

116TH CONGRESS
1ST SESSION

S. 851

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

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2019

Ms. BALDWIN (for herself, Ms. WARREN, Mr. SCHATZ, Mrs. GILLIBRAND, Mr. BROWN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. TABLE OF CONTENTS.**

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

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—WORKPLACE VIOLENCE PREVENTION STANDARD

Sec. 101. Workplace violence prevention standard.

Sec. 102. Scope and application.

Sec. 103. Requirements for workplace violence prevention standard.

Sec. 104. Rules of construction.

Sec. 105. Other definitions.

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

Sec. 201. Application of the workplace violence prevention standard to certain facilities receiving Medicare funds.

3 **TITLE I—WORKPLACE VIOLENCE**
4 **PREVENTION STANDARD**

5 **SEC. 101. WORKPLACE VIOLENCE PREVENTION STANDARD.**

6 (a) INTERIM FINAL STANDARD.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary of
9 Labor shall promulgate an interim final standard on
10 workplace violence prevention—

11 (A) to require certain employers in the
12 health care and social service sectors, and cer-
13 tain employers in sectors that conduct activities
14 similar to the activities in the health care and
15 social service sectors, to develop and implement
16 a comprehensive workplace violence prevention
17 plan to protect health care workers, social serv-
18 ice workers, and other personnel from work-
19 place violence; and

(B) that shall, at a minimum, be based on the Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers published by the Occupational Safety and Health Administration of the Department of Labor in 2015 and adhere to the requirements of this title.

(2) APPLICABILITY OF OTHER STATUTORY REQUIREMENTS.—The following shall not apply to the promulgation of the interim final standard under this subsection:

(A) The requirements applicable to occupational safety and health standards under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)).

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

(3) NOTICE AND COMMENT.—Notwithstanding paragraph (2)(B), the Secretary shall, prior to promulgating the interim final standard under this subsection, provide notice of the interim final standard and a 30-day opportunity for public comment.

(4) EFFECTIVE DATE OF INTERIM STANDARD.—The interim final standard shall—

1 (A) take effect on a date that is not later
2 than 30 days after promulgation, except that
3 such interim final standard may include a rea-
4 sonable phase-in period for the implementation
5 of required engineering controls that take effect
6 after such date;

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

12 (C) be in effect until the final standard de-
13 scribed in subsection (b) becomes effective and
14 enforceable.

15 (5) FAILURE TO PROMULGATE.—If an interim
16 final standard described in paragraph (1) is not pro-
17 mulgated not later than 1 year of the date of enact-
18 ment of this Act, the provisions of this title shall be
19 in effect and enforced in the same manner and to
20 the same extent as any standard promulgated under
21 section 6(b) of the Occupational Safety and Health
22 Act of 1970 (29 U.S.C. 655(b)) until such provi-
23 sions are superseded in whole by an interim final
24 standard promulgated by the Secretary that meets
25 the requirements of paragraph (1).

1 (b) FINAL STANDARD.—

2 (1) PROPOSED FINAL STANDARD.—Not later
3 than 2 years after the date of enactment of this Act,
4 the Secretary of Labor shall, pursuant to section 6
5 of the Occupational Safety and Health Act of 1970
6 (29 U.S.C. 655), promulgate a proposed final stand-
7 ard on workplace violence prevention—

8 (A) for the purposes described in sub-
9 section (a)(1)(A); and

10 (B) that shall include, at a minimum, the
11 elements contained in the interim final standard
12 promulgated under subsection (a).

13 (2) FINAL STANDARD.—Not later than 42
14 months after the date of enactment of this Act, the
15 Secretary shall promulgate a final standard on such
16 proposed standard that shall—

17 (A) provide no less protection than any
18 workplace violence standard adopted by a State
19 plan that has been approved by the Secretary
20 under section 18 of the Occupational Safety
21 and Health Act of 1970 (29 U.S.C. 667); and

22 (B) be effective and enforceable in the
23 same manner and to the same extent as any
24 standard promulgated under section 6(b) of the

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

3 **SEC. 102. SCOPE AND APPLICATION.**

4 In this title:

5 (1) COVERED FACILITY.—The term “covered
6 facility” includes the following:

7 (A) Any hospital, including any specialty
8 hospital, in-patient or outpatient setting, or
9 clinic operating within a hospital license, or any
10 setting that provides outpatient services.

