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INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: New Section 3342 of the General Industry Safety Orders

Workplace Violence Prevention in Health Care

SUMMARY

Pursuant to California Labor Code (LC) Section 142.3, the Occupational Safety and Health Standards Board (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 (CNA)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.

SEIU proposes the adoption of a new standard to reduce the risk of exposure of health care workers to workplace violence as defined by the Federal Occupational Safety and Health Administration (OSHA). The petition cites the deaths in October 2010, of a psychiatric technician strangled by a patient at Napa State Hospital, and a Registered Nurse working at the Contra Costa County jail in Martinez as a result of an inmate assault, as having raised the visibility of the issue of workplace violence as a serious hazard for health care workers. The deaths of theses health care workers demonstrate the need for better security measures, procedures, and practices. SEIU cites information that is found within the contents of the OSHA Workplace Violence website that provides resources and information on the subject of workplace violence. The petition references the OSHA Directive on Workplace Violence, which identifies health care and social service settings as being a high-risk industry for workplace violence. The document states that this includes workers who provide health care and social services in

psychiatric facilities, hospital emergency departments, community mental health clinics, drug abuse treatment clinics, pharmacies, community-care facilities, residential facilities and long-term care facilities. Workers in these fields include physicians, registered nurses, pharmacists, nurse practitioners, physicians' assistants, nurses' aides, therapists, technicians, public health nurses, home health care workers, social and welfare workers, security personnel, maintenance personnel and emergency medical care personnel. The petitioner references OSHA's definition of workplace violence as "any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide."

In Petition 539, CNA states that violence in health care settings has been an area of concern for them for many years, presenting a serious occupational hazard for registered nurses and other health care workers. Acts of assault, battery and aggression routinely occur in health care settings and demonstrate the increasing violence faced by health care workers in California and throughout the country. The petitioner states that U.S. Bureau of Labor Statistics data indicates that a worker in health care and social assistance is nearly five times more likely to be the victim of a nonfatal assault or violent act by another person than the average worker in all other major industries combined, and in 2011, the incidence rate of violence and other injuries by persons in the private health and social assistance sector was more than triple the overall rate for all of private industry. ("Non fatal Occupational Injuries and Illnesses Requiring Days Away From Work, 2011" U.S. Bureau of Labor Statistics, November 8, 2012 (http://www.bls.gov/news.release/osh2.toc.htm)). The petitioner also cites a report from the National Institute for Occupational Safety and Health (NIOSH) from 2002, "Violence: Occupational Hazards in Hospitals" that states that violence may occur anywhere in the hospital, but is most frequent in psychiatric wards, emergency rooms, waiting rooms, and geriatric units. NIOSH recommended training for all workers to recognize and manage assaults, resolve conflicts, and maintain hazard awareness. The petitioner proposes a definition of workplace violence or violent incident that includes “the use of physical force against a hospital employee by a patient or person accompanying a patient resulting or having a high likelihood of resulting in injury, psychological trauma, or stress, regardless of whether the employee sustains an injury, and an incident involving the use of a firearm or other dangerous weapon regardless of whether the employee sustains an injury.” The petitioner has sponsored several legislative reforms to address the overall and specific problems that exist in hospital security programs.

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.

From September 2014, through April 2015, the Division held five advisory committee meetings to determine what should be included in a workplace violence standard – how workplace violence is defined, what types of workplaces should be included, and how the issue of workplace violence can be addressed in the many health care environments. One of the advisory

committee meetings was held November 2014, to discuss, at the Board's request, the role of employers in relationship to the role of law enforcement in protecting health care workers. Later that month, a meeting was held to address workplace violence hazards and prevention in non-hospital health care facilities, services and operations including long-term care facilities, clinics and mental health centers, home health and other health care field services, emergency medical and other health operations that are not in hospitals.

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, which took effect on September 29, 2014.

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), to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan (IIPP) to protect health care workers and other facility personnel from aggressive and violent behavior.

The section requires the workplace violence prevention plan include, but not be limited to: personnel education and training policies that require all health care workers who provide direct care to patients to, at least annually, receive education and training that is designed to provide an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan; a system for responding to, and investigating violent incidents and situations involving violence or the risk of violence; and a system to, at least annually, assess and improve upon factors that may contribute to, or help prevent workplace violence.

The 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 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.

Although LC Section 6401.8 does not apply to a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation, this section does not limit the authority of the Standards Board to adopt standards to protect employees from workplace violence; to adopt standards that require other employers, including, but not limited to, employers exempted from this section by subdivision (d), to adopt 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.

Regulations, Laws, and Other Standards

Existing Title 8 Regulations

- Section 342(a) requires all employers to immediately report to the local district office of the Division any serious injury or illness. This excludes Penal Code violations.
- Section 3203 IIPP requires employers to identify and evaluate workplace hazards, to investigate occupational injuries and illnesses, to implement corrective measures in a timely manner, to provide employee and supervisor training, to develop a system for ensuring compliance with workplace health and safety measures, and to establish a system of communication with employees regarding safety and health matters.
- Section 3220 Emergency Action Plan establishes general requirements for the elements that need to be in an emergency action plan.
- Section 6184 Employee Alarm Systems establishes general requirements for maintaining alarm systems.
- Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records (Sections 14300 et seq) requires employers to record workplace injuries and illnesses and file reports with the Department of Industrial Relations.

