

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**TITLE 8. CALIFORNIA CODE OF REGULATIONS**

New Section 3342, General Industry Safety Orders

[Workplace Violence Prevention in Health Care](#)

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on December 17, 2015, in the Auditorium of the State Resources Building at 1416 9th Street, Sacramento, CA 95814. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on October 30, 2015, and closes at 5:00 p.m. on December 17, 2015. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

- By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or
- By fax at (916) 274-5743; or
- By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code (LC) Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards. The proposed regulations implement, interpret, and make specific LC Section 6401.8.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT **OVERVIEW**

Pursuant to California Labor Code (LC) Section 142.3, the Board may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection.

In February 2014, two health care worker unions filed petitions requesting the Board to amend the General Industry Safety Orders by adopting a new standard to provide health care workers with specific protections against workplace violence. Richard Negri, Health and Safety Director, Service Employees International Union (SEIU) and Katherine Hughes, Liaison for SEIU Nurse Alliance of California, filed Petition 538 requesting the Board to adopt a new workplace violence prevention standard that would cover all workers employed in all health care settings. A similar petition, Petition 539, was submitted by Bonnie Castillo, Director of Governmental Relations for the California Nurses Association requesting the Board to adopt a new workplace violence prevention standard that would cover all health care workers employed by general acute care hospitals licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code (HSC) in all units, including inpatient and outpatient settings and clinics on the license of the hospital.

On June 19, 2014, the Board adopted a revised petition decision which granted Petitions 538 and 539 and requested the Division of Occupational Safety and Health (Division) to convene an advisory committee to develop a consensus rulemaking proposal addressing workplace violence protection standards for consideration by the public and the Board. In that decision, the Board stated that it determined that the necessity for improved workplace violence protection standards had been established.

In September 2014, the state legislature passed and the governor signed Senate Bill (SB) 1299, Workplace violence prevention plans: hospitals, which amended the LC by creating new Section 6401.8. LC Section 6401.8 requires the Board, no later than July 1, 2016, to adopt standards developed by the Division that require a hospital licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the HSC, except as exempted by subdivision (d) of LC Section 6401.8, to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior. Although LC Section 6401.8(d) provides an exemption for a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation, subsection (e) then states that LC Section 6401.8 does not limit the authority of the Board to adopt standards to protect employees exempted by subdivision (d). Subsection (e) goes on to state that the Board is not precluded from adopting plans to protect employees from workplace violence; or to adopt standards that require an employer subject to this section, or any other employer, to adopt a workplace violence prevention plan that includes elements or requirements additional to, or broader in scope than, those described in this section. The LC Section also requires that all workplace violence prevention plans be developed in conjunction with affected employees, including their

recognized collective bargaining agents, if any. It requires that all temporary personnel be oriented to the workplace violence prevention plan. It prohibits hospitals from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs. It requires that hospitals document, and retain for a period of five years, a written record of any violent incident against a hospital employee, regardless of whether the employee sustains an injury, and regardless of whether the report is made by the employee who is the subject of the violent incident or any other employee. It also requires that a hospital report violent incidents to the Division. If the incident results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel, the hospital shall report the incident to the Division within 24 hours. All other incidents of violence shall be reported to the Division within 72 hours.

The LC Section requires that by January 1, 2017, and annually thereafter, the Division, in a manner that protects patient and employee confidentiality, post a report on its Internet Web site containing information regarding violent incidents at hospitals, that includes, but is not limited to, the total number of reports, and which specific hospitals filed reports, the outcome of any related inspection or investigation, the citations levied against a hospital based on a violent incident, and recommendations of the Division on the prevention of violent incidents at hospitals.

The Division developed this proposal with the assistance of advisory stakeholders in order to ensure that the proposal provided sufficient protection for employees in these work settings and provided employers with sufficient flexibility to address these risks in the least burdensome manner.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

This proposed rulemaking action differs from existing federal regulations, in that federal OSHA does not have a specific counterpart standard for protecting employees against occupational exposure to workplace violence.

