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A Voice for Nurses. A Vision for Healthcare.

February 20, 2014

Dave Thomas  
Chair, Occupational Safety and Health Standards Board  
2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833



**RE: Petition for a Workplace Violence Prevention Standard**

Dear Mr. Thomas:

On behalf of the 86,000 registered nurses (RN) of the California Nurses Association (CNA), please accept this petition for the promulgation of a workplace violence prevention standard by the Occupational Safety and Health Standards Board (OSHSB). We believe such a standard will protect RNs and other health care workers from violence in their workplaces, and will help address the growing problem of violence in health care settings.

***Violence in health care settings***

Violence in health care settings has been an area of concern for CNA for many years, as the risk of workplace violence is a serious occupational hazard for RNs and other health care workers. Countless acts of assault, battery, and aggression that routinely take place in health care settings demonstrate a frightening trend of increasing violence faced by health care workers in California and throughout the country.

In addition to countless anecdotal and media accounts, some research has been conducted which documents the prevalence of violence being committed against health care workers in health facilities. According to the U.S. Bureau of Labor Statistics (BLS), a worker in health care and social assistance is nearly 5 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. The BLS reports that in 2011, the incidence rate for 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.<sup>1</sup> In 2007, nearly 60 percent of all nonfatal assaults and violent acts by persons occurred in the health care and social assistance industry. Nearly 75 percent of these violent acts were assaults by health care or residents of a health care facility. The majority of violent acts in health care settings occur during the day, but assaults suffered during the late evening

<sup>1</sup> "Nonfatal Occupational Injuries and Illnesses Requiring Days Away From Work, 2011" United States Bureau of Labor Statistics, November 8, 2012, <http://www.bls.gov/news.release/osh2.toc.htm>

hours (8 pm to 12 am) resulted in a median of 7 days away from work, longer than any other number of days away from work as a result of day or early evening assaults. The fatal injury rate between 2003 and 2007 was twice the average rate for workers in all industries combined.<sup>2</sup>

According to the "Evaluation of Safety and Security Programs to Reduce Violence in Health Care Settings," a 2007 report commissioned by the National Institute of Occupational and Environmental Health which assessed California hospital security programs and violent event surveillance, health care workers have long been recognized as having a high risk of work-related assault, and nurses are at particularly high risk, with the highest rate of victimization among occupations in the healthcare industry. The rate of assault injuries to psychiatric nurses has been estimated at 16 per 100 employees per year, which exceeds the annual rate of all injuries found in many high risk occupations. The same report found that OSHA logs and employers' reports do not provide detailed information about the circumstances of the violent event, which could limit prevention efforts. For example, the specific location of the event was unknown in over 70% of all events and the activity at the time of the event was unspecific in over 40% of all events. Further, the report demonstrated that among California hospitals, surveillance of workplace violence events is "uncoordinated and inefficient," employee training programs rarely included review of violence trends within their specific hospital, few hospitals had effective systems to communicate about the presence of violent patients, hospital security equipment systems were uncoordinated and insufficient to protect the unit, and security programs and training were often less complete in psychiatric units than in emergency departments.

According to "Violence: Occupational Hazards in Hospitals," an April 2002 report from the National Institute for Occupational Safety and Health (NIOSH), data indicate that hospital workers are at high risk for experiencing violence in the workplace. NIOSH stated that several studies indicate that violence often takes place during times of high activity and interaction with patients, such as at meal times and during visiting hours and patient transportation. Assaults may occur when service is denied, when a patient is involuntarily admitted, or when a health care worker attempts to set limits on eating, drinking, or tobacco or alcohol use. According to the report, violence may occur anywhere in the hospital, but it is most frequent in psychiatric wards, emergency rooms, waiting rooms and geriatric units. NIOSH recommended providing training for *all* workers in recognizing and managing assaults, resolving conflicts, and maintaining hazard awareness.

A 2013 Journal of Safety Research article, "Perpetrator, worker and workplace characteristics associated with patient and visitor perpetrated violence on hospital workers: A review of the literature and existing occupational injury data," found that non-fatal type II violence experienced by hospital workers (patient/visitor-on-worker violence) is not well described. Approximately 484 physical assaults were identified in the data, however, only few details

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<sup>2</sup> "Workplace Safety and Health in the Health Care and Social Assistance Industry, 2003-07," Janocha and Smith, U.S. Bureau of Labor Statistics, August 30, 2010, <http://www.bls.gov/opub/cwc/sh20100825ar01p1.htm>

about events were captured, while non-physical events were not captured. The researchers concluded that the literature lacked rigorous methods for examining incidence and circumstances surrounding events or rates of events over time, and rigorous surveillance efforts by hospital employers and researchers are warranted.

