

**Workplace Violence Prevention in General Industry – Draft
January 24, 2025 Advisory Meeting Notes**

Single underline and single strikethrough text shows draft revisions of July 15, 2024 compared to California Labor Code 6401.9

Italicized text shows notes taken during the advisory meeting of January 24, 2025. A video recording and transcript will be posted separately in the future.

Bold double underline and bold double strikethrough text shows draft revisions made during the advisory meeting of January 24, 2025. Further changes as a result of input received prior, during, and after the meeting will be reflected in a future draft.

After the future draft is posted, a follow-up advisory committee meeting will be scheduled.

§3343. Workplace Violence Prevention.

(a) Scope and Application. ~~Except as provided in paragraph (2),~~ This section applies to all employers, employees, places of employment, and employer-provided housing.

(1) ~~Subject to paragraph (3), the following employers, employees, and places of employment~~ The following are exempt from this section:

EXCEPTION 1: Healthcare facilities, service categories, and operations covered by ~~Ssection 3342 of title 8 of the California Code of Regulations.~~

EXCEPTION 2: Employers that comply with, ~~Ssection 3342 of Title 8 of the California Code of Regulations.~~

EXCEPTION 3: Facilities operated by the Department of Corrections and Rehabilitation, if the facilities are in compliance with ~~Ssection 3203 of Title 8 of the California Code of Regulations.~~

EXCEPTION 4: Employers that are law enforcement agencies that are a “department or participating department,” as defined in Section 1001 of Title 11 of the California Code of Regulations and that have received confirmation of compliance with the Commission on Peace Officer Standards and Training (POST) Program from the POST Executive Director in accordance with Section 1010 of Title 11 of the California Code of Regulations. This exception only applies to facilities in compliance with section 3203. ~~However, an employer shall be exempt pursuant to this subparagraph only if all facilities operated by the agency are in compliance with Section 3203 of Title 8 of the California Code of Regulations.~~

EXCEPTION 5: Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

EXCEPTION 6: Places of employment where there are less than 10 employees working at the place ~~at any given time~~ and that are not accessible to the public, if the places are in compliance with ~~Section 3203 of Title 8 of the California Code of Regulations.~~

NOTES TAKEN REGARDING EXCEPTION 6:

Pamela Murcell: Keep language same as the Labor Code

Jane Thomason: call centers for nurses not open to public, interact with patients, threats come over phone, anxiety and fear, inadequate response to employers; domestic violence can come into these workplaces

Rob Moutrie, keep language same as Labor Code. For healthcare, amend 3342.

Mike Donlon: on construction sites, number of employees is variable, changes make it impossible to manage on multi-employer worksite. Leave same as labor code.

Bruce Wick, agrees with others on leaving same as labor code. Employers have already implemented this. Any changes for things that really stand out.

Anne Katten: supports comments of Jane Thomason, addressing gap in healthcare would be done much quickly here. Type 3 violence supervisor on employee violence. Exclusion of public has no bearing there.

Anatasia Nicole Wright: agrees with Anne and Jane. Rationale for expanding scope is sound. Domestic violence and type 3 violence. This exception should not exist. In general, workplaces not open to public doesn't stop people from coming in. Having irate people come in. Exception should be deleted.

Andrew Sommer: agrees with Rob Moutrie and Bruce Wick. Take into account substantiveness of changes. Changes like this will require employers to come back to their plan. Smaller workplaces have lower risk.

Dan Leacox: change goes beyond what is in LC 6401.9.

Maegen Ortiz: starting in summer, household domestic workers hired by an agency will have employee rights; those workers would not be protected by this exception, since a home is open to the public. Domestic household workers are vulnerable to workplace violence, workers assaulted inside households. Those workers should not be left out.

Michael Miller: also need delayed implementation of any changes, time to adjust programs. Three to six months after implemented by OAL

Channing Sheets: high risk settings in households not addressed, separate requirements where employers do not have control of the workplace – private households.

Bryan Little: supports Michale Miller, giving transition time from SB 553. I created sample programs and supporting documents to get into compliance and we're back trying to change again. Regarding exception 6. I think in most places you're going to have 10 people work most of the time. Shouldn't switch between compliance and non-compliance. Others come and go into ag worksites.

Rob Moutrie: workplaces where employees are not together are significantly different than where employees are together. Should reflect risk of violence

Anastasia: solution should protect domestic workers. We should have further conversations. Do separate meeting to discuss these workers

Kevin Graulich: Standard could start and end as workers come and go.