Anticipated Benefits

The proposed rulemaking will compel employers in health facilities and other settings to evaluate the circumstances within their operations that can be altered to curtail the incidence of violent acts committed against employees and patients. Employers will be required to assess the physical features of facilities that might be likely to have acts of violence, such as infrequently used staircases, and take mitigating actions to reduce the likelihood of their occurrence, such as limiting access to the stairwell. Employers will also adopt work practices that will be more

protective of employees and provide training that will improve the recognition of signs of violent behavior, and how to handle incidents based on the features of their operations. Employees will be involved in the evaluation and planning process so that they can provide their expertise based on experiences with violent behavior. Employers who interact by handing off violent patients will establish some form of communication to alert the transport and receiving institutions that the transferee may be violent. These requirements should reduce the number of serious injuries suffered by employees, and loss of life from violent acts, and in turn should reduce the fiscal losses due to work absence, staff replacement, workers' compensation, and possibly other legal costs.

The specific changes are as follows:

New Section 3342. Workplace Violence Prevention in Health Care.

Proposed subsection (a) establishes that the following health care facilities, service categories, and operations are required to comply with the provisions of this section: health facilities, as defined; outpatient medical offices and clinics; home health care and home-based hospice; paramedic and emergency medical services including these services when provided by firefighters and other emergency responders; field operations such as mobile clinics, dispensing operations, medical outreach services, and other off-site operations; drug treatment programs; and ancillary health care operations. The Board has determined these provisions will also apply to hospitals operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation, which are exempted by subdivision (d) of LC Section 6401.8. The intended effect is to identify the affected employers.

Subsection (b) of the proposed standard includes a number of definitions. The effect of these definitions is to establish the exact meanings for the terms as used within the context of the requirements of this section. They are necessary to clarify that the terms, as used, may have more specific meaning for workplace violence than they would in the more general usage.

Subsection (c) requires each employer covered by this section to establish, implement, and maintain an effective written workplace violence prevention plan (Plan) that is in effect at all times and is specific to the hazards and corrective measures for each unit, service, or operation. The intended effect is to require employers to have a Plan that allows employees on all shifts to access the written Plan when they need to. The subsection allows the written Plan to be incorporated into the hospital's written IIPP, or kept as a separate document. The effect of the subsection is to establish the basic elements that an employer would be responsible for addressing through its IIPP under Section 3203, as required by LC Section 6401.8. Since LC Section 6401.8 does not list detailed elements for the Plan, the proposal specifies appropriate elements that also apply to other health care settings.

Subsection (c)(1) requires that the names and/or the job titles of the individuals who are responsible for implementing the Plan are included. This intended effect is to identify the individuals who have the responsibility for administering the Plan for the unit, service or

operation so that other administrators and employees know who should be contacted if there are questions or difficulties with carrying out the Plan.

Subsection (c)(2) requires effective procedures for the active involvement of employees and their representatives in the development, implementation and review of the Plan, including participation in the identification, evaluation and correction of workplace violence hazards, design and implementation of training, and the reporting and investigation of workplace violence incidents. This subsection also requires the involvement of security personnel who are employees of the facility, or representatives of employers who provide security services to the employer. The intended effect is to assure that affected employees provide valuable input from their experiences and observations in the development and implementation of the Plan.

Subsection (c)(3) requires employers to include in the Plan their methods for coordinating the implementation of the Plan with other employers who have employees working in the health care facility, service or operation, to ensure that those employers and employees have a role in implementing the Plan. This includes how employees of other employers and temporary employees will be provided with the training required by subsection (f), and procedures for reporting, investigating, and recording of workplace violence incidents. The intended effect is to permit all employees working at a facility, service or operation to follow the individual employer's Plan.

Subsection (c)(4) requires the employer's Plan to have provisions prohibiting employers from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs. It also requires the employer to include in the Plan effective procedures to accept and respond to reports of workplace violence, including Type 3 violence, and to prohibit retaliation against an employee who makes such a report. The intended effect is to provide assurance that employees will be able to utilize these critical provisions.

Subsection (c)(5) requires having a process for assuring that all employees and supervisory personnel adhere to the requirements of the Plan. The intended effect is to have all personnel follow the procedures selected for the facility, service or operation.

Subsection (c)(6) requires the employer to have procedures for communicating workplace violence matters. The intended effect is to assure that several requirements involving communicating critical information have specific procedures for employees to follow. These include: how employees will document and communicate to other employees and between shifts and units information regarding conditions that may increase the potential for workplace violence incidents; how an employee can report a violent incident, threat, or other workplace violence concern; how employees can communicate workplace violence concerns without fear of reprisal; how employee concerns will be investigated, and how employees will be informed of the results of the investigation and any corrective actions to be taken. This is also intended to assure consistency with LC Section 6401.8(b)(6) which prohibits hospitals from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

Subsection (c)(7) requires the employer to have procedures for developing and providing training in accordance with subsection (f). The intended effect of this is to have the employer establish appropriate training and content and explain how employees and their representatives may participate in the development and delivery of the training.