### ***CNA efforts to address workplace violence***

Concerns over workplace violence reached a fever pitch for our organization near the end of October 2010, when Cynthia Palomata, a registered nurse (RN) at Contra Costa County's Martinez correctional facility, and member of CNA was violently assaulted by an inmate while attempting to provide him care. Unable to recover from the injuries she sustained from the assault, she tragically died three days later. Her death sparked a public outcry over the safety of RNs and other health care workers, and called into question the efforts of health care employers to have in place standards and policies that ensure the safety and security of health care workers.

In response to the tragic loss of Cynthia Palomata, and in light of the continuous stream of reports of violence from our members and highlighted in the media, CNA called for urgent reforms to crack down on the disturbing trend of violence in health care facilities by sponsoring legislation designed to toughen existing statutes regarding hospital safety and security plans. During the 2010-2011 legislative session, CNA introduced AB 30 (Hayashi) designed to strengthen hospital security plans; improve employee training and education on how to prevent and respond to violent acts; require hospitals to respond to, investigate, and report acts of violence against employees; and, protect employee rights to seek assistance from law enforcement.

In 2013, CNA introduced SB 718 (Yee), which contains many of the same provisions of AB 30. However, unlike AB 30 which amended the Health and Safety Code, SB 718 adds provisions to the California Labor Code with the intent to establish new workplace violence standards for hospitals enforceable by Cal/OSHA. While the Health and Safety Code provides some requirements regarding hospital safety and security plans, we believe it is appropriate to place the aforementioned requirements in the California Labor Code, enforced by Cal/OSHA, because workplace violence is a serious occupational health and safety issue. While the California Department of Public Health (CDPH) may enforce hospital safety and security plans from a perspective of hospital licensure and certification, we believe that Cal/OSHA, with its core mission to protect workers from health and safety hazards on the job, is well-equipped to enforce workplace violence standards from the perspective of worker safety and injury prevention.

### ***Proposed standard provisions***

Regardless of whether workplace violence is addressed through the legislative or the regulatory process, we believe that a strong framework for workplace violence prevention requirements must be established. We are aware that there are many guidelines and models of workplace violence prevention that the OSHSB and the Division can consider if the OSHSB opts to approve the development and promulgation of workplace violence prevention standards for health care

settings. However, we believe that there are basic, fundamental elements that any workplace violence prevention standard must include in order of the standard to achieve optimal protection for workers. As such, should the OSHSB grant this petition for a workplace prevention standard, we submit the following proposed provisions as a framework from which the standard may be developed:

**1. Scope and application**

The standard should 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 in all units, including inpatient and outpatient settings and clinics on the license of the hospital.

**2. Definitions**

The standard should ensure that any definition of workplace violence, or violent incident, includes, but is not limited to, both of the following:

- 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.
- b. An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

**3. Workplace violence prevention plan**

The standard should ensure that all workplace violence prevention plans include, but are not limited to, the following:

- a. Personnel education and training that is designed to provide an opportunity for interactive questions and answers with a person knowledgeable about workplace violence and the hospital's workplace violence prevention plan.
- b. A system for responding to, and investigating violent incidents and situations involving violence or the risk of violence.
- c. A system for assessing and improving upon factors that may contribute to, or help prevent workplace violence, including but not limited to sufficiency of security systems, including security personnel availability; and security risks associated with insufficient staffing.
- d. Requirements that all temporary personnel be oriented to the workplace violence prevention plan.

**4. Protecting employee rights to seek assistance from law enforcement**

The standard should include provisions protecting the rights of employees to seek assistance and intervention from local emergency services or law enforcement when a violent incident occurs, without fear of retaliation or discrimination.

**5. Employee participation and representation**

The standard should include requirements that all workplace violence prevention plans be developed in conjunction with affected employees, including their recognized collective bargaining agents, if any.

**6. Documentation and recordkeeping**

The standard should include requirements that hospitals document and retain written records 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.

**7. Reporting**

The standard should include requirements for hospitals to report violent incidents to the division, and specify timeframes by which hospitals should be required to report incidents taking into consideration the severity of the incident, i.e. incidents involving the use of a firearm or other dangerous weapon, or incidents presenting urgent or emergent threats to the safety of hospital personnel.

All of these provisions are essential to the development of a comprehensive workplace violence prevention plan that will improve the safety of RNs and other health care workers. We look forward to working with you, and any subsequent advisory committee established to further develop a proposed workplace violence prevention standard. In the meantime, if you or your staff have any questions about our petition, please contact me or Kelly Green in our Government Relations Department at 916-446-5019.

Sincerely,



Bonnie Castillo  
Director, Government Relations

cc: Members, Occupational Safety and Health Standards Board  
Marley Hart, Executive Officer, Occupational Safety and Health Standards Board