Eddie Sanchez: there's not a good explanation that a lower number of workers risk of violence. Supports narrowing the exception.

Cassie Hilaski: specificity for unique situations. Where employers don't have control over the workplace, provide realistic controls for their workplace. Limit changes to those that are necessary.

Priscilla Rodriguez: supports comments from Rob Moutrie, keep same as labor code.

Chris Walker: keep same as labor code, constantly changing rules are problematic

~~(3) Notwithstanding paragraph (1), the division may, by issuance of an order to take special action, require an employer that is exempt pursuant to paragraph (1) to comply with this section or require an employer to include employees or places of employment that are exempt pursuant to paragraph (1) in their compliance with this section.~~

- (2) The Division may require exempt employers to comply with this section through the issuance of an Order to Take Special Action.

(b) Definitions. ~~For purposes of this section, the following definitions apply:~~

- (1) "Emergency" means unanticipated circumstances that can be life-threatening or pose a risk of significant injuries to employees or other persons, requiring immediate action.

- (2) "Engineering controls" means an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard.

~~Examples of For purposes of reducing workplace violence hazards,~~ engineering controls include, as applicable, but are not limited to: electronic or mechanical access controls to employee occupied areas; weapon detectors (installed or handheld); enclosed workstations with shatter-resistant glass; deep service counters; spaces configured to optimize employee access to exits, escape routes, and alarms; separate rooms or areas for high risk persons; locks on doors; furniture affixed to the floor; opaque glass (protects privacy, but allows employees to see where potential risks are);

improving lighting in dark areas, sight-aids, improving visibility, and removing sight barriers; video monitoring and recording; and personal and workplace alarms.

NOTES TAKEN REGARDING SUBSECTION (b)(2) et al:

Rob Moutrie: add the word "may" before the list in b2 and b7. "Staffing" is problematic. Opposed to prohibiting employees "confront" workplace violence.

Helen Cleary: recommends no changes. It will trigger updates to training programs, could create confusion to employers and might not be relevant to employers. Should be provided in guidance documents. Use the word "may" or "as applicable". Employers have already implemented their controls.

Pamela Murcell: use word may. Move entire edition of examples into a note as done in other regulations. "Shatter resistant glass" is not correct term. Opaque glass is incorrect term. Use translucent instead of opaque.

Cassie Hilaski: however, change wording such as seen as examples. Important to make that distinction.

Channing Sheets: staffing is critical where there is fixed assignments and can't leave position. Have to have staff available to respond. No one is available to provide aid if something happens. A few industries need a staffing plan and how to backfill

Mike Donlon: shouldn't add this list. Keep in guidance. List doesn't work for construction or industrial operations. None of these works in construction.

Bryan Little: list doesn't make sense for agricultural sites is not implementable; shouldn't be a checklist.

Eddie Sanchez: staffing can be an effective work practice control; employees are able to respond to violent incidents. Staffing places a huge role in keeping people safe. Come across employers who will feign confusion. List is helpful for that.

Bruce Wick: have over a 1 million employers with less than 20 employees. They look first to guidance and then look at a regulation. Real reason to put this in guidance or notes.

Anastasia Nicole Wright: helpful to have examples in the regulation if they need to request engineering controls in the workplace. Fine to clarify that this is a list of examples.

Jane Thomason, CNA supports adding list. List has been helpful in healthcare standard to help employers and hold them accountable. For b7, staffing- strongly supports staffing, important control measure for many workplaces. It's important to include staffing as a control measure for enforcement. Risk factors related

to short staffing, lower wait times, less frustration from clients, help deescalate incidents, more staffing less pressure on employees and able to interact with people. Extensive experience with healthcare standard and staffing

Anne Katten: - engineering controls that is general and is important, improving lighting in dark areas and improving visibility and sight barriers. Applicable to any workplace

Dan Leacox: would require hiring of staff due to listing staffing as a control

Ryan Allain: concerns that it looks like a checklist. Replacing in guidance or rewriting it as use "may include," instead. Make sure it's appropriate to the workplace.

Kevin Riley – likes the examples. Has done a lot of training on LC and healthcare standard. What is an engineering control – is helpful to understand how to implement. Some confusion is how to apply. Re. Staffing – public facing settings – inadequate staffing causes frustrated customers.

Robert Moutrie: staffing – scope – if someone can't respond to event – legit concern. Reducing customer frustration is not within scope.

(3) "Log" means the violent incident log required by this section.

(4) "Plan" means the workplace violence prevention plan required by this section.

(5) "Threat of violence" means any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or place someone in fear of physical harm, and that serves no legitimate purpose.