Subsection (c)(8) is intended to establish that health facilities and operations are required to have procedures to assess environmental and community based risk factors posing a risk of violence to their employees.

Subsection (c)(8)(A) requires employers in fixed workplaces to have procedures to identify and evaluate environmental risk factors in each unit and area of the establishment, including areas surrounding the facility such as employee parking areas and other outdoor areas. The intended effect is for employers to assess risk factors such as: employees working in locations isolated from other employees (including employees engaging in patient contact activities) because of being assigned to work alone or in remote locations, during night or early morning hours, or where an assailant could prevent entry into the work area by responders or other employees; poor illumination or blocked visibility or where employees or possible assailants may be present; lack of physical barriers between employees and persons at risk of committing workplace violence; lack of effective escape routes; obstacles and impediments to accessing alarm systems; locations within the facility where alarm systems are not operational; entryways where unauthorized entrance may occur, such as doors designated for staff entrance or emergency exits; presence of furnishings or any objects that can be used as weapons in the areas where patient contact activities are performed; and storage of high-value items, currency, or pharmaceuticals.

Subsection (c)(8)(B) requires employers conducting field operations such as mobile clinics and dispensing operations, medical outreach services, and other off-site operations to have procedures to identify and evaluate environmental risk factors for each site at which services will be provided, including the factors listed in subsection (c)(8)(A). This also includes establishing procedures for communication with any dispatching authority to determine the nature of any risk factors present at the scene, and to ensure appropriate assistance is provided by cooperating agencies. The intended effect is to assure that a risk assessment of a service area is made and an appropriate contingency plan is provided, and that appropriate communication of hazards or violent incidents can be made.

Subsection (c)(8)(C) requires home health care and home-based hospice employers to have procedures implemented to identify and evaluate environmental risk factors in the home where care will be provided. The intended effect is to identify potential problems such as the presence of weapons, evidence of substance abuse, the presence of uncooperative cohabitants, during intake procedures, and at the time of the initial visit, and during subsequent visits whenever there is a change in conditions, in order to take appropriate precautions.

Subsection (c)(8)(D) requires paramedic and other emergency medical service providers to have procedures for communication with any dispatching authority to determine the nature of any risk factors present at the scene, and to ensure appropriate assistance can be provided by cooperating agencies. The intended effect is to assure that a risk assessment of a service area is made and an appropriate contingency plan is provided, and that appropriate communication of hazards or

violent incidents can be made.

Subsection (c)(8)(E) requires ancillary health care operations to have procedures to identify and evaluate environmental risk factors, including the factors listed in subsection (c)(8)(A), for the area in which the health care operation is located, as well as other areas of the host establishment that may contribute to workplace violence hazards. The intended effect is to have employers evaluate risk factors in the area where an operation will be located, such as the accessibility of a location within a retail establishment by individuals with criminal intent, and take appropriate precautionary measures.

Subsection (c)(9) requires the employer to have procedures to identify and evaluate patient-specific workplace violence risk factors by utilizing assessment tools, decision trees, algorithms or other effective means to identify situations in which patient-specific Type 2 violence is more likely to occur. It also requires procedures to assess visitors or other persons who may pose a risk of committing Type 1 workplace violence or display disruptive behavior. The intended effect is to allow employees to identify potential violence by evaluating the following factors: the patient's mental status, including conditions which may cause the patient to be non-responsive to instruction, act or behave unpredictably, disruptively, uncooperatively, or aggressively; the patient's treatment and medication status, type, and dosage, as is known to the health facility and employees; the patient's history of violence, as is known to the health facility and employees; and any disruptive or threatening behavior displayed by the patient or others.