11 (B) Any residential treatment facility, in-
12 cluding any nursing home, skilled nursing facil-
13 ity, hospice facility, and long-term care facility.

14 (C) Any non-residential treatment or serv-
15 ice setting.

16 (D) Any medical treatment or social serv-
17 ice setting or clinic at a correctional or deten-
18 tion facility.

19 (E) Any community care setting, including
20 a community-based residential facility, group
21 home, and mental health clinic.

22 (F) Any psychiatric treatment facility.

23 (G) Any drug abuse or substance use dis-
24 order treatment center.

1 (H) Any independent freestanding emer-
2 gency centers.

3 (I) Any facility described in subparagraphs
4 (A) through (H) operated by a Federal Govern-
5 ment agency and required to comply with occu-
6 pational safety and health standards pursuant
7 to part 1960 of title 29, Code of Federal Regu-
8 lations (or any corresponding similar regula-
9 tions or rulings).

10 (J) Any other facility the Secretary deter-
11 mines should be covered under the standards
12 promulgated under section 101.

13 (2) COVERED SERVICES.—The term “covered
14 service” includes the following services and oper-
15 ations:

16 (A) Any services and operations provided
17 in any field work setting, including home health
18 care, home-based hospice, and home-based so-
19 cial work.

20 (B) Any emergency services and transport,
21 including such services provided by firefighters
22 and emergency responders.

23 (C) Any services described in subpara-
24 graphs (A) and (B) performed by a Federal
25 Government agency and required to comply

1 with occupational safety and health standards
2 pursuant to part 1960 of title 29, Code of Fed-
3 eral Regulations (or any corresponding similar
4 regulations or rulings).

5 (D) Any other services and operations the
6 Secretary determines should be covered under
7 the standards promulgated under section 101.

8 (3) COVERED EMPLOYER.—

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

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

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

1 **SEC. 103. REQUIREMENTS FOR WORKPLACE VIOLENCE**
 2 **PREVENTION STANDARD.**

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

5 (1) **WORKPLACE VIOLENCE PREVENTION**
 6 **PLAN.**—Not later than 6 months after the date of
 7 promulgation of the interim final standard under
 8 section 101(a), a covered employer shall develop, im-
 9 plement, and maintain an effective written workplace
 10 violence prevention plan (referred to in this section
 11 as a “Plan”) for covered employees at each covered
 12 facility and for covered employees performing a cov-
 13 ered service on behalf of such employer, which meets
 14 the following:

15 (A) **PLAN DEVELOPMENT.**—Each Plan
 16 shall—

17 (i) be developed and implemented with
 18 the meaningful participation of direct care
 19 employees and, where applicable, employee
 20 representatives and collective bargaining
 21 representatives, for all aspects of the Plan;

22 (ii) be tailored and specific to condi-
 23 tions and hazards for the covered facility
 24 or the covered service, including patient-
 25 specific risk factors and risk factors spe-
 26 cific to each work area or unit; and

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

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

7 (i) Identification of the individual re-
8 sponsible for implementation of the Plan.

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

18 (I) informed by past violent inci-
19 dents specific to such covered facility
20 or such covered service; and

21 (II) conducted with, at a min-
22 imum—

23 (aa) direct care employees;

1 (bb) where applicable, the
2 representatives of such employ-
3 ees; and

4 (cc) the employer.

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

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

18 (II) shall ensure that employers
19 correct, in a timely manner, hazards
20 identified in the annual report de-
21 scribed in paragraph (5).

