

116TH CONGRESS
1ST SESSION

H. R. 1309

AN ACT

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.

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

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

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

20 (2) APPLICABILITY OF OTHER STATUTORY RE-
21 QUIREMENTS.—The following shall not apply to the
22 promulgation of the interim final standard under
23 this subsection:

24 (A) The requirements applicable to occupa-
25 tional safety and health standards under section

1 6(b) of the Occupational Safety and Health Act
2 of 1970 (29 U.S.C. 655(b)).

3 (B) The requirements of chapters 5 and 6
4 of title 5, United States Code, and titles 2 and
5 42, United States Code.

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

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

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

20 (B) be enforced in the same manner and
21 to the same extent as any standard promul-
22 gated under section 6(b) of the Occupational
23 Safety and Health Act of 1970 (29 U.S.C.
24 655(b)); and

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

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

15 (b) FINAL STANDARD.—

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

22 (A) for the purposes described in sub-
23 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.—

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

23 (i) Any hospital, including any spe-
24 cialty hospital, in-patient or outpatient set-
25 ting, or clinic operating within a hospital

1 license, or any setting that provides out-
2 patient services.

3 (ii) Any residential treatment facility,
4 including any nursing home, skilled nurs-
5 ing facility, hospice facility, and long-term
6 care facility.

7 (iii) Any non-residential treatment or
8 service setting.

9 (iv) Any medical treatment or social
10 service setting or clinic at a correctional or
11 detention facility.

12 (v) Any community care setting, in-
13 cluding a community-based residential fa-
14 cility, group home, and mental health clin-
15 ic.

16 (vi) Any psychiatric treatment facility.

17 (vii) Any drug abuse or substance use
18 disorder treatment center.

19 (viii) Any independent freestanding
20 emergency centers.

21 (ix) Any facility described in clauses
22 (i) through (viii) operated by a Federal
23 Government agency and required to comply
24 with occupational safety and health stand-
25 ards pursuant to section 1960 of title 29,

1 Code of Federal Regulations (as such sec-
2 tion is in effect on the date of enactment
3 of this Act).

4 (x) Any other facility the Secretary
5 determines should be covered under the
6 standards promulgated under section 101.

7 (B) EXCLUSION.—The term “covered facil-
8 ity” does not include an office of a physician,
9 dentist, podiatrist, or any other health practi-
10 tioner that is not physically located within a
11 covered facility described in clauses (i) through
12 (x) of subparagraph (A).

13 (2) COVERED SERVICES.—

14 (A) IN GENERAL.—The term “covered
15 service” includes the following services and op-
16 erations:

17 (i) Any services and operations pro-
18 vided in any field work setting, including
19 home health care, home-based hospice, and
20 home-based social work.

21 (ii) Any emergency services and trans-
22 port, including such services provided by
23 firefighters and emergency responders.

24 (iii) Any services described in clauses
25 (i) and (ii) performed by a Federal Gov-

1 ernment agency and required to comply
2 with occupational safety and health stand-
3 ards pursuant to section 1960 of title 29,
4 Code of Federal Regulations (as such sec-
5 tion is in effect on the date of enactment
6 of this Act).

7 (iv) Any other services and operations
8 the Secretary determines should be covered
9 under the standards promulgated under
10 section 101.

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

13 (3) COVERED EMPLOYER.—

14 (A) IN GENERAL.—The term “covered em-
15 ployer” includes a person (including a con-
16 tractor, subcontractor, a temporary service
17 firm, or an employee leasing entity) that em-
18 ploys an individual to work at a covered facility
19 or to perform covered services.