Subsection (c)(10) requires the employer to have procedures for correcting hazards related to workplace violence in a timely manner in accordance with Section 3203(a)(6). The subsection requires the employer to take measures that include engineering and work practice controls to the extent feasible; to protect employees from imminent hazards immediately; to take measures to protect employees from identified serious hazards within seven days of the discovery of the hazard; and to take interim measures to abate the imminent or serious nature of the hazard while completing the permanent control measures when an identified corrective measure cannot be implemented within this timeframe. The intended effect is for employers to implement corrective measures in a timely manner and to adopt corrective measures that include the following:

- A) Having procedures to ensure that sufficient numbers of staff are trained and available to prevent and immediately respond to workplace violence incidents for each shift.
- B) Providing line of sight or other immediate communication in all areas in which patients or members of the public may be present.
- C) Configuring spaces so that employee access to doors and alarm systems cannot be impeded by a patient, other persons, or obstacles.
- D) Securing furnishings and other objects that may be used as improvised weapons in areas where patients who have been identified as having a potential for workplace Type 2 violence are reasonably anticipated to be present.
- E) Having a security plan that includes monitoring and controlling public entrances to prevent the transport of unauthorized firearms and other weapons into the facility in areas in which patients or visitors are reasonably anticipated to possess firearms or other weapons.
- F) Maintaining sufficient staffing, including security personnel, to implement the Plan at all times, including maintaining order in the facility, and responding to workplace violence incidents in a timely manner.

- G) Providing an alarm system, or other effective means, for employees to summon security and other aid to defuse or respond to an actual or potential workplace violence emergency.
- H) Having an effective means by which employees can be alerted to the presence of a security threat, including providing information on the location and nature of the threat.
- I) Having an effective response plan for actual or potential workplace violence emergencies, including the employees designated to respond, the role of facility security and how the assistance of law enforcement agencies will be obtained. Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm.
- J) Assigning or placing minimum numbers of staff to reduce patient-specific Type 2 workplace violence hazards.

Subsection (c)(11) requires the employer to have procedures for post-incident response and workplace violence injury investigation. The intended effect is to ensure that incidents of violence are investigated and appropriate steps are taken to address employee injuries and trauma. The investigation is intended to assess the need for implementing corrective measures by evaluating information about the incident that includes: procedures for providing immediate medical care or first aid to employees who have been injured in the incident; identification of all employees involved in the incident; a procedure for providing individual trauma counseling to all employees affected by the incident; a post-incident debriefing as soon as possible after the incident to include all employees and supervisors and security involved in the incident; review of any patient-specific risk factors, and any risk reduction measures that were specified for that patient; review of whether appropriate corrective measures developed under the Plan – such as adequate staffing, provision and use of alarms or other means of summoning assistance, and response by staff or law enforcement – were effectively implemented; solicitation from the injured employee and other personnel involved in the incident of their opinions regarding the cause of the incident, and whether any measure would have prevented the injury.

Subsection (d) requires that a detailed set of information be recorded in a Violent Incident Log by the employer about the circumstances such as where and when the incident occurred, the employees who were involved, the nature of the attack, if a weapon was used, if the incident involved harassment or other intimidating behavior, sexual in nature, or involved an animal. The Log is to also describe consequences of the incident such as if medical treatment was provided to the employee, how much time the employee(s) took off for recovery, if any, how the incident was concluded, if security or other personnel were summoned and assisted, if there was a continuing threat to the employee(s), and contact information for the person who completed the report. Some of the information in the Log may be used by hospitals to report incidents to the Division as required by subsection (g). The intended effect is to provide a basic set of information that all affected employers can utilize for recording violent incidents so that the information collected can be evaluated uniformly.

Subsection (e) requires the employer to have procedures for an annual review of the Plan, including procedures for the active involvement of employees in the review of the effectiveness of the Plan in their work areas, services or operations. The review is to assess staffing, such as staffing patterns insufficient to address the risk of violence; sufficiency of security systems, including alarms, emergency response, and security personnel availability; job design,

equipment, and facilities; and security risks associated with specific units. The intended effect is that problems found during the review of the Plan will be corrected in accordance with subsection (c)(10).

Subsection (f) requires the employer to provide effective training to all employees in the facility, unit, service or operation, including temporary employees and that the training address the workplace violence hazards identified in the facility, unit, service or operation, the corrective measures the employer has implemented, and the activities the employee is reasonably anticipated to perform under the Plan. This is intended to assure that all employees within a given facility or mobile operation recognize when emergency situations are announced, and know what they should do in response. The subsection also requires the participation of employees and their representatives in the creation of training curriculum and training materials, conduct of training sessions, and the review and revision of the training program. This is intended to have employers utilize knowledge of the employees who are familiar with the specific hazards that they typically confront, to develop effective training. With the intent of providing effective training, the training content must be appropriate for the employees in terms of the educational level, literacy and language of the trainees. The details of the training are as follows:

Subsection (f)(1) requires initial training to be provided when the Plan is first established, to all new employees, and to all employees given new job assignments for which training has not previously been received. This is consistent with Section 3203(a)(7). The intended effect is to assure that an employee understands the Plan and knows how to recognize potential for violence, and when and how to seek assistance to prevent or respond to violence. Subsection (f)(1) also requires an employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, to arrange for those personnel to participate in the workplace violence training provided to employees including the opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan. The intended effect of this is to have the training that is provided for the health care workers to be integrated with the instruction and planning that is given to security personnel so that their roles in response to violent incidents is clearly defined and understood by all the affected personnel.

Subsection (f)(1)(A) establishes the content of the initial training for employees in facilities, services and operations covered by the standard. The content is consistent with LC Section 6401.8(b). It requires the training to include at least the following elements that are applicable to the employee's assignment:

Subsection (f)(1)(A)1 requires an explanation of the employer's Plan, including the employer's hazard identification and evaluation procedures, general and personal safety measures the employer has implemented, how the employee can communicate concerns about workplace violence without fear of reprisal, and how the employee can participate in the review and revision of the Plan. The intent of this is to be consistent with LC Section 6401.8. The subsection also requires an explanation of the employer's Plan to address incidents of workplace violence, and how such incidents will be reported without fear of retaliation.

Subsection (f)(1)(A)2 requires instruction on how to recognize potential for violence, factors contributing to the escalation of violence and how to counteract them, and when and how to seek assistance to prevent or respond to violence. This is intended to enable employees to recognize the risk factors and know how to seek assistance to prevent or respond to workplace violence and is consistent with LC Section 6401.8.

Subsection (f)(1)(A)3 requires instruction on strategies to avoid physical harm. This is intended to teach employees techniques and precautions that should be taken to protect themselves and others around them.

Subsection (f)(1)(A)4 requires instruction on how to report violent incidents to law enforcement. The intended effect of this is to have employers instruct employees about the procedures for filing criminal complaints with law enforcement against perpetrators when circumstances warrant and is consistent with LC Section 6401.8.

Subsection (f)(1)(A)5 requires instruction on any resources available to employees for coping with incidents of violence, including, but not limited to, critical incident stress debriefing and employee assistance programs. This is intended to inform employees what resources are available to them from their employers and is consistent with LC Section 6401.8 as to the content provided to hospital employees.

Subsection (f)(1)(A)6 requires the employer to include in the training session an opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan. The intended effect is to assure that employees can ask for clarifications about the training content before it is forgotten. For hospital employees, this is also consistent with LC Section 6401.8.

Subsection (f)(1)(B) requires employers to provide additional training when new equipment or work practices are introduced, or when a new, or previously unrecognized workplace violence hazard has been identified. This is intended to assure that employees can safely use new equipment and perform new work practices. The subsection allows the additional training to be limited to addressing the new equipment or work practices in order to minimize the disruption and cost to the employers. This is also necessary to be consistent with Section 3203(a)(7).

Subsection (f)(2) requires a refresher training to be conducted at least annually for employees performing patient contact activities and their supervisors. The intended effect is to assure that these employees maintain their knowledge of the procedures that are to be followed in their respective facility, unit, service or operation as well as how to use the equipment and assure it is properly maintained. This also enables the results of periodic reviews of the Plan to be presented especially when changes to the Plan have been made to correct problems or improve procedures.

Subsection (f)(3) establishes additional training requirements for health facilities for all employees who are assigned to respond to alarms or other notifications of violent incidents or whose assignments involve confronting or controlling persons exhibiting aggressive or violent behavior. The training is to be provided prior to initial assignment, and at least annually thereafter. The training is required to include very specific topics that enable these personnel to

be prepared to take appropriate actions to defuse the intensity of the situation or to use procedures that will minimize the likelihood of injury to employees and the patient, or other person who has become violent. These employees are to have an opportunity to practice the maneuvers and techniques included in the training with other employees they will work with, and to debrief the practice session. Problems found shall be corrected. The intended effect is to provide employees with the highest likelihood of confronting violent situations with the training that will enable them to reduce the likelihood of injury.