Labor Code

LC Section 6332, adopted in 2000 (SB 1272), and amended in 2012 (SB 1038, Chapter 46 section 107), requires every employer of health care workers who provide health care related services to clients in home settings to keep a record of any violence committed against such a worker and file a copy of the report with the Department of Industrial Relations.

Health and Safety Code

HSC Section 1257.7 requires certain hospitals to establish a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. This section requires that covered hospitals perform a security and safety assessment that examines trends of aggressive or violent behavior at the facility. As amended in 2009, this section requires hospitals to track incidents of aggressive or violent behavior as part of the quality assessment and improvement program and for the purposes of developing a security plan to deter and manage

further aggressive or violent acts of a similar nature. The plan is required to include security considerations relating to all of the following: (1) Physical layout, (2) Staffing, (3) Security personnel availability, (4) Policy and training related to appropriate responses to violent acts, and (5) Efforts to cooperate with local law enforcement regarding violent acts in the facility. Covered hospitals are required to have sufficient personnel to provide security pursuant to the security plan. Persons regularly assigned to provide security in a hospital setting are to be trained regarding the role of security in hospital operations, including the identification of aggressive and violent predicting factors and management of violent disturbances. Any act of assault that results in injury or involves the use of a firearm or other dangerous weapon, against any on-duty hospital personnel is to be reported to the local law enforcement agency within 72 hours of the incident. This requirement of the 2009 amendments have been addressed by the California Department of Public Health Center of Health Care Quality by directive in an All Facilities Letter, AFL 09-49 addressed to all California general acute care hospitals, acute psychiatric care hospitals, and special hospitals dated November 19, 2009.

HSC Section 1257.8 establishes training requirements for emergency department personnel and personnel of other departments covered by the safety and security plan, for hospitals covered by HSC Section 1257.7. The AFL and HSC 1257.7 and 1257.8 are consistent with guidelines published by the Joint Commission on Accreditation of Healthcare Organizations.

Welfare and Institutions Code

In 2012, Section 4141 was added to the Welfare and Institutions Code (WIC) to address employee safety in California's state mental hospitals. The law requires the state hospitals to update their injury and illness prevention programs at least annually. The programs are required to address the following: control of physical access throughout the hospital and grounds, alarm systems, presence of security personnel, training, buddy systems, and communication and emergency response. In addition, the state hospitals are required to establish injury and illness prevention committees comprised of management and non-management personnel, and to establish an incident reporting procedure.

Federal OSHA Regulations and Other Standards

There is no OSHA regulation that specifically applies to workplace violence. However, the agency does have a compliance directive OSHA, (2011), "OSHA Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents, CPL 02-01-052, 09/08/2011," https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-052.pdf. This instruction establishes OSHA general enforcement policies and procedures for field offices to apply when conducting inspections related to workplace violence. The instruction highlights the steps that should be taken in reviewing incidents of workplace violence when considering whether to initiate an inspection in industries that OSHA has identified as susceptible to this hazard. The instruction is meant to provide guidance on both how an OSHA workplace violence case is developed and which steps Area Offices should take to assist employers in addressing the issue of workplace violence.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This regulatory proposal is intended to improve and provide worker safety in general acute care hospitals, acute psychiatric hospitals, and special hospitals in California. Additionally, certain provisions will apply to a broader set of health care facilities, service categories, and operations:

(A) Health facilities (which includes general acute care hospitals, acute psychiatric hospitals, special hospitals, and other types of facilities).
(B) Outpatient medical offices and clinics.
(C) Home health care and home-based hospice.
(D) Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders.
(E) Field operations such as mobile clinics and dispensing operations, medical outreach services, and other off-site operations.
(F) Drug treatment programs.
(G) Ancillary health care operations.

This proposed rulemaking action:

- Is based on the following authority and reference: LC Section 142.3, which states, at subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that federal OSHA does not have a specific counterpart standard for workplace violence prevention in health care.
- 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 the requirement of the federal government and the LC to the effect that the State regulations be at least as effective as their federal counterparts and the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- The proposal will enhance the safety of employees and patients with the implementation of a workplace violence prevention plan, and is the least burdensome alternative for achieving compliance with LC Section 6401.8.

The purpose and factual basis of the standard proposed to be adopted as a permanent rule are outlined below:

New Section 3342. Workplace Violence Prevention in Health Care.

Subsection (a) Scope and Application.

Proposed subsection (a) establishes that 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, are required to comply with the provisions of this section.

Hospitals licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the HSC, are required to comply with reporting provisions of this section. The reporting requirements are consistent with SB 1299, Workplace violence prevention plans: hospitals. The Board has the authority to require other employers, including, but not limited to, employers exempted from this section by subdivision (d) of SB 1299, to adopt plans to protect employees from workplace violence. Therefore, the Board has determined these reporting provisions 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 subdivision (d).

Subsection (b) Definitions.
The following definitions are proposed for new Section 3342. 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.

Acute psychiatric hospital is defined to distinguish the establishments within the scope of the proposed standard from other health care facilities. Within the proposed standard, these are defined as a hospital as licensed by the California Department of Public Health in accordance with Title 22 of the California Code of Regulations. This is necessary to be consistent with the legislative intent of SB 1299 and with Title 22.

Alarm is defined to establish that the devices that are acceptable in the context of the standard must alert others without relying on an employee's vocalization. This is necessary to distinguish devices used for the purpose of workplace violence security measures from other devices that have not been designed or intended to assist employees with summoning aid to defuse or respond to an actual or potential workplace violence emergency. The benefit of this is to better identify effective safeguards.

