning and placing sufficient  
9           numbers of staff to reduce patient-specific Type 2  
10          workplace violence hazards, provision of dedicated  
11          and available safety personnel (i.e., security guards),  
12          employee training on workplace violence prevention  
13          methods, and employee training on procedures for  
14          response in the event of a workplace violence inci-  
15          dent and for post-incident response.

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