

Discussion DRAFT for Workplace Violence Prevention AC on 4-1-15

(a) Scope and Application

(1) Scope. This section applies to work in the following health care facilities, service categories, or operations:

(A) Health facilities, as defined below.

(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

(2) Application.

(A) All employers with employees in operations identified in subsection (a)(1)(A) through (a)(1)(F) shall comply with subsections (c), (d), and (f).

(B) General acute care hospitals, acute psychiatric hospitals, and special hospitals shall also comply with subsection (e).

(C) Ancillary health care operations shall comply with this section by ensuring that the elements included in subsection (c) and (d) are addressed by the host establishment's injury and illness prevention plan and/or a separate workplace violence prevention plan for the operation. Recordkeeping shall be in accordance with subsection (f).

(3) The employer shall provide all safeguards required by this section, including provision of personal protective equipment, training, and medical services, at no cost to the employee, at a reasonable time and place for the employee, and during the employee's working hours.

(b) Definitions

“Acute psychiatric hospital” (APH) means a hospital, licensed by the California Department of Public Health as such in accordance with Section 1250(b), Title 22, California Code of Regulations, and all services within the hospital's license including, but not limited to, emergency, outpatient observation, and outpatient clinics located at the hospital facility and all off-site operations included within the hospital's license.

“Alarm” means a mechanical, electrical or electronic device that does not rely upon an employee’s vocalization in order to alert others.

“Ancillary health care operation” means an operation located in a workplace in which less than ten percent of the employees are engaged in provision of health care. Examples of ancillary health care operations include retail clinics, school nurse operations, and workplace clinics.

“Chief” means the Chief of the Division of Occupational Safety and Health of the Department of Industrial Relations, or his or her designated representative.

“Dangerous weapon” means an instrument designed to be capable of inflicting death or serious bodily injury.

“Division” means the Division of Occupational Safety and Health of the Department of Industrial Relations

~~“Drug treatment program” means a program that is (A) licensed pursuant to Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code; or Chapter 1 (commencing with Section 11876), Part 3, Article 3, Division 10.5 of the Health and Safety Code; or (B) certified as a substance abuse clinic or satellite clinic pursuant to Section 51200, Title 22, CCR, and which has submitted claims for Medi-Cal reimbursement pursuant to Section 51490.1, Title 22, CCR, within the last two calendar years or (C) certified pursuant to Section 11831.5 of the Health and Safety Code.~~

“Emergency” means unanticipated circumstances that can be life-threatening or pose a risk of significant injuries to the patient, staff or public, requiring immediate action.

“Emergency medical services” means medical care provided pursuant to Title 22, Division 9, by employees who are certified EMT-1, certified EMT-II, or licensed paramedic personnel to the sick and injured at the scene of an emergency, during transport, or during interfacility transfer.

“Environmental risk factors” means 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. Environmental risk factors include risk factors associated with the specific task being performed, such as the collection of money.

“Field operation” means 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.

“General acute care hospital” (GACH) means a hospital, licensed by the California Department of Public Health as such in accordance with Section 1250 (a), Title 22, California Code of Regulations and all services within the hospital's license including, but not limited to, emergency, outpatient observation, outpatient clinics, physical therapy and ambulatory surgery services located at the hospital facility and all off-site operations included within the hospital's license.

“Health facility” means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and 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. (Ref: Health and Safety Code Section 1250). For the purposes of this Section, 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. The term “health facility” includes facilities with the following bed classifications, as established by the California Department of Public Health:

- (1) General acute care hospital,
- (2) Skilled nursing facility,
- (3) Intermediate care facility -developmental disabilities facility.
- (4) Intermediate care other.
- (5) Acute psychiatric hospital.
- (6) ~~Specialized care, with respect to special hospitals only.~~
- (7) Chemical dependency recovery.
- (8) Intermediate care facility/developmentally disabled habilitative.
- (9) Intermediate care facility/developmentally disabled nursing.
- (10) Congregate living health facility.
- (11) Pediatric day health and respite care facility, as defined in Section 1760.2.

(12) Correctional treatment center.

(13) Hospice facility.

“Individually identifiable medical information” means medical information that includes or contains any element of personal identifying information sufficient to allow identification of the individual, 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.

~~“Local health officer” means the health officer for the local jurisdiction responsible for receiving and/or sending reports of communicable diseases and unusual occurrences, as defined in Title 17, CCR.~~

~~“Medical specialty practice” means a medical practice other than primary care, general practice, or family medicine.~~

“Outpatient medical offices and clinics” means 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.

“Patient classification system” means 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.

“Patient contact means 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.