Ancillary health care operation is defined as a health care operation located in a workplace other than those listed in subsection (a)(1)(A) through (a)(1)(F). This is necessary to identify auxiliary health care operations that fall under the scope of the proposed standard, such as retail clinics, school nurse operations, and workplace clinics.

Chief is defined as the Chief of the Division of Occupational Safety and Health of the Department of Industrial Relations, or his or her designated representative. This is necessary to establish that records required by subsection (h) shall be made available to the Chief upon request. This provides clarity to employers.

Dangerous weapon is means an instrument capable of inflicting death or serious bodily injury. This is necessary to reflect the fact that a weapon such as a firearm or knife is not the only instrument that can be used against another person to inflict harm. There have been frequent

incidents involving common objects, such as table lamps, ashtrays, and pencils being used as weapons.

Division is defined as the Division of Occupational Safety and Health of the Department of Industrial Relations. This is necessary to establish hospital reporting requirements to the Division.

Emergency is defined as unanticipated circumstances that can be life-threatening or pose a risk of significant injuries to the patient, staff or public, requiring immediate action. This is necessary to establish the requirement for employers to train employees on the employer's Plan, and what to do in the case of an alarm or other notification of emergency. This identifies a specific type of condition that requires preplanned responses as identified in the Plan.

Emergency medical services are defined in order to identify services which come within the scope of the proposed standard. This is needed to assure that emergency response personnel are provided with protections from workplace violence. This definition clarifies that this segment of health care is included in the scope of the standard.

Engineering controls are defined to distinguish controls as an aspect of the built space or as a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard that include, but are not limited to: electronic access controls to employee occupied areas, weapon detectors (installed or handheld), enclosed workstations with shatter-resistant glass, deep service counters, separate rooms or areas for high risk patients, locks on doors, furniture affixed to the floor, opaque glass in patient rooms (protects privacy, but allows the health care provider to see where the patient is before entering the room), closed-circuit television monitoring and video recording, sight-aids, and personal alarm devices. The definition clarifies that the concept of a control hierarchy, present in many regulations, is to be applied in this Section and provides employers with specific examples of appropriate engineering control methods.

Environmental risk factors are defined to distinguish factors in the facility or area in which health care services or operations are conducted that may contribute to the likelihood or severity of a workplace violence incident from environmental risk factors that are not related to workplace violence. This is needed to compel employers to assess areas where employees work within a facility, in areas associated with the facility such as parking lots, and in areas where field operations are conducted, for potential exposures to violence. This allows employers to inform the employees at risk and implement appropriate protective measures.

Field operation is defined as an operation conducted by employees that is outside of the employer's fixed establishment, such as mobile clinics, health screening and medical outreach services, or dispensing of medications. This is necessary to identify operations which come within the scope of the proposed standard.

General acute care hospital is defined to distinguish the establishments within the scope of the proposed standard from other health care facilities. Within the proposed standard, these are defined as a hospital as licensed by the California Department of Public Health in accordance

with Title 22 of the California Code of Regulations. This is necessary to be consistent with the legislative intent of SB 1299 and with Title 22. Identifying settings that are in the scope of the regulation better assures that employers are aware of their responsibilities.

Health facility is defined as any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, or treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer. This definition is needed to establish that a health facility includes hospital based outpatient clinics (HBOCs) and other operations located at a health facility, and all off-site operations included within the license of the health facility. A health facility includes the listed facilities, as established by the California Department of Public Health and defined in HSC Section 1250. Identifying settings that are in the scope of the regulation better assures that employers are aware of their responsibilities.

Individually identifiable medical information is defined to specify personal identifying information such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity. It is necessary in order to establish the requirement that the patient's individually identifiable medical information not be included on the Violent Incident Log. This definition will help employers to identify information that is subject to privacy law considerations.

Outpatient medical offices and clinics are defined as establishments other than those listed under the license of a General Acute Care Hospital, Acute Psychiatric Hospital or Special Hospital where patients are provided with diagnosis and treatment for medical or psychiatric care, but are not admitted for a 24-hour stay or longer. These establishments include, but are not limited to, physician's offices, phlebotomy drawing stations, therapy offices, imaging centers, ambulatory surgery centers, and clinics. This is necessary in order to identify these establishments as health care facilities which come within the scope of the proposed standard. Identifying settings that are in the scope of the regulation better assures that employers are aware of their responsibilities.

Patient classification system is defined as a method for establishing staffing requirements by unit, patient and shift based on the assessment of individual patients by the registered nurse as specified in Title 22 General Acute Care Hospitals. This definition is needed to apply the requirements of LC Section 5408.1.

Patient contact is defined as providing a patient with treatment, observation, comfort, direct assistance, bedside evaluations, office evaluations, and any other action that involves or allows direct physical contact with the patient. This is necessary in order to establish that employees and their supervisors receive training on violence prevention that is consistent with their patient contact activities. This provides an employer with a method to provide employees with appropriate training.

Patient-related specific risk factors are defined as factors specific to a patient, such as use of drugs or alcohol, psychiatric condition or diagnosis, any condition or disease process that would cause confusion and/or disorientation or history of violence, which may increase the likelihood or severity of a workplace violence incident. This is necessary to distinguish patient-related risk factors that are related to the likelihood or severity of a workplace violence incident.

