

**SUBSTITUTE FOR THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 1309
OFFERED BY MR. BYRNE**

In lieu of the matter proposed to be inserted, insert the following:

1 SECTION 1. SHORT TITLE.

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

5 SEC. 2. FINDINGS.

6 Congress finds the following:

7 (1) In a 2016 report entitled, “Workplace Safe-
8 ty and Health: Additional Efforts Needed to Help
9 Protect Health Care Workers from Workplace Vio-
10 lence”, the Government Accountability Office esti-
11 mated over 730,000 cases of health care workplace
12 assaults over the 5-year span from 2009 through
13 2013, based on Bureau of Justice Statistics data.

14 (2) The Bureau of Labor Statistics reported the
15 health care and social service industries experience
16 the highest rates of injuries caused by workplace vio-
17 lence. Nurses, social workers, psychiatric, home

1 health, and personal care aides are all at increased
2 risk for injury caused by workplace violence.

3 (3) The Bureau of Labor Statistics reports that
4 health care and social service workers suffered 71
5 percent of all workplace violence injuries caused by
6 persons in 2017 and are more than 4 times as likely
7 to suffer a workplace violence injury than workers
8 overall.

9 (4) According to a September 2018 survey of
10 3,500 American emergency physicians conducted by
11 the American College of Emergency Physicians, 47
12 percent of emergency room doctors have been phys-
13 ically assaulted at work, and 8 in 10 report that this
14 violence is affecting patient care.

15 (5) Workplace violence in health care and social
16 service sectors is increasing. Bureau of Labor Statis-
17 tics data show that private sector injury rates of
18 workplace violence in health care and social service
19 sectors increased by 63 percent between 2006 and
20 2016.

21 (6) Studies have found that proper staff edu-
22 cation and the use of evidence based interventions
23 (such as effective communication with patients using
24 de-escalation techniques and noncoercive use of
25 medications) can reduce the risks to the safety of

1 both patients and staff, using least-restrictive meas-
2 ures.

3 (7) The Occupational Safety and Health Ad-
4 ministration in 2015 updated its “Guidelines for
5 Preventing Workplace Violence for Healthcare and
6 Social Service Workers”, however, this guidance is
7 not enforceable.

8 (8) Nine States have mandated that certain
9 types of health care facilities implement workplace
10 violence prevention programs. On April 1, 2018, the
11 Division of Occupational Safety and Health of the
12 State of California issued a comprehensive standard
13 (“Workplace Violence Prevention in Health Care”)
14 that requires health care facilities to implement a
15 workplace violence prevention plan.

16 (9) The Occupational Safety and Health Ad-
17 ministration (OSHA) received two petitions for rule-
18 making in July of 2016, calling on OSHA to pro-
19 mulgate a violence prevention standard for health
20 care and social service sectors. On December 6,
21 2016, OSHA issued a Request for Information
22 (RFI) soliciting information on this issue. On Janu-
23 ary 10, 2017, OSHA conducted a public meeting to
24 receive stakeholder input and to supplement the on-
25 line comments submitted in response to the RFI. At

1 that meeting, OSHA announced it accepted the peti-
 2 tions and would develop a Federal standard to pre-
 3 vent workplace violence in health care and social
 4 service settings. OSHA's spring 2019 regulatory
 5 agenda listed a Small Business Regulatory Enforce-
 6 ment Fairness Act Panel for Prevention of Work-
 7 place Violence in Health Care and Social Assistance.

8 **SEC. 3. TABLE OF CONTENTS.**

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

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Table of contents.

TITLE I—WORKPLACE VIOLENCE PREVENTION STANDARD

- Sec. 101. Final 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.