“~~Patient-related~~ specific risk factors” means 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 workplace violence, which may increase the likelihood or severity of a workplace violence incident.

~~“Physician or other licensed health care professional (PLHCP)” means an individual whose legally permitted scope or practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by this section.~~

“Reportable workplace violence incident” for the purposes of complying with subsection (e), means an incident which meets either or both of the following criteria:

(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

"Special hospital" means a hospital, licensed by the California Department of Public Health as such in accordance with Section 1250(f), Title 22, California Code of Regulations, as a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

“Type 1 violence” means workplace violence with criminal intent, and includes violent acts by anyone who enters the workplace with the intent to commit a crime.

"Type 2 violence" means workplace violence directed at employees by customers, clients, patient, students, inmates, or any others for whom an organization provides services.

"Type 3 violence" means workplace violence against coworkers, supervisors, or managers by a present or former employee.

"Type 4 violence" means workplace violence committed in the workplace by someone who doesn't work there, but has a personal relationship with an employee such as an abuse spouse or domestic partner.

“Workplace violence” means any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. Workplace violence includes, but is not limited to, either of the following:

(A) The threat or use of physical force against an 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 threat or use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

(c) Workplace violence prevention plan.

(1) As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, each employer covered by this section shall establish, implement and maintain an effective written workplace violence prevention plan (Plan). The Plan shall be maintained and implemented at all times for all units, services and operations, and shall be specific to the hazards and corrective measures for each unit, service or operation. The Plan may be incorporated into the IIPP, or may be maintained as a separate document. The Plan applicable to the unit, service or operation shall be available to employees at all times.

(2) The Plan shall include all of the following elements:

(A) The names and/or job titles of the persons responsible for implementing the Plan.

(B) 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.

(C) The methods the employer will use to coordinate the implementation of the Plan with other employers whose employees have work assignments that include being present in the health care facility, service or operation, or who have a role in implementing the Plan. These methods shall include how employees of other employers and temporary employees will be provided with the training required by subsection (d), and procedures for reporting, investigating, and recording of workplace violence incidents.

(D) Procedures to ensure that supervisory and non-supervisory employees comply with the Plan in accordance with 3203(a)(2).

(E) Procedures for communicating with employees regarding workplace violence matters, including:

1. How employees will communicate to other employees and between shifts and units, information regarding conditions that may create increased potential for workplace violence incidents.
2. How an employee can report a violent incident, threat, or other workplace violence concerns regarding a co-worker or former employee, or a person who has a relationship to the employee or another employee. (Types 3 and 4 violence).
3. How employees can communicate workplace violence concerns without fear of reprisal.
4. 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.

(F) Assessment Procedures for the identification and evaluation of environmental risk factors including community-based risk factors for each facility, unit, service or operation. These procedures shall include a review of 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.

1. For fixed workplaces, procedures to identify and evaluate environmental risk factors shall be implemented in each unit and area of the establishment, including areas surrounding the facility such as employee parking areas. This shall include evaluation of factors such as:

a. ~~Isolation~~ Working in a condition isolated from other areas where employees are located, due to factors such as remote location, hours of use, or the ability of an assailant to prevent entry by other employees or responders into an area during an attack.

b. Designated entrances and areas where unauthorized entrance may occur (such as doors designated for staff entrance or emergency exit).

c. Areas where there are large amount of high-value items or pharmaceuticals

d. Use of outside areas during hours of darkness

2. For field operations such as mobile clinics and dispensing operations, medical outreach services, and other off-site operations, procedures for the identification and evaluation of environmental risk factors shall be implemented for each site at which services will be provided, including the factors listed in subsection (c)(2)(F)1.

3. For home health care and home-based hospice, procedures shall 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 visit.

4. For paramedic and other emergency medical services procedures shall be implemented for communication with the dispatching authority to determine the nature of any risk factors present at the scene, and to ensure appropriate assistance is provided by cooperating agencies.

5. For ancillary health care operations, environmental risk factors including those listed in subsection (c)(2)(F)1. the evaluation shall include 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.

(G) Procedures for the identification and evaluation of patient-specific workplace violence risk factors through the use of assessment tools, decision trees, algorithms or other effective means.

This shall include identification of areas or units in which ~~patient-related~~specific Type 2 violence is more likely to occur. This shall also include procedures for visitors or other persons who may pose workplace violence hazards to the patient or employees, or display disruptive behavior, in accordance with applicable laws and regulations.

(H) Procedures for the identification and evaluation of areas and operations at increased risk of Type 1 violence, including, but not limited to, emergency departments and pharmacy areas.