Threat of violence is defined as a statement or conduct that would place a person in fear for his or her safety because there is a reasonable fear that the person might be physically injured and that serves no legitimate purpose. This is necessary as part of the definition for workplace violence in this section. It focuses on threats to cause physical harm rather than less tangible adverse effects. Since such actions might include warnings of job-related disciplinary actions, the Division might be put in the position of enforcing another agency's authority. Unreasonable supervisory actions are the employer's responsibility and can be taken to the Department of Labor Standard Enforcement by affected employees if the employer does not control the situation. The definition also establishes that statements made in a non-serious manner, eg., as a joke, should not be addressed in the same way that a serious statement about an intent to inflict harm needs to be addressed.

Work practice controls are defined to distinguish controls (procedures, rules and staffing) which are used to effectively reduce workplace violence hazards and include, but are not limited to: appropriate staffing levels, provision of dedicated safety personnel (i.e. security guards), employee training on workplace violence prevention methods, and employee training on procedures to follow in the event of a workplace violence incident. This is needed to provide clarity for the implementation of subsection (c)(10). This allows an employer to implement violence prevention measures that were identified as effective in the advisory meetings by stakeholders.

Workplace violence is defined as any act of violence or threat of violence that occurs at the work site and includes: (A) the threat or use of physical force against an employee by a patient, a person accompanying a patient, other employees, or other person that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury; and (B) an incident involving the threat or use of a firearm or other dangerous weapon including the use of common objects as weapons, regardless of whether the employee sustains an injury. The definition also incorporates the SB1299 definition: (A) the use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury; and (B) an incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury. This is necessary to be consistent with LC Section 6401.8. The definition does not include lawful acts of self-defense or the defense of others, so that lawful actions taken by employees to protect themselves or others are not covered by new Section 3342. The definition also classifies workplace violence into four types: "Type 1 violence" means workplace violence with criminal intent, and includes violent acts by anyone who enters the workplace but has no legitimate business; "Type 2 violence" means workplace violence directed at employees by customers, clients, patients, students, inmates, or any others for whom an organization provides services; "Type 3 violence"

means workplace violence against an employee by a present or former employee, supervisor or manager; "Type 4 violence" means workplace violence committed in the workplace by someone who does not work there, but is known to or has a personal relationship with an employee. This is necessary to assist employers in identifying risk factors and prevention strategies for the different types of workplace violence. The benefit of adopting a comprehensive definition and classification scheme is to better identify the various levels of violence in health care settings, from threats to actual violence, so that each type of violence can be addressed with appropriate control measures.

Subsection (c) Workplace Violence Prevention Plan.

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. This is necessary to allow employees working on all shifts to refer to procedures that should be followed as needed for preventing and responding to workplace violence. The subsection allows the written Plan to be incorporated into the employer's written injury and illness prevention program (IIPP), or kept as a separate document. In the following subsections, subsection (c) establishes the basic elements that an employer is responsible for incorporating into their IIPP under Section 3203, as required by LC Section 6401.8. They are as follows:

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 is necessary to assure that there are specific individuals who have the responsibility for administering the Plan for the unit, service or operation and to allow other administrators and employees to know who should be contacted if there are questions or difficulties with carrying out the Plan. This is also required to be consistent with Section 3203(a)(1). The benefit of this is to assure that someone assumes responsibility for implementing 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. This is needed to assure that affected employees are given a chance to provide valuable input from their experiences and observations in the development of the Plan and improve coordination between the security and health care personnel for a more effective implementation of the Plan. This is advantageous to all employers with employees at the facility by allowing better cooperation and integration of the procedures for preventing or responding to violent incidents.

Subsection (c)(3) requires employers to include in the Plan the methods to be used 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 these employers and employees

have a role in implementing the Plan. This is necessary to include 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 workplace violence incidents. This requirement is necessary because employers have workers working at their facility, service or operation who are not their employees, and these diverse groups must be able to follow the individual employer's Plan. By incorporating into the Plan a process for integrating other employees into the implementation of the Plan, the employer will have proven methodologies for coordinating with other employers, who often change as contracts expire or go through other changes.

Subsection (c)(4) requires the employer's Plan to include 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. The subsection also requires the Plan to include 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. This includes threatening to physically harm another person for no legitimate purpose. This is necessary to provide assurance so that employees will be able to utilize these critical provisions.

Subsection (c)(5) includes a process for assuring that all supervisory and nonsupervisory employees adhere to the requirements of the Plan. This is necessary to assure that it is clear to all personnel that the procedures selected for the facility, service, or operation are the required job duties that supervisory and non-supervisory personnel must follow.

Subsection (c)(6) requires the employer to have procedures for communicating workplace violence matters among employees. This is needed to assure that several requirements involving communicating critical information have a specific procedure for employees to follow. This is also already required by Section 3203(a)(3).These are as follows: 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; and 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 necessary to be consistent 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. Assuring personnel that an individual is able to report a potential workplace violence problem without fear of reprisal would remove barriers to identifying problematic and possibly dangerous situations as they arise in the workplace.

Subsection (c)(7) requires the employer to have procedures for developing and providing training, in accordance with subsection (f), including how employees and their representatives may participate in the development and delivery of the training. This provides needed insight into the training needs of the employees in specific units or operations that reflect the potential violence

that these employees are actually exposed to. This approach focuses on necessary information and minimizes wasted employee time.