10 **TITLE I—WORKPLACE VIOLENCE**
 11 **PREVENTION STANDARD**

12 **SEC. 101. FINAL STANDARD.**

13 (a) **IN GENERAL.**—The Secretary of Labor shall pro-
 14 mulgate a final standard on workplace violence preven-
 15 tion—

16 (1) to require certain employers in the
 17 healthcare and social service sectors, and certain em-
 18 ployers in sectors that conduct activities similar to

1 the activities in the healthcare and social service sec-
2 tors, to develop and implement a comprehensive
3 workplace violence prevention plan to protect health
4 care workers, social service workers, and other per-
5 sonnel from workplace violence; and

6 (2) that may be based on the Guidelines for
7 Preventing Workplace Violence for Healthcare and
8 Social Service Workers published by the Occupa-
9 tional Safety and Health Administration of the De-
10 partment of Labor in 2015 and adhere to the re-
11 quirements of this title.

12 (b) EFFECTIVE DATE OF STANDARD.—The final
13 standard shall—

14 (1) take effect on a date that is not later than
15 60 days after promulgation, except that such final
16 standard may include a reasonable phase-in period
17 for the implementation of required engineering con-
18 trols that take effect after such date; and

19 (2) be enforced in the same manner and to the
20 same extent as any standard promulgated under sec-
21 tion 6(b) of the Occupational Safety and Health Act
22 of 1970 (29 U.S.C. 655(b)).

23 (c) EDUCATIONAL OUTREACH.—

24 (1) DURING RULEMAKING.—During the period
25 beginning on the date the Secretary commences rule-

1 making under this section and ending on the effec-
2 tive date of the final standard promulgated under
3 this section, the Secretary of Labor shall engage in
4 an educational campaign for covered employees and
5 covered employers regarding workplace violence pre-
6 vention in health care and social service industries
7 on the materials of the Occupational Safety and
8 Health Administration on workplace violence preven-
9 tion for such industries.

10 (2) REQUIREMENTS OF FINAL STANDARD.—Be-
11 ginning on the date on which the final standard is
12 promulgated under this section, the Secretary shall
13 engage in an educational campaign for covered em-
14 ployees and covered employers on the requirements
15 of such final standard.

16 **SEC. 102. SCOPE AND APPLICATION.**

17 In this title:

18 (1) COVERED FACILITY.—The term “covered
19 facility” means a facility with respect to which the
20 Secretary determines that requirements of the final
21 standard promulgated under section 101(a) would be
22 reasonably necessary or appropriate, and which may
23 include:

24 (A) Any hospital, including any specialty
25 hospital.

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

4 (C) Any medical treatment or social service
5 setting or clinic at a correctional or detention
6 facility.

7 (D) Any community-based residential facil-
8 ity, group home, and mental health clinic.

9 (E) Any psychiatric treatment facility.

10 (F) Any drug abuse or substance use dis-
11 order treatment center.

12 (G) Any independent freestanding emer-
13 gency centers.

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

21 (2) COVERED SERVICES.—The term “covered
22 service” includes the following services and oper-
23 ations:

1 (A) Any services and operations provided
2 in home health care, home-based hospice, and
3 home-based social work.

4 (B) Any emergency medical services and
5 transport, including such services when pro-
6 vided by firefighters and emergency responders.

7 (C) Any services described in subpara-
8 graphs (A) and (B) performed by a Federal
9 Government agency and required to comply
10 with occupational safety and health standards
11 pursuant to section 1960 of title 29, Code of
12 Federal Regulations (as such section is in effect
13 on the date of enactment of this Act).

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

17 (3) COVERED EMPLOYER.—

18 (A) IN GENERAL.—The term “covered em-
19 ployer” includes a person (including a con-
20 tractor, subcontractor, or a temporary service
21 firm) that employs an individual to work at a
22 covered facility or to perform covered services.

23 (B) EXCLUSION.—The term “covered em-
24 ployer” does not include an individual who pri-
25 vately employs a person to perform covered

1 services for the individual or a friend or family
2 member of the individual.

