

AMENDMENT NO. _____ Calendar No. _____

Purpose: 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.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

~~(no.)~~ S.2840

To improve access to and the quality of primary health care, expand the health workforce, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end, add the following:

2 **TITLE IV—WORKPLACE VIO-**
3 **LENCE PREVENTION FOR**
4 **HEALTH CARE AND SOCIAL**
5 **SERVICES**

6 **Subtitle A—Workplace Violence**
7 **Prevention Standard**

8 **SEC. 401. WORKPLACE VIOLENCE PREVENTION STANDARD.**

9 (a) INTERIM FINAL STANDARD.—

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

5 (A) to require certain employers in the
6 health care and social service sectors, and cer-
7 tain employers in sectors that conduct activities
8 similar to the activities in the health care and
9 social service sectors, to develop and implement
10 a comprehensive workplace violence prevention
11 plan and carry out other activities or require-
12 ments described in section 403 to protect health
13 care workers, social service workers, and other
14 personnel from workplace violence;

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

22 (C) that provides for a period determined
23 appropriate by the Secretary, not to exceed 1
24 year, during which the Secretary shall prioritize
25 technical assistance and advice consistent with

1 section 21(d) of the Occupational Safety and
2 Health Act of 1970 (29 U.S.C. 670(d)) to em-
3 ployers subject to the standard with respect to
4 compliance with the standard.

5 (2) INAPPLICABLE PROVISIONS OF LAW AND
6 EXECUTIVE ORDER.—The following provisions of law
7 and Executive orders shall not apply to the issuance
8 of the interim final standard under this subsection:

9 (A) The requirements applicable to occupa-
10 tional safety and health standards under section
11 6(b) of the Occupational Safety and Health Act
12 of 1970 (29 U.S.C. 655(b)).

13 (B) The requirements of chapters 5 and 6
14 of title 5, United States Code.

15 (C) Subchapter I of chapter 35 of title 44,
16 United States Code (commonly referred to as
17 the “Paperwork Reduction Act”).

18 (D) Executive Order No. 12866 (58 Fed.
19 Reg. 51735; relating to regulatory planning and
20 review), as amended.

21 (3) NOTICE AND COMMENT.—Notwithstanding
22 paragraph (2)(B), the Secretary shall, prior to
23 issuing the interim final standard under this sub-
24 section, provide notice in the Federal Register of the

1 interim final standard and a 30-day period for pub-
2 lic comment.

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

5 (A) take effect on a date that is not later
6 than 30 days after issuance, except that such
7 interim final standard may include a reasonable
8 phase-in period for the implementation of re-
9 quired engineering controls that take effect
10 after such date;

11 (B) be enforced in the same manner and
12 to the same extent as any standard promul-
13 gated under section 6(b) of the Occupational
14 Safety and Health Act of 1970 (29 U.S.C.
15 655(b)); and

16 (C) be in effect until the final standard de-
17 scribed in subsection (b) becomes effective and
18 enforceable.

19 (5) FAILURE TO PROMULGATE.—If an interim
20 final standard described in paragraph (1) is not
21 issued not later than 1 year of the date of enactment
22 of this Act, the provisions of this subtitle shall be in
23 effect and enforced in the same manner and to the
24 same extent as any standard promulgated under sec-
25 tion 6(b) of the Occupational Safety and Health Act

1 of 1970 (29 U.S.C. 655(b)) until such provisions are
2 superseded in whole by an interim final standard
3 issued by the Secretary that meets the requirements
4 of paragraph (1).

5 (b) FINAL STANDARD.—

6 (1) PROPOSED STANDARD.—Not later than 2
7 years after the date of enactment of this Act, the
8 Secretary of Labor shall, pursuant to section 6 of
9 the Occupational Safety and Health Act of 1970 (29
10 U.S.C. 655), promulgate a proposed standard on
11 workplace violence prevention—

12 (A) for the purposes described in sub-
13 section (a)(1)(A); and

14 (B) that shall include, at a minimum, re-
15 quirements contained in the interim final stand-
16 ard required under subsection (a).