Subsection (c)(8) requires the employer to have assessment procedures for identifying and evaluating environmental risk factors, including community based risk factors for each facility, unit, service or operation, including reviewing all workplace violence incidents that occurred in the facility, service, or operation within the year previous to the evaluation, whether or not an injury occurred.

Subsection (c)(8)(A) requires for fixed workplaces, that procedures to identify and evaluate environmental risk factors be implemented in each unit and area of the establishment, including areas surrounding the facility such as employee parking areas and other outdoor areas. This shall include evaluation of 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 for field operations such as mobile clinics and dispensing operations, medical outreach services, and other off-site operations that procedures be implemented 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). Also, procedures shall be established 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 health care operations that are conducted in various locations outside of a facility may operate in areas with high crime rates or other security issues. The personnel who are involved in these operations need to be informed of potential problems and how to summon assistance by an appropriate agency when needed.

Subsection (c)(8)(C) requires for home health care and home-based hospice, that procedures be implemented to identify and evaluate environmental risk factors such as the presence of weapons, evidence of substance abuse, the presence of uncooperative cohabitants, etc. during intake procedures, and at the time of the initial visits, for continued visits, and where there is a change in conditions. This is needed to assure that a patient is suitable for this type of care and is in part already required by LC Section 6332.

Subsection (c)(8)(D) requires for paramedic and other emergency medical services, that procedures be implemented 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 personnel who are involved in these operations need to be informed of potential problems and how to summon assistance by an appropriate agency when needed.

Subsection (c)(8)(E) requires for ancillary health care operations, that procedures be implemented 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. This is consistent with Section 3203. Many of these facilities will not be owned by the employer of the health care workers sent to staff them, and the employer must make an assessment of the hazards that would be present. An employer already needs to evaluate a location to assure that the employees at the site have basic protections required by applicable safety orders such as for electrical wiring. Applying this to conditions leading to potential violence, such as handling cash, should provide better security for both the employee and any valuables that might be a part of the operation.

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. It is necessary for the employer to provide basic knowledge for the recognition of risk factors for potential violence, and to establish this assessment as a policy. This type of evaluation would enable employees to utilize the appropriate work practices and other safeguards for a patient with these conditions. It also requires emergency medical service providers and receiving facilities to have procedures for identifying risk factors, associated with a patient who is to be transported, to each other. This is necessary for employees to be able to anticipate the acceptance or the arrival of a patient who may be violent and take the appropriate precautions.

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), and to use engineering and work practice controls to eliminate or minimize employee exposure to the identified hazards to the extent feasible. The subsection requires the employer to take measures 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. These conditions and practices have been identified in the literature and in the advisory meetings as being common methods for reducing the likelihood of employee victimization in a violent incident, and need to be applied by employers. It is necessary to identify

these measures so that employers can easily assess their facilities for problem areas and take steps to prevent injuries and fatalities among their employees. The subsection establishes that corrective measures include the following, as applicable:

(A) Procedures to ensure that sufficient staff is trained and available to prevent and immediately respond to workplace violence incidents for each shift. Staff is not considered to be available if the staff's other assignments prevent the person from immediately responding to an alarm or other notification of a violent incident. This is necessary since many of the injuries that occur to staff could be prevented or mitigated by appropriate staff availability.

(B) Providing line of sight or other immediate communication in all areas in which patients or members of the public may be present. This may include removal of sight barriers, provision of surveillance systems or other sight aids such as mirrors, use of a buddy system, improving illumination, or other effective means. Where patient privacy prevents line of sight, alarm systems or other effective means shall be provided for an employee who needs to enter the area. Violent incidents often occur where an attacker can isolate an employee from access to assistance. This subsection provides options to providing an employee with visual or other means of summoning assistance as needed.

(C) Configuration of spaces, including, but not limited to, treatment areas, patient rooms, interview rooms, and common rooms, so that employees have access to doors and alarm systems cannot be impeded by a patient, other persons, or obstacles. This is necessary to assure that the design of the working space, in itself, does not create a hazardous condition for employees working with potentially violent patients, or visitors.

(D) Removal, fastening, or control of furnishings and other objects that may be used as improvised weapons in areas where patients have been identified as having a potential for workplace Type 2 violence are reasonably anticipated to be present. Common objects, such as pencils or pieces of a bed frame have been used as weapons by patients on health care workers. Removing or securing objects in a room where a person has an elevated risk of potential violence will reduce the likelihood that the person augments a violent act with an improvised weapon.

(E) Create a security plan for prevention of 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. This shall include monitoring and controlling designated public entrances, by use of safeguards such as weapon detection devices, remote surveillance, alarm systems, or a registration process conducted by personnel who are in an appropriately protected work station. Employers with fixed facilities need to assess the likelihood that weapons will be brought by visitors, relatives of patients or even patients themselves and take appropriate steps to restrict this access. This will reduce the use of weapons in the facility.

(F) Maintenance of 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. This is necessary to assure that the Plan's procedures can be carried out at all times.

(G) An alarm system, or other effective means, by which employees can summon security and other aid to defuse or respond to an actual or potential workplace violence emergency. In situations where employees are alone with patients, work in isolated areas, or are in areas that allow unrestricted movement of employees, an employee may need to summon assistance or be

monitored so that assistance can be sent. Such contingencies will reduce the time that an employee will be exposed to a violent occurrence.
(H) 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. This is needed to enable employees to know in advance that they may be confronted with a violent incident. This allows the employee to be more ready to avoid injury by applying techniques such as defusing or even simple avoidance.
(I) An effective response plan for actual or potential workplace violence emergencies, including, where applicable, 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. This provides all staff in a facility with procedures to follow in response to various types of emergencies and how to summon law enforcement assistance when needed. This will reduce confusion as to how to respond to violence related incidents.
(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 including: 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. This is necessary to ensure that incidents of violence are investigated and appropriate steps are taken to address employee injuries and trauma.