Subsection (f)(4) requires employers to ensure that all personnel present in health care facilities, services and operations have been trained on the employer's Plan, and what to do in the case of an alarm or other notification of emergency. Non-employee personnel who are reasonably anticipated to participate in implementation of the Plan shall be provided with the training required for the specific assignment. The intended effect is to assure that all employees in a facility are familiar with the significance of an alarm that warns of threats, such as the "active shooter" scenario in which a person is in the facility shooting a firearm at any personnel, and how to react in the safest way possible according to response plans developed by the employer.

Subsection (g)(1) establishes requirements for general acute care hospitals, acute psychiatric hospitals, and special hospitals to report each reportable violent incident (as defined) to the Division. The intent of this is to be consistent with LC Section 6401.8.

Subsection (g)(2) requires that each general acute care hospital, acute psychiatric hospital, and special hospital make a report to the Division within 24 hours, after the employer knows or with diligent inquiry would have known of the incident, if the incident resulted in an injury, or involves the use of a firearm or other dangerous weapon including the use of common objects as weapons, or presents an urgent or emergent threat to the welfare, health or safety of hospital personnel. This is intended to be consistent with LC Section 6401.8.

Subsection (g)(3) requires that other reportable incidents of workplace violence be reported to the Division within 72 hours. This is intended to be consistent with the legislative intent of SB 1299. These reporting provisions, however, will also apply to hospitals operated by the State Department of State Hospitals, the State Department of Developmental Services, and the Department of Corrections and Rehabilitation, which are exempted by LC Section 6401.8(d).

Subsection (g)(4) is intended to have the reports include as a minimum the following items:

- A. Hospital name, site address, hospital representative, phone number and email address, and the name, representative name, and contact information for any other employer of employees affected by the incident.
- B. Date, time and specific location of the incident.
- C. A brief description of the incident.
- D. The number of employees injured and the types of injuries sustained.
- E. Whether security or law enforcement were contacted, and what agencies responded.
- F. Whether there is a continuing threat, and the measures being taken to protect employees.
- G. A unique incident identifier.
- H. Whether this was also reported to the nearest Division District Office per the requirements of Section 342.

I. The report shall not include any employee or patient names. Employee names shall be furnished upon request to the Division.

The Note to subsection (g)(4)(H) establishes that this report does not relieve the employer of the requirements of Section 342, to report a serious injury, illness, or death to the nearest Division District Office. This is intended to clarify that if employers report a reportable violent incident as required by subsection (g), they are still responsible for a separate and immediate report by telephone to the nearest Division District Office as soon as practically possible but not longer than eight hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. This is intended to clarify that the new requirements do not supersede the existing requirements of Section 342.

Subsection (g)(5) requires that the employer provide supplemental information to the Division regarding the incident within four hours of a request from the Division. This is intended to allow the Division to access additional information for further investigation of a violent incident.

Subsection (g)(6) requires that the report be provided by accessing the Division's online mechanism created for this process. This is intended to clarify that employers will use an online report format furnished on the Division's website.

Subsection (h) establishes the records that are to be created and maintained for the purposes of this Standard. The intended effect is that the employer will develop and maintain the following records:

Subsection (h)(1) establishes that records of workplace violence hazard identification, evaluation, and correction shall be created and maintained in accordance with Section 3203(b) except that the Exception to (b)(1) in Section 3203 does not apply. The intended effect is that employers with fewer than 10 employees will not have the option to maintain the inspection records only until the hazard is corrected or to document training by maintaining a log of instructions provided to the employee with respect to the hazards unique to the employees' job assignment when first hired or assigned new duties.

Subsection (h)(2) requires employers to have records of the training established in subsection (f). The intended effect is to ensure that employees have received the training required by this section and to be consistent with Section 3203(b)(2) except that the Exception No. 1 does not apply. The subsection requires that the records are to include the following information: training dates; contents or a summary of the training sessions; names and qualifications of persons conducting the training; and names and job titles of all persons attending the training sessions. The subsection also establishes that these records are to be maintained for a minimum of one year to assure that the administrative personnel overseeing the training process can identify the personnel who require training over time and comply with the refresher training requirement. This process is intended to be consistent with similar regulations that require recordkeeping so that they can be handled in a similar and familiar fashion.

Subsection (h)(3) establishes that records of violent incidents, including but not limited to, the Violent Incident Report, the reports required by subsection (g), and workplace violence injury

investigations be conducted in accordance with subsection (c)(11). It also requires that these records be maintained for a minimum of five years and not contain “medical information” as defined by Civil Code Section 56.05(g). This is intended to ensure that employers and employees can review injury investigations without compromising medical confidentiality.