17 (2) FINAL STANDARD.—Not later than 42
18 months after the date of enactment of this Act, the
19 Secretary shall issue a final standard on such pro-
20 posed standard that shall—

21 (A) provide no less protection than any
22 workplace violence standard adopted by a State
23 plan that has been approved by the Secretary
24 under section 18 of the Occupational Safety
25 and Health Act of 1970 (29 U.S.C. 667), pro-

1 vided the Secretary finds that the final stand-
2 ard is feasible on the basis of the best available
3 evidence; and

4 (B) be effective and enforceable in the
5 same manner and to the same extent as any
6 standard promulgated under section 6(b) of the
7 Occupational Safety and Health Act of 1970
8 (29 U.S.C. 655(b)).

9 **SEC. 402. SCOPE AND APPLICATION.**

10 In this subtitle:

11 (1) COVERED FACILITY.—

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

14 (i) Any hospital, including any spe-
15 cialty hospital, in-patient or outpatient set-
16 ting, or clinic operating within a hospital
17 license, or any setting that provides out-
18 patient services.

19 (ii) Any residential treatment facility,
20 including any nursing home, skilled nurs-
21 ing facility, hospice facility, Alzheimer’s
22 and memory care facility, and long-term
23 care facility.

24 (iii) Any nonresidential treatment or
25 service setting.

1 (iv) Any medical treatment or social
2 service setting or clinic at a correctional or
3 detention facility.

4 (v) Any community care setting, in-
5 cluding a community-based residential fa-
6 cility, group home, and mental health clin-
7 ic.

8 (vi) Any psychiatric treatment facility.

9 (vii) Any drug abuse or substance use
10 disorder treatment center.

11 (viii) Any independent freestanding
12 emergency center.

13 (ix) Any facility described in clauses
14 (i) through (viii) operated by a Federal
15 Government agency and required to comply
16 with occupational safety and health stand-
17 ards pursuant to part 1960 of title 29,
18 Code of Federal Regulations (as such part
19 is in effect on the date of enactment of this
20 Act).

21 (x) Any other facility the Secretary
22 determines should be covered under the
23 standards promulgated under section 401.

24 (B) EXCLUSION.—The term “covered facil-
25 ity” does not include an office of a physician,

1 dentist, podiatrist, or any other health practi-
2 tioner that is not physically located within a
3 covered facility described in clauses (i) through
4 (x) of subparagraph (A).

5 (2) COVERED SERVICES.—

6 (A) IN GENERAL.—The term “covered
7 service” includes the following services and op-
8 erations:

9 (i) Any services and operations pro-
10 vided in any field work setting, including
11 home health care, home-based hospice, and
12 home-based social work.

13 (ii) Any emergency services and trans-
14 port, including such services provided by
15 firefighters and emergency responders.

16 (iii) Any services described in clauses
17 (i) and (ii) performed by a Federal Gov-
18 ernment agency and required to comply
19 with occupational safety and health stand-
20 ards pursuant to part 1960 of title 29,
21 Code of Federal Regulations (as such part
22 is in effect on the date of enactment of this
23 Act).

24 (iv) Any other services and operations
25 the Secretary determines should be covered

1 under the standards promulgated under
2 section 401.

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

5 (3) COVERED EMPLOYER.—

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

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

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

21 **SEC. 403. REQUIREMENTS FOR WORKPLACE VIOLENCE**
22 **PREVENTION STANDARD.**

23 Each standard described in section 401 shall include,
24 at a minimum, the following requirements:

1 (1) WORKPLACE VIOLENCE PREVENTION
2 PLAN.—Not later than 6 months after the date of
3 promulgation of the interim final standard under
4 section 401(a), or 18 months after the date of enact-
5 ment of this Act in a case described in section
6 401(a)(5), a covered employer shall develop, imple-
7 ment, and maintain an effective written workplace
8 violence prevention plan (in this section referred to
9 as the “Plan”) for covered employees at each cov-
10 ered facility and for covered employees performing a
11 covered service on behalf of such employer, which
12 meets the following:

13 (A) PLAN DEVELOPMENT.—Each Plan—

14 (i) shall be developed and imple-
15 mented with the meaningful participation
16 of direct care employees, other employees,
17 and employee representatives, for all as-
18 pects of the Plan;

19 (ii) shall be tailored and specific to
20 conditions and hazards for the covered fa-
21 cility or the covered service, including pa-
22 tient-specific risk factors and risk factors
23 specific to each work area or unit;

24 (iii) shall be suitable for the size, com-
25 plexity, and type of operations at the cov-

1 ered facility or for the covered service, and
2 remain in effect at all times; and

3 (iv) may be in consultation with stake-
4 holders or experts who specialize in work-
5 place violence prevention, emergency re-
6 sponse, or other related areas of expertise
7 for all relevant aspects of the Plan.

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

10 (i) Identification of the individual and
11 the individual's position responsible for im-
12 plementation of the Plan.

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

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

1 (II) conducted with, at a min-
2 imum—

3 (aa) direct care employees;

4 (bb) where applicable, the
5 representatives of such employ-
6 ees; and

7 (cc) the employer.

8 (iii) Hazard prevention, engineering
9 controls, or work practice controls to cor-
10 rect hazards, in a timely manner, applying
11 industrial hygiene principles of the hier-
12 archy of controls, which—

13 (I) may include security and
14 alarm systems, adequate exit routes,
15 monitoring systems, barrier protec-
16 tion, established areas for patients
17 and clients, lighting, entry procedures,
18 staffing and working in teams, and
19 systems to identify and flag clients
20 with a history of violence; and

21 (II) shall ensure that employers
22 correct, in a timely manner, hazards
23 identified in any violent incident in-
24 vestigation described in paragraph (2)

1 and any annual report described in
2 paragraph (5).

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

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

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;

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

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

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

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

9 (vii) Procedures for—

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

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

24 (viii) Procedures for conducting the
25 annual evaluation under paragraph (6).

1 (C) AVAILABILITY OF PLAN.—Each Plan
2 shall be made available at all times to the cov-
3 ered employees who are covered under such
4 Plan.

5 (2) VIOLENT INCIDENT INVESTIGATION.—

6 (A) IN GENERAL.—As soon as practicable
7 after a workplace violence incident, risk, or haz-
8 ard of which a covered employer has knowledge,
9 the employer shall conduct an investigation of
10 such incident, risk, or hazard under which the
11 employer shall—

12 (i) review the circumstances of the in-
13 cident, risk, or hazard, and whether any
14 controls or measures implemented pursu-
15 ant to the Plan of the employer were effec-
16 tive; and

17 (ii) solicit input from involved employ-
18 ees, their representatives, and supervisors
19 about the cause of the incident, risk, or
20 hazard, and whether further corrective
21 measures (including system-level factors)
22 could have prevented the incident, risk, or
23 hazard.

24 (B) DOCUMENTATION.—A covered em-
25 ployer shall document the findings, rec-

1 ommendations, and corrective measures taken
2 for each investigation conducted under this
3 paragraph.

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

10 (A) Annual training and education shall
11 include information on the Plan, including iden-
12 tified workplace violence hazards, work practice
13 control measures, reporting procedures, record
14 keeping requirements, response procedures,
15 anti-retaliation policies, and employee rights.

16 (B) Additional hazard recognition training
17 shall be provided for supervisors and managers
18 to ensure they—

19 (i) can recognize high-risk situations;
20 and

21 (ii) do not assign employees to situa-
22 tions that predictably compromise the safe-
23 ty of such employees.

24 (C) Additional training shall be provided
25 for each such covered employee whose job cir-

1 cumstances have changed, within a reasonable
2 timeframe after such change.