22 (iv) Reporting, incident response, and
23 post-incident investigation procedures, in-
24 cluding procedures—

- 1 (I) for employees to report work-
2 place violence risks, hazards, and inci-
3 dents;
- 4 (II) for employers to respond to
5 reports of workplace violence;
- 6 (III) for employers to perform a
7 post-incident investigation and de-
8 briefing of all reports of workplace vi-
9 olence with the participation of em-
10 ployees and their representatives; and
- 11 (IV) to provide medical care or
12 first aid to affected employees.
- 13 (v) Procedures for emergency re-
14 sponse, including procedures for threats of
15 mass casualties and procedures for inci-
16 dents involving a firearm or a dangerous
17 weapon.
- 18 (vi) Procedures for communicating
19 with and training of covered employees on
20 workplace violence hazards, threats, and
21 work practice controls, the Plan, and pro-
22 cedures for confronting, responding to, and
23 reporting workplace violence threats, inci-
24 dents, and concerns, and employee rights.

1 (vii) Procedures for determining which
2 covered employer or employers shall be re-
3 sponsible for implementing and complying
4 with the provisions of the standard appli-
5 cable to the working conditions over which
6 such employers have control, and ensuring
7 the coordination of risk assessment efforts,
8 Plan development, and implementation of
9 the Plan with other employers who have
10 employees who work at the covered facility
11 or 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 (2) VIOLENT INCIDENT INVESTIGATION.—

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

1 (i) review the circumstances of the in-
2 cident, risk, or hazard, and whether any
3 controls or measures implemented pursu-
4 ant to the Plan of the employer were effec-
5 tive; and

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

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

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

24 (A) Annual training and education includes
25 information on the Plan, including identified

1 workplace violence hazards, work practice con-
2 trol measures, reporting procedures, record
3 keeping requirements, response procedures, and
4 employee rights.

5 (B) Additional hazard recognition training
6 for supervisors and managers to ensure they
7 can recognize high-risk situations and do not
8 assign employees to situations that predictably
9 compromise their safety.

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

14 (D) New employee training prior to assign-
15 ment.

16 (E) All training provides such employees
17 opportunities to ask questions, give feedback on
18 such training, and request additional instruc-
19 tion, clarification, or other follow up.

20 (F) All training is provided in-person and
21 by an individual with knowledge of workplace
22 violence prevention and of the Plan.

23 (G) All training is appropriate in content
24 and vocabulary to the language, educational
25 level, and literacy of such covered employees.

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

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

5 (i) maintain at all times—

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

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

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

18 (ii) make such records and logs avail-
19 able, upon request, to covered employees
20 and their representatives for examination
21 and copying in accordance with section
22 1910.1020 of title 29, Code of Federal
23 Regulations (or any corresponding similar
24 regulation or ruling), and in a manner con-
25 sistent with HIPAA privacy regulations

(defined in section 1180(b)(3) of the Social Security Act (42 U.S.C. 1320d–9(b)(3))) and part 2 of title 42, Code of Federal Regulations (or any corresponding similar regulations or rulings).

(B) VIOLENT INCIDENT LOG DESCRIPTION.—Each violent incident log shall—

(i) be maintained by a covered employer for each covered facility controlled by the employer and for each covered service being performed by a covered employee on behalf of such employer;

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

(iii) include, at a minimum, a description of—

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

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

(III) the nature and extent of injuries to covered employees;

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

1 (iv) omit any element of personal
2 identifying information sufficient to allow
3 identification of any patient, resident or
4 client alleged to have committed a violent
5 incident (including the person's name, ad-
6 dress, electronic mail address, telephone
7 number, or social security number, or
8 other information that, alone or in com-
9 bination with other publicly available infor-
10 mation, reveals such person's identity);

11 (v) not later than 7 days after the em-
12 ployer learns of such incident, contain a
13 record of each violent incident, which is
14 updated to ensure completeness of such
15 record;

16 (vi) be maintained for not less than 5
17 years; and

18 (vii) in the case of a violent incident
19 involving a privacy concern case, protect
20 the identity of employees in a manner con-
21 sistent with section 1904.29(b) of title 29,
22 Code of Federal Regulations (or any cor-
23 responding similar regulation or ruling).