Subsection (d) requires employers to record incidents in a Violent Incident Log and further requires that the Log be included in the annual review of the Plan. The Log is needed to provide a consistent and widely recognized basis for employers to assess a violent incident and easily determine the factors contributing to its occurrence. Information that employers must record in a Violent Incident Log includes, but is not be limited to:
(1) The date, time, specific location and department of the incident,
(2) A section that each employee who experienced workplace violence shall be allowed to complete, including : a detailed description of the incident; a classification of who committed the violence; a classification of circumstances at the time of the incident including whether the employee was completing usual job duties, working in poorly lit areas, rushed, working during a low staffing level, in a high crime area, isolated or alone, unable to get help or

assistance, working in a community setting, working in an unfamiliar or new location or other circumstances.

(3) A description of the incident that will include: a classification of where the incident occurred; the type of incident including whether it was a(n): physical attack including biting, choking, grabbing, hair pulling, kicking, punching/slapping, pushing/pulling, scratching, spitting at/on, or other; attack with a weapon or object including a gun, knife, or other object; threat of physical force or threat of the use of a weapon or other object; sexual assault or threat, including rape/attempted rape, physical display, unwanted verbal/physical sexual contact, or other; post-incident stress; animal attack; other.

(4) Consequences of the incident including: whether medical treatment was provided to the employee; whether assistance was necessary in order to conclude the incident, and if so, who provided the assistance; whether security or law enforcement was contacted, and if so who; whether time was taken off work, and if so for how long; whether there was a continuing threat to employees, and if so the actions taken to protect employees.

(5) Information about the person completing the workplace violence incident report including their name, title, phone number, email address, and the date completed. A note in subsection (d)(5) establishes the requirement that the patient's individually identifiable medical information, as defined by Civil Code Section 56.05(j), not be included on the log.

Section (e) requires the employer to have procedures for annual reviews of the Plan, including procedures for the effective involvement of employees in the review of the effectiveness of the Plan in their work areas, services or operations. Problems found during the review of the Plan shall be corrected in accordance with subsection (c)(10). This review shall include, all of the following: staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence; sufficiency of security systems, including alarms, emergency response, and security personnel availability; job design, equipment, and facilities; security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas. The annual review is necessary to ensure that the employer and employees evaluate the performance of the Plan, how well it has reduced violent incidents, and how it can be improved. Improving the Plan will further reduce the likelihood that employees will be injured in violent incidents.

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 subsection requires the employer to have effective procedures for obtaining the active involvement of employees and their representatives in the developing of training curricula and training materials, conducting training sessions, and reviewing and revising the training program. The training content must be appropriate for the employees in terms of the educational level, literacy and language of the trainees. This is needed to ensure that employees are actually able to understand the training they receive. 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). This is necessary 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.

Subsection (f)(1)(A) establishes the content of the initial training for employees in facilities, units, services, and operations covered by the standard. The content is consistent with LC Section 6401.8(b). The training must include at least the following elements, as 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. This is necessary 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 necessary 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. This insight enables the employee to take appropriate steps in case a violent incident occurs. This content should help to reduce the level of violent intensity in the incident and thereby the severity of injuries both to the employee and patient.

Subsection (f)(1)(A)3 requires instruction on strategies to avoid physical harm. This is necessary for employees to learn techniques and precautions that should be taken to protect themselves and others around them. Any appropriate avoidance of violent interaction would reduce the occurrence of violence and injuries to all involved.

Subsection (f)(1)(A)4 requires instruction on how to report violent incidents to law enforcement. This is necessary for employees to know the employer's procedures for filing criminal complaints with law enforcement against perpetrators when circumstances warrant and is consistent with LC Section 6401.8. For example, if the employer has designated a person responsible for reporting a problem, and identifying circumstances when individual employees should make contact to protect themselves or others. Identifying when law enforcement should be involved, according to the policies of the employer and the agency involved will improve the

effectiveness of the responses. Employees need to understand the circumstances that the law enforcement agency can legally respond to and how patient's rights might affect this process.

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 necessary so that employees know what resources are available to them by their employers and is consistent with LC Section 6401.8. Providing effective post incident treatment should reduce the recovery time of the employee(s) involved in a violent incident.

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. This is needed to assure that employees can ask for clarifications about the training content before it is forgotten.

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 necessary 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. This is necessary 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 employees in addition to the training requirements listed in subsection (f)(1)(A) 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.

Subsection (f)(3)(A)-(H) requires that prior to initial assignment, and at least annually thereafter, employees are trained on: general and personal safety measures, aggression and violence predicting factors, the assault cycle, characteristics of aggressive and violent patients and victims, verbal and physical maneuvers to defuse and prevent violent behavior, strategies to prevent physical harm, restraining techniques, and appropriate use of medications as chemical restraints.

Subsection (f)(3)(I) requires that employees covered by this subsection have an opportunity to practice the maneuvers and techniques included in the training with other employees they will work with, to debrief the practice session, and that problems found are corrected.