(I) Procedures for the correction of workplace violence hazards in a timely manner. In accordance with Section 3203(a)(6). The employer shall take measures to protect employees from imminent hazards immediately, and shall take measure to protect employees from identified serious hazards within seven days of the discovery of the hazard. When an identified corrective measure cannot be implemented within this timeframe, the employer shall take interim measures to abate the imminent or serious nature of the hazard while completing the permanent control measures. Corrective measures shall include:

1. Procedures to ensure that sufficient staff is trained and available to prevent and 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.
2. 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, 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.
3. Configuration of spaces, including, but not limited to, treatment areas, patient rooms, interview rooms, and common rooms, so that employee access to doors and alarm systems cannot be impeded by a patient, other persons, or obstacles.
4. In areas where patients who have been identified as having a potential for workplace Type 2 violence are reasonably anticipated to be present, removal, fastening, or control of furnishings and other objects that may be used as improvised weapons.
5. In areas in which patients or visitors are reasonably anticipated to possess firearms or other weapons, a security plan for prevention of the transport of unauthorized firearms and other weapons into the facility.
6. Maintenance of sufficient staffing to implement the plan at all times, including maintaining order in the facility, and responding to workplace violence incidents in a timely manner.

7. An alarm system, or other effective means, by which employees can summon aid to defuse or respond to an actual or potential workplace violence emergency.

8. 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.

9. 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.

10. Placement, staffing requirements, or other measures to be taken to reduce patient-specific Type 2 workplace violence hazards.

(J) Procedures for post-incident response and workplace violence injury investigation, including:

1. Procedures for providing immediate medical care or first aid to employees who have been injured in the incident.

2. Identification of all employees involved in the incident.

3. A procedure for providing individual trauma counseling to all employees affected by the incident.

4. As soon as possible after the incident, a post-incident debriefing to include all employees and supervisors involved in the incident.

5. Review of any patient-specific risk factors, and any risk reduction measures that were specified for that patient.

6. Review of whether the Plan was effectively implemented, including whether appropriate preventive measures, such as individual staffing, had been implemented, whether alarms or other means of summoning assistance had been activated, whether the timeframe and type of response was sufficient, and what factors may have helped to prevent injury or may have impeded effective interventions.

7. 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.

8. The information collected in accordance with this subsection shall be recorded in a Violent Incident Log. The Log shall be included in the review of the Plan. The information recorded on the log shall include, but is not limited to:

~~a. Date, time and Location.~~

~~b. Name(s) of the personnel who were injured or the target of the violent action including names and contact information of personnel of other employers, and the names of responders and witnesses.~~

~~c. A brief description of the incident~~

~~d. A summary of the information collected during the incident investigation.~~

~~e. Whether security or law enforcement were contacted, and names of responders.~~

~~f. The patient's individually identifiable medical information shall not be included on the log.~~

a. The date; time; specific location of the incident; a description of the person affected by the incident including employee name, sex, job title, department; and the supervisor's name and title.

b. A section to be completed by each employee who experienced workplace violence including:

1) A detailed description of the incident in the employee's own words.

2) A classification of who performed the violence including whether the perpetrator was a patient/client/customer, family/friend of a patient/client/customer, stranger with criminal intent, co-worker, supervisor/manager, partner/spouse, parent/relative, or other perpetrator

3) 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.

c. A description of the incident that will include:

1) A classification of where the incident occurred including whether it was in a patient or client room, emergency room or urgent care, hallway, waiting room, restroom or bathroom, parking lot or outside the premises, a personal resident, break room or cafeteria, or other

2) The type of incident including whether it was a(n)

A) Physical attack including biting, choking, grabbing, hair pulling, kicking, punching/slapping, pushing/pulling, scratching, spitting at/on, or other

B) Attack with a weapon or object including a gun, knife, or other object

C) Verbal intimidation including bullying, harassment, threatening, or other

D) Physical intimidation including following/stalking, physical threats, or other

E) Sexual assault or intimidation including rape/attempted

rape, physical display, unwanted verbal/physical sexual contact, or other

F) Post-incident stress

G) Animal attack

H) Other

d. Consequences of the incident including

- 1) Whether medical treatment was provided to the employee
- 2) Whether security or law enforcement was contacted, and if so who
- 3) Whether time was taken off work, and if so for how long
- 4) Whether there was a continuing threat to employees, and if so the actions taken to protect employees

e. Information about the person completing the workplace violence incident report including their name, title, phone number, email address, and the date completed.

Note: the patient's individually identifiable medical information shall not be included on the log.

(K) Procedures for developing and providing training, in accordance with subsection (d). This shall include how employees and their representatives may participate in the development and delivery of the training.