24 (C) ANNUAL SUMMARY.—

1 (i) COVERED EMPLOYERS.—Each cov-
2 ered employer shall prepare an annual
3 summary of each violent incident log for
4 the preceding calendar year that shall—

5 (I) with respect to each covered
6 facility, and each covered service, for
7 which such a log has been maintained,
8 include the total number of violent in-
9 cidents, the number of recordable in-
10 juries related to such incidents, and
11 the total number of hours worked by
12 the covered employees for such pre-
13 ceding year;

14 (II) be completed on a form pro-
15 vided by the Secretary;

16 (III) be posted for three months
17 beginning February 1 of each year in
18 a manner consistent with the require-
19 ments of part 1904 of title 29, Code
20 of Federal Regulations (or any cor-
21 responding similar regulations or rul-
22 ings), relating to the posting of sum-
23 maries of injury and illness logs;

1 (IV) be located in a conspicuous
2 place or places where notices to em-
3 ployees are customarily posted; and

4 (V) not be altered, defaced, or
5 covered by other material.

6 (ii) SECRETARY.—Not later than 1
7 year after the promulgation of the interim
8 final standard under section 101(a), the
9 Secretary shall make available a platform
10 for the electronic submission of annual
11 summaries required under this paragraph.

12 (5) ANNUAL REPORT.—Not later than Feb-
13 ruary 15 of each year, each covered employer shall
14 report to the Secretary, the frequency, quantity, and
15 severity of workplace violence, and any incident re-
16 sponse and post-incident investigation (including
17 abatement measures for the incidents) set forth in
18 the annual summary of the violent incident log de-
19 scribed in paragraph (4)(C).

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

1 (A) the implementation and effectiveness
2 of the Plan, including a review of the violent in-
3 cident log; and

4 (B) compliance with training required by
5 each standard described in section 101, and
6 specified in the Plan.

7 (7) ANTI-RETALIATION.—

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

17 (B) PROHIBITION.—No covered employer
18 shall discriminate or retaliate against any em-
19 ployee for reporting, or seeking assistance or
20 intervention from, a workplace violence incident,
21 threat, or concern to the employer, law enforce-
22 ment, local emergency services, or a government
23 agency, or for exercising any other rights under
24 this paragraph.

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

6 **SEC. 104. RULES OF CONSTRUCTION.**

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

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

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

16 **SEC. 105. OTHER DEFINITIONS.**

17 In this title:

18 (1) WORKPLACE VIOLENCE.—

19 (A) IN GENERAL.—The term “workplace
 20 violence” means any act of violence or threat of
 21 violence, without regard to intent, that occurs
 22 at a covered facility or while a covered employee
 23 performs a covered service.

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

4 (C) INCLUSIONS.—The term “workplace
5 violence” includes—

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

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

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

21 (A) means workplace violence directed at a
22 covered employee at a covered facility or while
23 performing a covered service by an individual
24 who has no legitimate business at the covered

1 facility or with respect to such covered service;
2 and

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

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

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

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

22 (6) THREAT OF VIOLENCE.—The term “threat
23 of violence” means a statement or conduct that
24 causes a person to fear for his or her safety because
25 there is a reasonable possibility the person might be

1 physically injured, and that serves no legitimate pur-
2 pose.

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

7 (8) DANGEROUS WEAPON.—The term “dan-
8 gerous weapon” means an instrument capable of in-
9 flicting death or serious bodily injury, regardless of
10 whether such instrument was designed for that pur-
11 pose.

12 (9) ENGINEERING CONTROLS.—

13 (A) IN GENERAL.—The term “engineering
14 controls” means an aspect of the built space or
15 a device that removes a hazard from the work-
16 place or creates a barrier between a covered
17 employee and the hazard.