Subsection (f)(4) requires that employers 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. The subsection also requires that non-employee personnel who are reasonably anticipated to participate in implementation of the Plan be provided with the training required for their specific assignment.

Subsection (g)(1) establishes requirements for each general acute care hospital, acute psychiatric hospital, and special hospital to report to the Division any incident involving either or both of the following: the use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury; or an incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury. This is necessary to be consistent with the legislative intent of SB 1299 (codified at LC Section 6401.8), however these reporting provisions 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)(2) requires that the report to the Division required by subsection (g)(1) be made within 24 hours, after the employer knows or with diligent inquiry would have known of the incident, if the incident resulted 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.

Subsection (g)(3) requires that all other reports to the Division required by subsection (g)(1) be made within 72 hours.

Subsection (g)(4) requires that the reports of reportable violent incidents are to include the following information: 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; date, time and specific location of the incident; brief description of the incident; number of employees injured and the types of injuries sustained; whether security or law enforcement were contacted, and what agencies responded; whether there is a continuing threat, and if so, what measures are being taken to protect employees; a unique incident identifier; and a statement whether the report was also reported to the nearest Division District Office. The subsection also requires that the report not include any employee or patient names and that employee names be furnished upon request to the Division. This is necessary to ensure that employers report reportable violent incidents without compromising medical confidentiality.

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 necessary to clarify that if employers report a reportable violent incident as required by subsection (g), they are still responsible for a separate and immediate reporting 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.

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 necessary to allow the Division to access additional information for further investigation of a violent incident.

Subsection (g)(6) requires that the report be through a specific online mechanism established by the Division for this purpose. This is necessary 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 employer shall 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. This is necessary to distinguish 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). These records are necessary to assure that employees have received the training required by this section and to be consistent with Section 3203(b)(2) except that 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.

Subsection (h)(3) establishes that records of violent incidents, including but not limited to, the Violent Incident Log, 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(j). This is necessary 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 necessary 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 necessary 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.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED ON BY THE BOARD

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

Ahmed E. Gomaa, MD, Loren C. Tapp, MD, Sara E. Luckhaupt, MD, et al. "Occupational Traumatic Injuries Among Workers in Health Care Facilities - United States, 2012–2014," MMWR Morb Mortal Wkly Rep 2015;64:405-10, http://www.cdc.gov/mmwr/pdf/wk/mm6415.pdf

California HealthCare Foundation, "California Nurses: Taking the Pulse," California Health Care Almanac, March 2014, http://www.chcf.org/~/media/MEDIA%20LIBRARY%20Files/PDF/C/PDF%20CaliforniaNurses2014.pdf

Cal/OSHA (1998), "Guidelines for Security and Safety of Health Care and Community Service Workers, http://www.dir.ca.gov/dosh/dosh_publications/hcworker.html

Cal/OSHA (1995), "Guidelines for Workplace Security," http://www.dir.ca.gov/dosh/dosh_publications/worksecurity.html

Joint Commission on Accreditation of Healthcare Organizations, "Preventing violence in the health care setting," Sentinel Event Alert Issue 45: June 3, 2010, http://www.jointcommission.org/assets/1/18/SEA_45.PDF

Leigh, J. Paul, Markis, Carrie A., Iosif, Ana-Maria, Romano, Patrick S., "California's nurse-to-patient ratio law and occupational injury," Int Arch Occup Environ Health. 2015 May;88(4):477-84.

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NIOSH, "Workplace Violence Prevention for Nurses, CDC Course No. WB1865 - NIOSH Pub. No. 2013-155," http://www.cdc.gov/niosh/topics/violence/training_nurses.html

OSHA, (2015), "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers, OSHA 3148-04R 2015," https://www.osha.gov/Publications/osha3148.pdf

OSHA, (2011), "OSHA Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents, CPL 02-01-052, September 8, 2011," https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-052.pdf

OSHA, "Workplace Violence OSHA Safety and Health Topics," https://www.osha.gov/SLTC/workplaceviolence/

Peek-Asa, Corinne, et al. "Evaluation of Safety and Security Programs to Reduce Violence in Health Care Settings Final Report," January 2007, NIOSH Contract 200-2001-08014 and NIOSH R01-OH007934, http://www.cdph.ca.gov/programs/ohsep/Documents/wvpfinalreport.pdf

Speroni, Karen Gabel, et al. "Incidence and Cost of Nurse Workplace Violence Perpetrated by Hospital Patients or Patient Visitors." Journal of Emergency Nursing 40.3 (2014): 218-228.

Occupational Safety and Health Standards Board Petition No. 538, submitted by Richard Negri, Health and Safety Director, Service Employees International Union (SEIU) Katherine Hughes, Liaison, SEIU Nurse Alliance of California (Feb. 10, 2014).

Occupational Safety and Health Standards Board Petition No. 539, submitted by Bonnie Castillo, Director of Government Relations, California Nurses Association (Feb. 20, 2014).

Division of Occupational Safety and Health's evaluation of Petition No. 538, (Apr. 10, 2014).

Division of Occupational Safety and Health's evaluation of Petition No. 539, (Apr. 23, 2014).

Occupational Safety and Health Standards Board revised petition decision regarding Petitions No. 538 and 539, (Jun. 19, 2014).

September 10, 2014, November 13, 2014, November 19, 2014, February 5, 2015, and April 1, 2015, Advisory Committee minutes and attendance sheets.