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

7 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
8 **PREVENTION STANDARD.**

9 Each standard described in section 101 may include
10 the following requirements:

11 (1) WORKPLACE VIOLENCE PREVENTION
12 PLAN.—Not later than 6 months after the date of
13 promulgation of the final standard under section
14 101(a), a covered employer shall develop, implement,
15 and maintain a written workplace violence preven-
16 tion plan for covered employees at each covered fa-
17 cility and for covered employees performing a cov-
18 ered service on behalf of such employer, which meets
19 the following:

20 (A) PLAN DEVELOPMENT.—Each Plan
21 shall—

22 (i) subject to subparagraph (D), be
23 developed and implemented with the mean-
24 ingful participation of direct care employ-

1 ees and, where applicable, employee rep-
2 resentatives, for all aspects of the Plan;

3 (ii) be applicable to conditions and
4 hazards for the covered facility or the cov-
5 ered service, including patient-specific risk
6 factors and risk factors specific to each
7 work area or unit; and

8 (iii) be suitable for the size, com-
9 plexity, and type of operations at the cov-
10 ered facility or for the covered service, and
11 remain in effect at all times.

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

14 (i) Identification of each individual or
15 the job title of each individual responsible
16 for implementation of the Plan.

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

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

1 scribed in paragraph (5) that the em-
2 ployer creates or controls.

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

6 (I) for employees to report to the
7 employer workplace violence risks,
8 hazards, and incidents;

9 (II) for employers to respond to
10 reports of workplace violence;

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

16 (IV) to provide medical care or
17 first aid to affected employees.

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

23 (vi) Procedures for communicating
24 with and educating of covered employees
25 on workplace violence hazards, threats, and

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

6 (vii) Procedures for ensuring the co-
7 ordination of risk assessment efforts, Plan
8 development, and implementation of the
9 Plan with other employers who have em-
10 ployees who work at the covered facility or
11 who are performing the covered service.

12 (viii) Procedures for conducting the
13 annual evaluation under paragraph (6).

14 (C) AVAILABILITY OF PLAN.—Each Plan
15 shall be made available at all times to the cov-
16 ered employees who are covered under such
17 Plan.

18 (D) CLARIFICATION.—The requirement
19 under subparagraph (A)(i) shall not be con-
20 strued to require that all direct care employees
21 and employee representatives participate in the
22 development and implementation of the Plan.

23 (2) VIOLENT INCIDENT INVESTIGATION.—

24 (A) IN GENERAL.—As soon as practicable
25 after a workplace violence incident, of which a

1 covered employer has knowledge, the employer
2 shall conduct an investigation of such incident,
3 under which the employer shall—

4 (i) review the circumstances of the in-
5 cident and whether any controls or meas-
6 ures implemented pursuant to the Plan of
7 the employer were effective; and

8 (ii) solicit input from involved employ-
9 ees, their representatives, and supervisors,
10 about the cause of the incident, and wheth-
11 er further corrective measures (including
12 system-level factors) could have prevented
13 the incident, risk, or hazard.

14 (B) DOCUMENTATION.—A covered em-
15 ployer shall document the findings, rec-
16 ommendations, and corrective measures taken
17 for each investigation conducted under this
18 paragraph.

19 (3) EDUCATION.—With respect to the covered
20 employees covered under a Plan of a covered em-
21 ployer, the employer shall provide education to such
22 employees who may be exposed to workplace violence
23 hazards and risks, which meet the following require-
24 ments:

1 (A) Annual education includes information
2 on the Plan, including identified workplace vio-
3 lence hazards, work practice control measures,
4 reporting procedures, record keeping require-
5 ments, response procedures, and employee
6 rights.

7 (B) Additional hazard recognition edu-
8 cation for supervisors and managers to ensure
9 they can recognize high-risk situations and do
10 not assign employees to situations that predict-
11 ably compromise their safety.

12 (C) Additional education for each such cov-
13 ered employee whose job circumstances has
14 changed, within a reasonable timeframe after
15 such change.

16 (D) Applicable new employee education
17 prior to employee's job assignment.

18 (E) All education provides such employees
19 opportunities to ask questions, give feedback on
20 such education, and request additional instruc-
21 tion, clarification, or other followup.

22 (F) All education is provided in-person or
23 online and by an individual with knowledge of
24 workplace violence prevention and of the Plan.

1 (G) All education is appropriate in content
2 and vocabulary to the language, educational
3 level, and literacy of such covered employees.