3 (D) Additional training shall be provided
4 for each such covered employee whose job cir-
5 cumstances require working with victims of tor-
6 ture, trafficking, or domestic violence.

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

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

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

22 (H) All training shall be appropriate in
23 content and vocabulary to the language, edu-
24 cational level, and literacy of such covered em-
25 ployees.

1 (4) RECORDKEEPING AND ACCESS TO PLAN
2 RECORDS.—

3 (A) IN GENERAL.—Each covered employer
4 shall—

5 (i) maintain for not less than 5
6 years—

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

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

16 (III) records of all incident inves-
17 tigation as required under paragraph
18 (2)(B); and

19 (ii)(I) make such records and logs
20 available, upon request, to covered employ-
21 ees and their representatives for examina-
22 tion and copying in accordance with sec-
23 tion 1910.1020 of title 29, Code of Federal
24 Regulations (as such section is in effect on
25 the date of enactment of this Act), and in

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

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

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

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

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

9 (iii) include, at a minimum, a descrip-
10 tion 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, and the names and
16 job titles 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
18 abated;

19 (iv) not later than 7 days after the
20 employer learns of such incident, contain a
21 record of each violent incident, which is
22 updated to ensure completeness of such
23 record;

24 (v) be maintained for not less than 5
25 years; and

1 (vi) in the case of a violent incident
2 involving a privacy concern case, protect
3 the identity of employees in a manner con-
4 sistent with section 1904.29(b) of title 29,
5 Code of Federal Regulations (as such sec-
6 tion is in effect on the date of enactment
7 of this Act).

8 (C) ANNUAL SUMMARY.—

9 (i) COVERED EMPLOYERS.—Each cov-
10 ered employer shall prepare and submit to
11 the Secretary an annual summary of each
12 violent incident log for the preceding cal-
13 endar year that shall—

14 (I) with respect to each covered
15 facility, and each covered service, for
16 which such a log has been maintained,
17 include—

18 (aa) the total number of vio-
19 lent incidents;

20 (bb) the number of record-
21 able injuries related to such inci-
22 dents; and

23 (cc) the total number of
24 hours worked by the covered em-
25 ployees for such preceding year;

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

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

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

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

16 (ii) SECRETARY.—Not later than 1
17 year after the promulgation of the interim
18 final standard under section 401(a), or 2
19 years after the date of enactment of this
20 Act in a case described in section
21 401(a)(5), the Secretary shall make avail-
22 able a platform for the electronic submis-
23 sion of annual summaries required under
24 this subparagraph.

25 (5) ANNUAL REPORT.—

1 (A) REPORT TO SECRETARY.—Not later
2 than February 15 of each year, each covered
3 employer shall report to the Secretary, on a
4 form provided by the Secretary, the frequency,
5 quantity, and severity of workplace violence,
6 and any incident response and post-incident in-
7 vestigation (including abatement measures) for
8 the incidents set forth in the annual summary
9 of the violent incident log described in para-
10 graph (4)(C).

11 (B) REPORT TO CONGRESS.—Not later
12 than 6 months after February 15 of each year,
13 the Secretary shall submit to Congress a sum-
14 mary of the reports received under subpara-
15 graph (A). The contents of the summary of the
16 Secretary to Congress shall not disclose any
17 confidential information.

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

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

1 (B) compliance with training required by
2 each standard described in section 401, 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 the discrimina-
13 tion or retaliation described in subparagraph
14 (B).

15 (B) PROHIBITION.—No covered employer
16 shall discriminate or retaliate against any em-
17 ployee for—

18 (i) reporting a workplace violence inci-
19 dent, threat, or concern to, or seeking as-
20 sistance or intervention with respect to
21 such incident, threat, or concern from, the
22 employer, law enforcement, local emer-
23 gency services, or a local, State, or Federal
24 government agency; or

1 (ii) exercising any other rights under
2 this section.