(L) Procedures for the annual review of the Plan, including procedures for the effective involvement 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)(2)(I). This review shall include, all of the following:

1. Staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence.
2. Sufficiency of security systems, including alarms, emergency response, and security personnel availability.
3. Job design, equipment, and facilities.
4. 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.

(M) The plan shall 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.

(d) Training. The employer shall provide training to all employees in the facility, unit, service or operation, including temporary employees. The training shall effectively 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. Employees and their representatives shall participate in the creation of training curriculum and training materials, conduct of training sessions, and the review and revision of

the training program. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(1) Frequency of training. Employees shall be trained as follows:

(A) Initial training shall 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;

(B) At least every twelve months, employees and their supervisors shall also receive refresher training in violence prevention while performing patient contact activities.

(C) Employers shall provide additional training when new equipment or work practices are introduced. or when a new, or previously unrecognized, workplace violence hazard has been identified. The additional training may be limited to addressing the new equipment or work practices or workplace hazard.

(2) Initial training for employees in facilities, services and operations covered by the standard shall include:

(A) An explanation of the employer's workplace violence prevention 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

(B) 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.

(C) Strategies to avoid physical harm.

(D) How to report violent incidents to law enforcement.

(E) Any resources available to employees for coping with incidents of violence, including, but not limited to, critical incident stress debriefing or employee assistance programs.

(F) An opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan.

(G) 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, shall 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.

(3) Additional training requirements for health facilities. In addition to the training requirements listed in subsection (d)(2) health facilities shall ensure that 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 shall receive the following training:

(A) Prior to initial assignment, and at least annually thereafter:

1. General and personal safety measures.
2. Aggression and violence predicting factors
3. The assault cycle.
4. Characteristics of aggressive and violent patients and victims.
5. Verbal and physical maneuvers to diffuse and avoid violent behavior.
6. Strategies to avoid physical harm.
7. Restraining techniques.
8. Appropriate use of medications as chemical restraints.

(B) ~~No less frequently than every 90 days,~~ The employees covered by this subsection shall have an opportunity to practice the maneuvers and techniques included in the training with other employees they will work with, and to debrief the practice session. Problems found shall be corrected.

(4) Employers shall ensure that all personnel present in health care facilities, services and operations have been trained on the employer's Plan, and what to do in the case of an alarm or other notification of emergency. Non-employee personnel who are reasonably anticipated to participate in implementation of the Plan shall be provided with the training required for the specific assignment.

(e) Reporting requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals.

(1) Each general acute care hospital, acute psychiatric hospital, and special hospital shall report each reportable violent incident to the Division within 24 hours, _____, if the incident results in an 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. All other incidents of violence shall be reported to the Division within 72 hours.

A. Hospital name, site address, hospital representative, phone number and email address, and the name, representative name, and contact information for any other employer of employees affected by the incident.

B. Date, time and specific location of the incident.

C. A brief description of the incident

D. The number of employees injured and the types of injuries sustained

E. Whether security or law enforcement were contacted, and what agencies responded.

F. Whether there is a continuing threat, and if so, what measures are being taken to protect employees.

G. A unique incident identifier.

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

I. State if this was also reported to the nearest Division District Office ~~of the Division of Occupational Safety and Health~~ [see (5) below].

(3) The report shall be provided by email to the following address:

(4) The employer shall provide supplemental information regarding the incident within four hours of a request to the Division.

(5) Note: this report does not relieve the employer of the requirements of Section 342-~~Regulations of the Division of Occupational Safety and Health~~, to report a serious injury, illness, or death to the nearest Division District Office ~~of the Division of Occupational safety and Health~~.

(f) Recordkeeping

(1) 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) and EXCEPTION NO. 1 do not apply.

(2) Training records shall be created and maintained for a minimum of one year and 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.

(3) Records of violent incidents, including but not limited to, the Violent Incident Log, the reports required by subsection (e), and workplace violence injury investigations shall be created

in accordance with subsection (c)(2)(J)8. These records shall be maintained for a minimum of 5 years. These records shall not contain “medical information” as defined by Civil Code Section 56.05(g).

(4) All records required by this subsection shall be made available on request to the Chief ~~of the Division of Occupational Safety and Health and his or her representatives~~ for examination and copying.

(5) All records required by this subsection shall be made available on request to employees and their representatives for examination and copying in accordance with Section 3204(e)(1) of these orders.

(6) Records required by Division 1, Chapter 7, Subchapter 1, Occupational Injury or Illness Reports and Records, of these orders shall be created and maintained in accordance with those orders.