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

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

8 (i) maintain at all times records re-
9 lated to each Plan of the employer, includ-
10 ing workplace violence risk and hazard as-
11 sessments, and identification, evaluation,
12 correction, and education procedures;

13 (ii) maintain for a minimum of 5
14 years—

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

19 (II) records of all incident inves-
20 tinations as required under paragraph
21 (2)(B); and

22 (iii) make such records and logs avail-
23 able, upon request, to covered employees
24 and their representatives for examination
25 and copying in accordance with section

1 1910.1020 of title 29, Code of Federal
2 Regulations (as such section is in effect on
3 the date of enactment of this Act), and in
4 a manner consistent with HIPAA privacy
5 regulations (defined in section 1180(b)(3)
6 of the Social Security Act (42 U.S.C.
7 1320d-9(b)(3))) and part 2 of title 42,
8 Code of Federal Regulations (as such part
9 is in effect on the date of enactment of this
10 part), and ensure that any such records
11 and logs removed from the employer's con-
12 trol for purposes of this clause omit any
13 element of personal identifying information
14 sufficient to allow identification of any pa-
15 tient, resident, client, or other individual
16 alleged to have committed a violent inci-
17 dent (including the person's name, ad-
18 dress, electronic mail address, telephone
19 number, or social security number, or
20 other information that, alone or in com-
21 bination with other publicly available infor-
22 mation, reveals such person's identity).

23 (B) VIOLENT INCIDENT LOG DESCRIP-
24 TION.—Each violent incident log—

1 (i) shall be maintained by a covered
2 employer for each covered facility con-
3 trolled by the employer and for each cov-
4 ered service being performed by a covered
5 employee on behalf of such employer;

6 (ii) may be based on a template devel-
7 oped by the Secretary not later than 1 year
8 after the date of promulgation of the
9 standards under section 101(a);

10 (iii) may include a description of—

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

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

17 (III) the nature and extent of in-
18 juries to covered employees;

19 (IV) a classification of the perpe-
20 trator who committed the violence, in-
21 cluding whether the perpetrator was—

22 (aa) a patient, client, resi-
23 dent, or customer of a covered
24 employer;

1 (bb) a family or friend of a
2 patient, client, resident, or cus-
3 tomer of a covered employer;

4 (cc) a stranger;

5 (dd) a coworker, supervisor,
6 or manager of a covered em-
7 ployee;

8 (ee) a partner, spouse, par-
9 ent, or relative of a covered em-
10 ployee; or

11 (ff) any other appropriate
12 classification;

13 (V) the type of violent incident
14 (such as type 1 violence, type 2 vio-
15 lence, type 3 violence, or type 4 vio-
16 lence); and

17 (VI) how the incident was ad-
18 dressed;

19 (iv) not later than 7 days, depending
20 on the availability or condition of the wit-
21 ness, after the employer learns of such in-
22 cident, shall contain a record of each vio-
23 lent incident, which is updated to ensure
24 completeness of such record;

1 (v) shall be maintained for not less
2 than 5 years; and

3 (vi) in the case of a violent incident
4 involving a privacy concern case as defined
5 in section 1904.29(b)(7) of title 29, Code
6 of Federal Regulations (as such section is
7 in effect on the date of enactment of this
8 Act), shall protect the identity of employ-
9 ees in a manner consistent with that sec-
10 tion.

11 (C) ANNUAL SUMMARY.—Each covered
12 employer shall prepare an annual summary of
13 each violent incident log for the preceding cal-
14 endar year that shall—

15 (i) with respect to each covered facil-
16 ity, and each covered service, for which
17 such a log has been maintained, include
18 the total number of violent incidents, the
19 number of recordable injuries related to
20 such incidents, and the total number of
21 hours worked by the covered employees for
22 such preceding year;

23 (ii) be completed on a form provided
24 by the Secretary;

1 (iii) be posted for three months begin-
2 ning February 1 of each year in a manner
3 consistent with the requirements of section
4 1904 of title 29, Code of Federal Regula-
5 tions (as such section is in effect on the
6 date of enactment of this Act), relating to
7 the posting of summaries of injury and ill-
8 ness logs;

9 (iv) be located in a conspicuous place
10 or places where notices to employees are
11 customarily posted; and

12 (v) not be altered, defaced, or covered
13 by other material by the employer.