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

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

5 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
6 **PREVENTION STANDARD.**

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

9 (1) WORKPLACE VIOLENCE PREVENTION
10 PLAN.—Not later than 6 months after the date of
11 promulgation of the interim final standard under
12 section 101(a), a covered employer shall develop, im-
13 plement, and maintain an effective written workplace
14 violence prevention plan for covered employees at
15 each covered facility and for covered employees per-
16 forming a covered service on behalf of such em-
17 ployer, which meets the following:

18 (A) PLAN DEVELOPMENT.—Each Plan
19 shall—

20 (i) be developed and implemented with
21 the meaningful participation of direct care
22 employees, other employees, and employee
23 representatives, for all aspects of the Plan;

24 (ii) be tailored and specific to condi-
25 tions and hazards for the covered facility

1 or the covered service, including patient-
2 specific risk factors and risk factors spe-
3 cific to each work area or unit; and

4 (iii) be suitable for the size, com-
5 plexity, and type of operations at the cov-
6 ered facility or for the covered service, and
7 remain in effect at all times.

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

10 (i) Identification of the individual re-
11 sponsible for implementation of the Plan.

12 (ii) With respect to each work area
13 and unit at the covered facility or while
14 covered employees are performing the cov-
15 ered service, risk assessment and identi-
16 fication of workplace violence risks and
17 hazards to employees exposed to such risks
18 and hazards (including environmental risk
19 factors and patient-specific risk factors),
20 which shall be—

21 (I) informed by past violent inci-
22 dents specific to such covered facility
23 or such covered service; and

24 (II) conducted with, at a min-
25 imum—

- 1 (aa) direct care employees;
- 2 (bb) where applicable, the
3 representatives of such employ-
4 ees; and
- 5 (cc) the employer.
- 6 (iii) Hazard prevention, engineering
7 controls, or work practice controls to cor-
8 rect hazards, in a timely manner, applying
9 industrial hygiene principles of the hier-
10 archy of controls, which—
- 11 (I) may include security and
12 alarm systems, adequate exit routes,
13 monitoring systems, barrier protec-
14 tion, established areas for patients
15 and clients, lighting, entry procedures,
16 staffing and working in teams, and
17 systems to identify and flag clients
18 with a history of violence; and
- 19 (II) shall ensure that employers
20 correct, in a timely manner, hazards
21 identified in any violent incident in-
22 vestigation described in paragraph (2)
23 and any annual report described in
24 paragraph (5).

1 (iv) Reporting, incident response, and
2 post-incident investigation procedures, in-
3 cluding procedures—

4 (I) for employees to report work-
5 place violence risks, hazards, and inci-
6 dents;

7 (II) for employers to respond to
8 reports of workplace violence;

9 (III) for employers to perform a
10 post-incident investigation and de-
11 briefing of all reports of workplace vi-
12 olence with the participation of em-
13 ployees and their representatives;

14 (IV) to provide medical care or
15 first aid to affected employees; and

16 (V) to provide employees with in-
17 formation about available trauma and
18 related counseling.

19 (v) Procedures for emergency re-
20 sponse, including procedures for threats of
21 mass casualties and procedures for inci-
22 dents involving a firearm or a dangerous
23 weapon.

24 (vi) Procedures for communicating
25 with and training the covered employees on

1 workplace violence hazards, threats, and
2 work practice controls, the employer's plan,
3 and procedures for confronting, responding
4 to, and reporting workplace violence
5 threats, incidents, and concerns, and em-
6 ployee rights.

7 (vii) Procedures for—

8 (I) ensuring the coordination of
9 risk assessment efforts, Plan develop-
10 ment, and implementation of the Plan
11 with other employers who have em-
12 ployees who work at the covered facil-
13 ity or who are performing the covered
14 service; and

15 (II) determining which covered
16 employer or covered employers shall
17 be responsible for implementing and
18 complying with the provisions of the
19 standard applicable to the working
20 conditions over which such employers
21 have control.

22 (viii) Procedures for conducting the
23 annual evaluation under paragraph (6).

24 (C) AVAILABILITY OF PLAN.—

1 (i) IN GENERAL.—Each Plan shall
2 be—

3 (I) made available at all times to
4 the covered employees who are cov-
5 ered under such Plan; and

6 (II) to the extent possible,
7 emailed to each such employee upon
8 completion of the employee’s annual
9 training under paragraph (3)(A).