18 (B) INCLUSIONS.—For purposes of reduc-
19 ing workplace violence hazards, the term “engi-
20 neering controls” includes electronic access con-
21 trols to employee occupied areas, weapon detec-
22 tors (installed or handheld), enclosed work-
23 stations with shatter-resistant glass, deep serv-
24 ice counters, separate rooms or areas for high-
25 risk patients, locks on doors, removing access to

1 or securing items that could be used as weap-
2 ons, furniture affixed to the floor, opaque glass
3 in patient rooms (which protects privacy, but
4 allows the health care provider to see where the
5 patient is before entering the room), closed-cir-
6 cuit television monitoring and video recording,
7 sight-aids, and personal alarm devices.

8 (10) ENVIRONMENTAL RISK FACTORS.—

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

15 (B) CLARIFICATION.—Environmental risk
16 factors may be associated with the specific task
17 being performed or the work area, such as
18 working in an isolated area, poor illumination
19 or blocked visibility, and lack of physical bar-
20 riers between employees and persons at risk of
21 committing workplace violence.

22 (11) PATIENT-SPECIFIC RISK FACTORS.—The
23 term “patient-specific risk factors” means factors
24 specific to a patient that may increase the likelihood

1 or severity of a workplace violence incident, includ-
2 ing—

3 (A) a patient’s history of violence and use
4 of drugs or alcohol; and

5 (B) any conditions or disease processes of
6 the patient that may cause the patient to expe-
7 rience confusion or disorientation, to be non-re-
8 sponsive to instruction, to behave unpredictably,
9 or to engage in disruptive, threatening, or vio-
10 lent behavior.

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

13 (13) WORK PRACTICE CONTROLS.—

14 (A) IN GENERAL.—The term “work prac-
15 tice controls” means procedures and rules that
16 are used to effectively reduce workplace violence
17 hazards.

18 (B) INCLUSIONS.—The term “work prac-
19 tice controls” includes assigning and placing
20 sufficient numbers of staff to reduce patient-
21 specific Type 2 workplace violence hazards, pro-
22 vision of dedicated and available safety per-
23 sonnel such as security guards, employee train-
24 ing on workplace violence prevention method
25 and techniques to de-escalate and minimize vio-

1 lent behavior, and employee training on proce-
 2 dures for response in the event of a workplace
 3 violence incident and for post-incident response.

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

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

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

11 (1) in subsection (a)(1)—

12 (A) by moving the indentation of subpara-
 13 graph (W) 2 ems to the left;

14 (B) in subparagraph (X)—

15 (i) by moving the indentation 2 ems
 16 to the left; and

17 (ii) by striking “and” at the end;

18 (C) in subparagraph (Y), by striking the
 19 period at the end and inserting “; and”; and

20 (D) by inserting after subparagraph (Y)
 21 the following new subparagraph:

22 “(Z) in the case of hospitals that are not other-
 23 wise subject to the Occupational Safety and Health
 24 Act of 1970 (or a State occupational safety and
 25 health plan that is approved under 18(b) of such

Act) and skilled nursing facilities that are not otherwise subject to such Act (or such a State occupational safety and health plan), to comply with the Workplace Violence Prevention Standard (as promulgated under section 101 of the Workplace Violence Prevention for Health Care and Social Service Workers Act).”; and

(2) in subsection (b)(4)—

(A) in subparagraph (A), by inserting “and a hospital or skilled nursing facility that fails to comply with the requirement of subsection (a)(1)(Z) (relating to the Workplace Violence Prevention Standard)” after “Bloodborne Pathogens standard”; and

(B) in subparagraph (B)—

(i) by striking “(a)(1)(U)” and inserting “(a)(1)(V)”; and

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

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply beginning on the date that is
3 1 year after the date of issuance of the interim final stand-
4 ard on workplace violence prevention required under sec-
5 tion 101.