Subsection (h)(4) requires that the records required by this subsection are to be made available to the Chief or his or her representatives for examination and copying. This is consistent with Section 3204 and numerous other Sections in Title 8 and is intended to allow the Division to determine if an employer is complying with the requirements of this section.

Subsection (h)(5) requires the records required by this subsection are to be made available to employees and their representatives for examination and copying as employee exposure records in accordance with Section 3204(e)(1). This is intended to be consistent with Section 3204 and LC Section 6408.

Subsection (h)(6) is necessary to inform employers that occupational injury and illness occurrences may require separate records that are required by Title 8, Division 1, Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records. These include the Cal/OSHA Form 300, Log of Work Related Injuries and Illnesses; the Cal/OSHA Form 300A, Summary of Work-Related Injuries and Illnesses; the Cal/OSHA Form 301, Injury and Illness Incident Report; or equivalent forms, as well as the Form 5020, Employer's Report of Occupational Injury or Illness Form; and Form 5021, Rev. 4, Doctor's First Report of Occupational Injury or Illness. The intended effect is to clarify that these are all separate records that have different protocols for completing and retaining.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts: None.

Cost or Savings to State Agencies: These costs should not exceed \$25,700. See the Cost Impacts section below for a breakdown of these total costs on state agencies.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: These costs should not exceed \$51,600. See the Cost Impacts section below for a breakdown of these total costs on local agencies.

Cost or Savings in Federal Funding to the State: None.

Cost Impacts on a Representative Private Person Or Business: The Board has identified the following components of the proposed regulation that may result in additional costs or savings to some employers.

Implementation of subsections (c) and (e): Workplace violence prevention plan; Annual review of the workplace violence prevention plan

These subsections are not expected to impose any significant additional costs because these programs should already be in place for all employers as required by Section 3203, Injury and Illness Prevention Program. Further, hospitals specified in LC Section 6401.8 should already have a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior. Similarly, hospitals should have established a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior per HSC, Section 1257.7. However, for additional health care facilities, service categories and operations other than general acute care hospitals, acute psychiatric hospitals and special hospitals covered by LC Section 6401.8 and HSC Section 1257.7, there may be some minor costs involved in ensuring that the existing facility program meets the specific requirements in this section. One-time costs relating to review and updating of existing plans to ensure compliance with the specific requirements of this subsection are not anticipated to exceed four hours of administrative time, estimated at approximately \$200 per facility. With approximately 7,268 facilities falling into this category, the total one-time cost for this subsection is estimated not to exceed \$1,453,600. Of these facilities, 56 are State facilities (\$11,200) and 66 are local facilities (\$13,200). For State facilities, this should be a high estimate since Welfare and Institutions Code (WIC) 4141 already requires state hospitals to update its injury and illness prevention plan at least once a year to include necessary safeguards to prevent workplace safety hazards in connection with workplace violence associated with patient assaults on employees to address: control of physical access throughout the hospital and grounds; alarm systems; presence of security personnel; training; buddy systems; communication; and emergency responses; therefore this subsection does not impose new requirements.

Implementation of subsection (d): Violent incident log

Based on California Department of Public Health Licensing Data, there are currently approximately 7,825 health care establishments licensed in California that will be newly required to maintain logs of workplace violence incidents. A similar regulation requiring employers in the health care industries to develop and maintain a log of needle stick and sharps incidents was promulgated in 2001. The Division, based on data obtained from Federal Register, Vol. 66, No. 12, Thursday, January 18, 2001, estimated an annual cost of \$67.00 per establishment. Adjusted for an average annual inflation rate of 2.3% per year, the adjusted annual cost would be \$89.38. With approximately 7,825 establishments, the total annual cost of this subsection is estimated not to exceed \$699,400. Of these facilities, 79 are State facilities (\$7,100), and 145 are Local Government facilities (\$13,000). For state facilities, this should be a high estimate since the data for the records would have already been obtained per the WC 4141 requirement that data obtained from the incident reporting procedures be accessible to staff and that incident reports also be forwarded to the injury and illness prevention committee.

Implementation of subsection (f): Training.

The Board has determined that the training requirements do not impose significant additional costs because most of the required training elements are currently required as part of the Injury and Illness Prevention Plan, and may also be required under California Code of Regulations, Titles 15, 17, or 22 for the specific type of employer, as well as LC Section 6401.8 and HSC Section 1257.8 for covered hospitals.