NOTES TAKEN REGARDING SUBSECTION (b)(5):

Pamela Murcell: intend to capture social media and WPV via electronic messages, etc.? If EE raises issue to Employer, then should be addressed.

Rob Moutrie: many social media messages about public officials.

(6) "Workplace violence" means any act of violence or threat of violence that occurs in a place of employment. Workplace violence includes, but is not limited to, the following:

(A) The threat or use of physical force against an employee 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 a 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.

(C) The following four workplace violence types **for the purposes of this regulation** are:

1. "Type 1 violence", ~~which~~ means workplace violence committed by a person who has no legitimate business at the worksite, and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
2. "Type 2 violence", ~~which~~ means workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.

NOTES TAKEN REGARDING SUBSECTION (b)(6)(C)2. et al.:

Norma Wallace: Consider special ed and preschool; logging incidents not perceived as violence or threats; it is a behavioral matter; numerous reports is burdensome; be more specific to address repeat type incidents.

Channing Sheets: Mitigation of hazards for special needs children need to be explored and consistent with other laws.

Jane Thomason: have rec'd similar pushback re. Patients with disabilities and are violent as part of their condition, that it is not violence. That violence does have a real impact on employees. Causes stress, trauma, and injuries. There needs to be no exception around intent. Goes to risk assessment about hazards.

Eric Lawyer CSAC: consider public officials being threatened.

3. "Type 3 violence", ~~which~~ means workplace violence against an employee by a present or former employee, supervisor, or manager.
4. "Type 4 violence", ~~which~~ means workplace violence committed in the workplace by a person who does not work there, but has or is known to have had a personal relationship with an employee.

EXCEPTION: The term ~~W~~workplace violence does not include lawful acts of self-defense or defense of others.

NOTES TAKEN REGARDING SUBSETION (b)(6)(C) EXCEPTION:

Pamela Murcell: Research definition of "self-defense" and "defense of others" in California Penal Code or other codes and add reference here.

- (7) “Work practice controls” means procedures, ~~and~~ rules, and staffing which are used to effectively reduce workplace violence hazards. Examples of ~~W~~work practice controls include, as applicable, but are not limited to: appropriate staffing levels; provision of dedicated security personnel; an effective means to alert employees of the presence, location, and nature of a security threat; control of visitor entry; methods and procedures to prevent unauthorized firearms and weapons in the workplace; employee training on workplace violence prevention methods; and employee training on procedures to follow in the event of a workplace violence incident or emergency.

NOTES TAKEN REGARDING (b)(7) et al.:

Jane Thomason: details are helpful.

Mike Donlon: recommends guidance for worksite specific guidance.

Norma Wallace: Schools already logging incidents and injuries. This is additional logging. How is going to be inspected? Can't pull student files due to privacy concerns.

Navnit Puryear: Face a lot of violence from students. Prefers to keep logging requirements. Incidents have real impact on members.

- (c) Workplace Violence Prevention Plan. An employer shall establish, implement, and maintain an effective workplace violence prevention plan (Plan). The ~~P~~plan shall be in writing and shall be available and easily accessible to employees, authorized employee representatives, and to representatives of the ~~d~~Division at all times. The ~~P~~plan shall be in effect at all times and in all work areas and be specific to the hazards and corrective measures for each work area and operation. The written ~~P~~plan may be incorporated as a stand-alone section in the written ~~I~~njury and ~~I~~llness ~~P~~revention ~~P~~rogram required by ~~S~~section 3203 ~~of Title 8 of the California Code of Regulations~~ or maintained as a separate document. The ~~P~~plan shall include all of the following:

- (1) Names or job titles of the persons responsible for implementing the ~~p~~Plan. If there are multiple persons responsible for the ~~p~~Plan, their roles shall be clearly described.
- (2) Effective procedures to obtain the active involvement of employees and authorized employee representatives in developing and implementing the ~~p~~Plan, including, but not limited to, through their participation in identifying, evaluating, and correcting workplace violence hazards, in designing and implementing training, and in reporting and investigating workplace violence incidents.
- (3) Methods the employer will use to coordinate implementation of the ~~p~~Plan with other employers, when applicable, to ensure that those employers and employees understand their respective roles, as provided in the ~~p~~Plan. These methods shall ensure that all employees are provided the training required by subsection ~~subdivision~~ (e) and shall ensure that workplace violence incidents involving any employee are reported, investigated, and recorded.