10 (ii) RULE OF CONSTRUCTION.—Noth-
11 ing in this subparagraph shall be construed
12 to serve in lieu of training or any other re-
13 quirements under this Act.

14 (2) VIOLENT INCIDENT INVESTIGATION.—

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

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

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

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

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

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

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

4 (i) can recognize high-risk situations;

5 and

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

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

13 (D) Additional training shall be provided
14 for each such covered employee whose job cir-
15 cumstances require working with victims of tor-
16 ture, trafficking, or domestic violence.

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

20 (F) All training shall provide such employ-
21 ees opportunities to ask questions, give feed-
22 back on training, and request additional in-
23 struction, clarification, or other followup.

24 (G) All training shall be provided in-person
25 and by an individual with knowledge of work-

1 place violence prevention and of the Plan, ex-
2 cept that any annual training described in sub-
3 paragraph (A) provided to an employee after
4 the first year such training is provided to such
5 employee may be conducted by live video if in-
6 person training is impracticable.

7 (H) All training shall be appropriate in
8 content and vocabulary to the language, edu-
9 cational level, and literacy of such covered em-
10 ployees.

11 (4) RECORDKEEPING AND ACCESS TO PLAN
12 RECORDS.—

13 (A) IN GENERAL.—Each covered employer
14 shall—

15 (i) maintain for not less than 5
16 years—

17 (I) records related to each Plan
18 of the employer, including workplace
19 violence risk and hazard assessments,
20 and identification, evaluation, correc-
21 tion, and training procedures;

22 (II) a violent incident log de-
23 scribed in subparagraph (B) for re-
24 cording all workplace violence inci-
25 dents; and

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

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

18 (II) ensure that any such records and
19 logs that may be copied, transmitted elec-
20 tronically, or otherwise removed from the
21 employer's control for purposes of this
22 clause omit any element of personal identi-
23 fying information sufficient to allow identi-
24 fication of any patient, resident, client, or
25 other individual alleged to have committed

1 a violent incident (including the individ-
2 ual's name, address, electronic mail ad-
3 dress, telephone number, or social security
4 number, or other information that, alone
5 or in combination with other publicly avail-
6 able information, reveals such individual's
7 identity).

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

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

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

18 (iii) include, at a minimum, a descrip-
19 tion of—

20 (I) the violent incident (including
21 environmental risk factors present at
22 the time of the incident);

23 (II) the date, time, and location
24 of the incident, and the names and
25 job titles of involved employees;

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

1 (VI) how the incident was
2 abated;

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

8 (v) be maintained for not less than 5
9 years; and

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

17 (C) ANNUAL SUMMARY.—

18 (i) COVERED EMPLOYERS.—Each cov-
19 ered employer shall prepare an annual
20 summary of each violent incident log for
21 the preceding calendar year that shall—

22 (I) with respect to each covered
23 facility, and each covered service, for
24 which such a log has been maintained,
25 include the total number of violent in-

1 incidents, the number of recordable in-
2 juries related to such incidents, and
3 the total number of hours worked by
4 the covered employees for such pre-
5 ceding year;

6 (II) be completed on a form pro-
7 vided by the Secretary;

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

17 (IV) be located in a conspicuous
18 place or places where notices to em-
19 ployees are customarily posted; and

20 (V) not be altered, defaced, or
21 covered by other material.

22 (ii) SECRETARY.—Not later than 1
23 year after the promulgation of the interim
24 final standard under section 101(a), the
25 Secretary shall make available a platform

1 for the electronic submission of annual
2 summaries required under this paragraph.

3 (5) ANNUAL REPORT.—Not later than Feb-
4 ruary 15 of each year, each covered employer shall
5 report to the Secretary, the frequency, quantity, and
6 severity of workplace violence, and any incident re-
7 sponse and post-incident investigation (including
8 abatement measures) for the incidents set forth in
9 the annual summary of the violent incident log de-
10 scribed in paragraph (4)(C). Not later than May 15
11 of each year, the Secretary shall provide to Congress
12 a report containing statistical data with respect to,
13 and a summary of, reports submitted to the Sec-
14 retary under this paragraph. The contents of the re-
15 port of the Secretary shall not disclose any confiden-
16 tial information.