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

8 **SEC. 404. RULES OF CONSTRUCTION.**

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

11 (1) nothing in this subtitle shall be construed to
12 curtail or limit authority of the Secretary under any
13 other provision of the law;

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

18 (3) nothing in this title shall be construed to
19 limit or prevent health care workers, social service
20 workers, and other personnel from reporting violent
21 incidents to appropriate law enforcement; and

22 (4) nothing in this title shall be construed to
23 limit or diminish any protections in relevant Federal,
24 State, or local law related to—

25 (A) domestic violence;

- 1 (B) stalking;
2 (C) dating violence; and
3 (D) sexual assault.

4 **SEC. 405. OTHER DEFINITIONS.**

5 In this subtitle:

6 (1) **WORKPLACE VIOLENCE.—**

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

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

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

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

24 (ii) an incident involving the threat or
25 use of a firearm or a dangerous weapon,

1 including the use of common objects as
2 weapons, without regard to whether the
3 employee sustains an injury, psychological
4 trauma, or stress.

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

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

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

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

23 (4) TYPE 3 VIOLENCE.—The term “type 3 vio-
24 lence” means workplace violence directed at a cov-

1 ered employee by a present or former employee, su-
2 pervisor, or manager.

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

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

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

17 (B) serves no legitimate purpose.

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

22 (8) DANGEROUS WEAPON.—The term “dan-
23 gerous weapon” means an instrument capable of in-
24 flicting death or serious bodily injury, without re-

1 gard to whether such instrument was designed for
2 that purpose.

3 (9) ENGINEERING CONTROLS.—

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

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

24 (10) ENVIRONMENTAL RISK FACTORS.—

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

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

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

19 (A) a patient’s treatment and medication
20 status, and history of violence and use of drugs
21 or alcohol; and

22 (B) any conditions or disease processes of
23 the patient that may cause the patient to expe-
24 rience confusion or disorientation, be non-
25 responsive to instruction, behave unpredictably,

1 or engage in disruptive, threatening, or violent
2 behavior.

3 (12) SECRETARY.—The term “Secretary”
4 means the Secretary of Labor.

5 (13) WORK PRACTICE CONTROLS.—

6 (A) IN GENERAL.—The term “work prac-
7 tice controls” means procedures and rules that
8 are used to effectively reduce workplace violence
9 hazards.

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

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

15 (ii) provision of dedicated and avail-
16 able safety personnel such as security
17 guards;

18 (iii) employee training on workplace
19 violence prevention methods and tech-
20 niques to de-escalate and minimize violent
21 behavior; and

22 (iv) employee training on procedures
23 for response in the event of a workplace vi-
24 olence incident and for post-incident re-
25 sponse.

1 **Subtitle B—Amendments to the**
2 **Social Security Act**

3 **SEC. 411. APPLICATION OF THE WORKPLACE VIOLENCE**
4 **PREVENTION STANDARD TO CERTAIN FACILI-**
5 **TIES RECEIVING MEDICARE FUNDS.**

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

8 (1) in subsection (a)(1)—

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

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

13 (C) by inserting after subparagraph (Y)
14 the following new subparagraph:

15 “(Z) in the case of hospitals that are not other-
16 wise subject to the Occupational Safety and Health
17 Act of 1970 (or a State occupational safety and
18 health plan that is approved under 18(b) of such
19 Act) and skilled nursing facilities that are not other-
20 wise subject to such Act (or such a State occupa-
21 tional safety and health plan), to comply with the
22 Workplace Violence Prevention Standard (as pro-
23 mulgated under section 401 of the Bipartisan Pri-
24 mary Care and Health Workforce Act).”;

25 (2) in subsection (b)(4)—

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

7 (B) in subparagraph (B)—

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

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

18 (b) **EFFECTIVE DATE.**—The amendments made by
19 subsection (a) shall apply beginning on the date that is
20 1 year after the date of issuance of the interim final stand-
21 ard on workplace violence prevention required under see-
22 tion 401.