Implementation of subsection (g): Reporting requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals.

There are approximately 557 general acute care hospitals, acute psychiatric hospitals, and special hospitals that will be newly required to report certain workplace violence incidents to the Division. Similar rulemaking for reporting serious injuries was recently promulgated by OSHA. Federal Register, Vol 79, No. 181, Thursday, September 18, 2014, used the following calculation. Estimated number of incidents (14.2/year/facility per CDC MMWR dated 4/24/2015) X the estimated time per report (0.5 hours) X the hourly compensation of a record-keeper (\$45.12) yields an estimated annual cost per facility of \$320.35. The total annual cost for this subsection is estimated not to exceed \$178,500. Of these facilities, 23 are State facilities (\$7,400), and 79 are local government (\$25,400). LC Section 6401.8 specifically requires hospitals licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the HSC, to report violent incidents to the Division; therefore this subsection does not impose new requirements for the majority of these hospitals. This requirement has been expanded by the Board to include hospitals operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation, which are exempted by LC Section 6401.8(d); For state facilities, this should be a high estimate since WIC Section 4141 requires each state hospital to develop an incident reporting procedure that can be used to develop reports of patient assaults on employees and assist the hospital in identifying risks of patient assaults on employees, and to provide hospital management with immediate notification of reported incidents; and that the hospital provide for timely and efficient responses and investigations to incident reports made under the incident reporting procedure.

Implementation of subsection (h): Recordkeeping.

The Division has determined that the recordkeeping requirements of this section do not impose significant costs to employers because the records that would be required are for the most part required under current standards. Subsections (h)(1) and (h)(2) would require the employer to create and maintain records of workplace violence hazard identification, evaluation and correction and training records. These records are currently required under Section 3203.

The availability of records required by subsections (h)(4) and (h)(5) is consistent with other sections, including Sections 3204 and 3203, and does not impose any additional costs.

This proposed standard establishes more detailed language to clarify the more general requirements of SB 1299, and is consistent with existing requirements in CCR T8 GISO Section 3203, and Section 342, as well as requirements in HSC Sections 1250 and 1257.7. Other than that mentioned above, the proposed regulation does not create requirements that were not established by the legislation, and does not impose costs beyond what have been created by the legislation itself.

Total costs for implementation of this regulation are estimated not to exceed \$1,453,600 initially, with an estimated \$877,900 annual cost thereafter. For State Government these costs should not exceed \$11,200 initially, and \$14,500 annually. For local government these costs should not exceed \$13,200 initially, and \$38,400 annually.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses To Compete: The Board has made an initial determination that this proposal should not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The Division does not anticipate that there would be sufficient fiscal impact to reduce the number of health practices in the state since residents are unlikely to seek medical care out of state in sufficient numbers to have an impact, or to create new industries to address requirements created by the proposal. The proposal also does not mandate new construction or extensive remodeling. Increasing or decreasing the existing workforce should not be an outcome of the requirements.

Significant Affect on Housing Costs: None.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses. Small businesses such as a small medical practice may identify specific security needs based on past experiences with violence or their initial assessment which could include implementing some engineering controls. Addressing problems in this manner is already required by Section 3203. The proposed regulation provides the employer with a range of options of specific safeguards for security issues. These costs would be offset by reduced indemnification, crime prevention, and fewer workers' compensation claims. Recordkeeping costs for the violent incident logs would be incurred only for employers who have violent incidents occur each year.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses. The Division does not anticipate that there would be sufficient fiscal impact to reduce the number of health practices in the state, or to create new industries to address requirements created by the proposal. The proposal also does not mandate new construction or extensive remodeling. Increasing or decreasing the existing workforce should not be an outcome of the requirements

BENEFITS OF THE PROPOSED ACTION

This proposal should reduce the number of fatalities and injuries suffered by health care workers and other employees who work in health care facilities, services or operations with the implementation of a workplace violence prevention plan, training, recording and reporting of violent incidents to the Division. Consequently the number of workers' compensation claims against hospitals and other health care employers should also decrease. LC Section 6401.8 (SB 1299) requires specified types of hospitals, including a general acute care hospital or an acute psychiatric hospital, to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior. This proposal creates an enforceable regulation that provides clear guidance to employers and employees regarding how to implement this law.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) or the back-up contact person Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulation available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, and supporting documents. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its website. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.