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

21 (A) the implementation and effectiveness
22 of the Plan, including a review of the violent in-
23 cident log; and

1 (B) compliance with training required by
2 each standard described in section 101, and
3 specified in the Plan.

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

9 (8) ANTI-RETALIATION.—

10 (A) POLICY.—Each covered employer shall
11 adopt a policy prohibiting any person (including
12 an agent of the employer) from discriminating
13 or retaliating against any employee for report-
14 ing, or seeking assistance or intervention from,
15 a workplace violence incident, threat, or concern
16 to the employer, law enforcement, local emer-
17 gency services, or a government agency, or par-
18 ticipating in an incident investigation.

19 (B) PROHIBITION.—No covered employer
20 shall discriminate or retaliate against any em-
21 ployee for—

22 (i) reporting a workplace violence inci-
23 dent, threat, or concern to, or seeking as-
24 sistance or intervention with respect to
25 such incident, threat, or concern from, the

1 employer, law enforcement, local emer-
2 gency services, or a local, State, or Federal
3 government agency; or

4 (ii) exercising any other rights under
5 this paragraph.

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

11 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

17 (2) the rights, privileges, or remedies of covered
18 employees shall be in addition to the rights, privi-
19 leges, or remedies provided under any Federal or
20 State law, or any collective bargaining agreement;

21 (3) nothing in this Act shall be construed to
22 limit or prevent health care workers, social service
23 workers, and other personnel from reporting violent
24 incidents to appropriate law enforcement; and

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

- 4 (A) domestic violence;
- 5 (B) stalking;
- 6 (C) dating violence; and
- 7 (D) sexual assault.

8 **SEC. 105. OTHER DEFINITIONS.**

9 In this title:

10 (1) **WORKPLACE VIOLENCE.**—

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

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

19 (C) **INCLUSIONS.**—The term “workplace
20 violence” includes—

21 (i) the threat or use of physical force
22 against a covered employee that results in
23 or has a high likelihood of resulting in in-
24 jury, psychological trauma, or stress, with-
25 out regard to whether the covered em-

1 ployee sustains an injury, psychological
2 trauma, or stress; and

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

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

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

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

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

1 facility provides services or for whom the employee
2 performs covered services.

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

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

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

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

21 (B) serves no legitimate purpose.

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

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

6 (9) ENGINEERING CONTROLS.—

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

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

1 cruit television monitoring and video recording,
2 sight-aids, and personal alarm devices.

3 (10) ENVIRONMENTAL RISK FACTORS.—

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

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

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

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

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

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

9 (13) WORK PRACTICE CONTROLS.—

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

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

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

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

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

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

5 **TITLE II—AMENDMENTS TO THE**
6 **SOCIAL SECURITY ACT**

7 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE**
8 **PREVENTION STANDARD TO CERTAIN FACILI-**
9 **TIES RECEIVING MEDICARE FUNDS.**

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

12 (1) in subsection (a)(1)—

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

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

17 (C) by inserting after subparagraph (Y)
18 the following new subparagraph:

19 “(Z) in the case of hospitals that are not other-
20 wise subject to the Occupational Safety and Health
21 Act of 1970 (or a State occupational safety and
22 health plan that is approved under 18(b) of such
23 Act) and skilled nursing facilities that are not other-
24 wise subject to such Act (or such a State occupa-
25 tional safety and health plan), to comply with the

1 Workplace Violence Prevention Standard (as pro-
2 mulgated under section 101 of the Workplace Vio-
3 lence Prevention for Health Care and Social Service
4 Workers Act).”; and

5 (2) in subsection (b)(4)—

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

12 (B) in subparagraph (B)—

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

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

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

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

Passed the House of Representatives November 21,
2019.

Attest:

Clerk.

116TH CONGRESS
1ST SESSION

H. R. 1309

AN ACT

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.