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

18 (A) the implementation and effectiveness
19 of the Plan, including a review of the violent in-
20 cident log; and

21 (B) compliance with education required by
22 each standard described in section 101, and
23 specified in the Plan.

24 (6) ANTI-RETALIATION.—

1 (A) POLICY.—Each covered employer shall
2 adopt a policy prohibiting any person (including
3 an agent of the employer) from discriminating
4 or retaliating against any employee for report-
5 ing, or seeking assistance or intervention from,
6 a workplace violence incident, threat, or concern
7 to the employer, law enforcement, local emer-
8 gency services, or a government agency, or par-
9 ticipating in an incident investigation.

10 (B) ENFORCEMENT.—Each violation of the
11 policy shall be enforced in the same manner and
12 to the same extent as a violation of section
13 11(c) of the Occupational Safety and Health
14 Act (29 U.S.C. 660(c)) is enforced.

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

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

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

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

1 **SEC. 105. OTHER DEFINITIONS.**

2 In this title:

3 (1) **WORKPLACE VIOLENCE.**—

4 (A) **IN GENERAL.**—The term “workplace
5 violence” means any act of violence or threat of
6 violence, that occurs at a covered facility or
7 while a covered employee performs a covered
8 service.

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

12 (C) **INCLUSIONS.**—The term “workplace
13 violence” includes an incident involving the
14 threat or use of a firearm or a dangerous weap-
15 on, including the use of common objects as
16 weapons, without regard to whether the em-
17 ployee sustains an injury.

18 (2) **TYPE 1 VIOLENCE.**—The term “type 1 vio-
19 lence”—

20 (A) means workplace violence directed at a
21 covered employee at a covered facility or while
22 performing a covered service by an individual
23 who has no legitimate business at the covered
24 facility or with respect to such covered service;
25 and

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

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

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

15 (5) TYPE 4 VIOLENCE.—The term “type 4 vio-
16 lence” means workplace violence directed at a cov-
17 ered employee by an individual who is not an em-
18 ployee, but has or is known to have had a personal
19 relationship with such employee.

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

24 (7) ENGINEERING CONTROLS.—

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

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

21 (8) ENVIRONMENTAL RISK FACTORS.—

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

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

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

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

15 (A) a patient’s psychiatric condition, treat-
16 ment and medication status, history of violence,
17 and known or recorded use of drugs or alcohol;
18 and

19 (B) any conditions or disease processes of
20 the patient that may cause the patient to expe-
21 rience confusion or disorientation, to be non-re-
22 sponsive to instruction, or to behave unpredict-
23 ably.

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

1 (11) WORK PRACTICE CONTROLS.—

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

6 (B) INCLUSIONS.—The term “work prac-
7 tice controls” includes assigning and placing
8 sufficient numbers of staff to reduce patient-
9 specific Type 2 workplace violence hazards, pro-
10 vision of dedicated and available safety per-
11 sonnel such as security guards, employee train-
12 ing on workplace violence prevention method
13 and techniques to de-escalate and minimize vio-
14 lent behavior, and employee training on proce-
15 dures for response in the event of a workplace
16 violence incident and for post-incident response.

17 **TITLE I—AMENDMENTS TO THE**
18 **SOCIAL SECURITY ACT**

19 **SEC. 201. APPLICATION OF THE WORKPLACE VIOLENCE**
20 **PREVENTION STANDARD TO CERTAIN FACILI-**
21 **TIES RECEIVING MEDICARE FUNDS.**

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

24 (1) in subsection (a)(1)—

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

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

5 (C) by inserting after subparagraph (Y)
6 the following new subparagraph:

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

18 (2) in subsection (b)(4)—

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

25 (B) in subparagraph (B)—

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

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

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall apply beginning on the date that is
13 1 year after the date of issuance of the final standard on
14 workplace violence prevention required under section 101.