Smokler Lewis, P. et al. "The Impact of Workplace Incivility on the Work Environment, Manager Skill, and Productivity" The Journal of Nursing Administration, Vol. 41, No. 1, January 2011.

California Department of Public Health, "All Facilities Letter, AFL 09-49, Hospital Security Plans," November 19, 2009, http://www.cdph.ca.gov/certlic/facilities/Documents/LNC-AFL-09-49.pdf

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Federal Register, Vol. 79, No. 181, pp. 56166-56168, September 18, 2014, http://www.gpo.gov/fdsys/pkg/FR-2014-09-18/pdf/2014-21514.pdf

PETITIONS

Petitioners:
Richard Negri, Health and Safety Director, Service Employees International Union (SEIU)
Katherine Hughes, Liaison, SEIU Nurse Alliance of California
File No.: 538

Petitioner: Bonnie Castillo, Director of Governmental Relations, California Nurses Association
File No.: 539

The Board received Petition 538 dated February 10, 2014, and Petition 539 dated February 20, 2014, to add Section 3342 of the General Industry Safety Orders contained in Title 8 of the California Code of Regulations regarding the prevention of workplace violence in health care. On June 19, 2014, the Board granted the petitions to the extent that the Petitioners' proposals would be referred the 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.

Copies of the petitions, the Division's evaluations and the Board's petition decision are included as Documents Relied Upon.

ADVISORY COMMITTEE

This proposal was developed with the assistance of an advisory committee. (A list of advisory committee attendance sheets and minutes are included as Documents Relied Upon.)

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code Section 11359 or HSC Section 18930(a)(9) is not required.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board has made a 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 Board anticipates that any potential costs would in part be balanced by avoiding or minimizing the costs inherent in workers' compensation claims, lost work time, and productivity losses that would have been caused by workplace violence deaths and injuries to employees.

The four major elements of the proposal – Workplace violence prevention plan, training, reporting and recordkeeping – are broadly covered in existing regulations, laws, and other standards:

(1) This new standard, while more tailored to a specific industry, is based on a pre-existing standard (Section 3203) requiring all employers to establish, implement and maintain an effective IIPP. This would include identifying hazards, implementing corrective measures, and providing training specific to preventing and responding to workplace violence;
(2) The additional reporting requirements that apply to all hospitals are partially covered under Section 342(a) which requires all employers to immediately report to the local district office of the Division any serious injury or illness. 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. 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); and
(3) The recordkeeping requirements are partially covered under Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records (Sections 14300 et seq), that requires covered employers to record workplace injuries and illnesses and file reports with the Department of Industrial Relations. However, the recordkeeping requirements for this new standard will also apply to all affected employers, including small employers with 10 or fewer employees and certain industries (offices and clinics of medical doctors) that are partially exempt from Section 14300.1 and Section 14300.2. Additionally, LC Section 6332 requires every employer of health care workers who provide health care related services to clients in home settings to keep a record of any violence committed against such a worker and file a copy of the report with the Department of Industrial Relations.

A detailed discussion of these provisions is included in the section on cost impact on private persons or businesses.

Implementation of subsection (c): Workplace violence prevention plan.
This subsection is 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 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 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): 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 IIPP, 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 1257.8 for covered hospitals.

Implementation of subsection (e): 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, using 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 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 (f): 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 (f)(1) and (f)(2) would require the employer to create and maintain records of workplace violence hazard identification, evaluation and correction and training. These records are currently required under Section 3203.

Subsection (f)(3) would require the employer to create and maintain records of violent incidents, including but not limited to, the Violent Incident Log, the reports required by subsection (e) and workplace violence injury investigations. 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 WIC 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.

The availability of records required by subsections (f)(4) and (f)(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 Senate Bill 1299, and is consistent with existing requirements in 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 do 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.

Cost Savings:
The California Healthcare Foundation reports there are 300,000 registered nurses currently working in California. Speroni (2014) reports that in a study of Virginia workplace violence cases, treatment and indemnity costs were $3,600 per case. Cost of living differences between VA and CA are about 25%, so adjusting for this would estimate a figure of $4,500 per CA case. Since the injury rate was 28%, applying this to CA would estimate 84,000 workplace violence cases resulting in $378,000,000 in total annual costs for nurses alone.

Similarly, a study of behavior designated as "incivility" by the authors shows lost productivity costs to be $11,600 per year per nurse. This gives a total cost of $3,480,000,000 per year, for nurses alone in California. Any countermeasures aimed at preventing and reducing type 3 violence in the workplace would consequently improve productivity and reduce workers' compensation claims and lost workdays.

Verifying the importance of assuring that there is sufficient staff to conduct safe operations, a recent study on the impact of staffing ratios in California shows a reduction of the occurrences of injury to be about 30% after mandatory ratios were mandated. If this reduction were applied to the $378,000,000 figure above, the total annual savings would be approximately $113,400,000.

Creation or Elimination of Jobs Within the State of California: The Division does not anticipate any jobs in California will be eliminated due to the financial impact of the proposed regulatory action. It is anticipated that significant costs or expenses will not be incurred by the businesses to comply with the proposed regulation that would result in either creation or elimination of jobs within California.

Creation of New Business, Elimination of Existing Business or the Expansion of Business in California: The Division does not anticipate any business in California will be created or eliminated or affect the expansion of existing California businesses due to the financial impact of the proposed regulatory action. 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 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.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING SMALL BUSINESSES

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.

REASONABLE ALTERNATIVES TO THE PROPOSAL AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would 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.