- (4) Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.
- (5) Effective procedures to ensure that supervisory and nonsupervisory employees comply with the pPlan in a manner consistent with paragraph (2) of subdivision (a) of Section ~~3203 of Title 8 of the California Code of Regulations~~ in accordance with section 3203(a)(2).
- (6) Effective procedures to communicate with employees and authorized employee representatives regarding workplace violence matters, including, but not limited to, both of the following:
 - (A) How an employee or authorized employee representative can report a violent incident, threat, or other workplace violence concern to the employer or law enforcement without fear of reprisal. Employers shall accept, keep a record of, and consider such reports, including anonymous reports. Employers shall keep the identity of reporting employees confidential unless the employee expressly requests their identity be shared.
 - (B) How employee and authorized employee representative concerns will be investigated as part of the employer's responsibility in complying with subsection (c)(9) subparagraph (4), and how employees and authorized employee representatives will be informed of the results of the investigation and any corrective actions to be taken as part of the employer's responsibility in complying with subsection (c)(10) subparagraph (1). The employer shall keep a record of investigations into employee and authorized employee representative concerns.

NOTES TAKEN REGARDING SUBSECTION (c)(6) et al.:

Pamela Murcel: Term "effective". No definition of what constitutes "effective." Recordkeeping requirement needed to make reports on this required procedural item. Ensure consistent in recordkeeping section.

Helen Cleary: Added language should be moved to (c)(4). Don't think this language should be added. Don't think A and b are accurate and are excessive. C is about plan requirements. Investigation records shouldn't be accessible. Overly broad; should be more narrow and specific.

Jane Thomason – supports the addition to create plans and coordinate w/ EE and EE representatives.

Bryan Little: added "representative" in last line

Robert Moutrie: agrees w/ Helen Cleary.

David Cook: C(6)(A) - Not always possible to keep EE identification confidential and conduct thorough investigation? Language is

constrictive. Maybe add "to the best of their ability." Reasonable steps and good faith effort are suggested verbiage.

Kevin Riley: Re. Reporting – important where act of violence by supervisor – process to report to someone other than supervisor.

Anne Katten: Same comment as Kevin Riley – option to report to other staff if supervisor is the violent actor.

Dan Leacox: Re. Disclosure of identification, "except as necessary to conduct investigation."

Robert Moutrie: re disclosure of ID – i.e. responding to LE; agrees w/ David Cook.

- (7) Effective procedures to respond to actual or potential workplace violence emergencies, including, but not limited to, all of the following:
 - (A) Effective means to alert employees of the presence, location, and nature of workplace violence emergencies;
 - (B) Evacuation or sheltering plans that are appropriate and feasible for the worksite; and
 - (C) How to obtain help from staff assigned to respond to workplace violence emergencies, if any, security personnel, if any, and law enforcement.
- (8) Procedures to develop and provide the training required in ~~subdivision~~ subsection (e).
- (9) Effective ~~Pro~~cedures to identify and evaluate workplace violence hazards, including, but not limited to, scheduled periodic inspections to identify unsafe conditions and work practices, and employee and authorized employee representative reports and concerns. Inspections shall be conducted: when the plan is first established, after each workplace violence incident, when new substances, processes, and procedures, or equipment are introduced to the workplace that represent a new workplace violence hazard, and whenever the employer is made aware of a new or previously unrecognized hazard.

NOTES TAKEN REGARDING SUBSECTION (c)(9):

Helen Cleary: duplicative of IIPP; open ended to hazards and not workplace violence hazards. Recommends clearer language. I.e. more specific to WPV hazards and not just general hazards. Reconsider the term "Substances."

Andrew Sommer: Causes confusion since aligns w/ IIPP. Duplicative of IIPP.

Pamela Murcell: agrees w/ Helen and Rob. New hazards – duplicative of IIP and may not apply here. Suggestion - "when workplace changes..." i.e. schedule, physical structural changes.

- (A) Workplace violence hazards shall include, but are not limited to:

1. Employees working alone or in locations isolated from other employees;
2. Areas with poor illumination or blocked visibility (e.g. blind spots) of surrounding areas;
3. Entries to places of employment where unauthorized access can occur;
4. Work locations, areas, or operations that lack effective escape routes;
5. Presence of money or valuable goods;
6. Frequent or regular contact with the public;
7. Working late at night or early morning;
8. Selling, distributing, or providing alcohol, marijuana, or pharmaceutical drugs; and

NOTES TAKEN REGARDING SUBSETION (c)(9)(A) et al.:

Helen Cleary: examples are not applicable to all worksites.

Create FAQ w/ worksite specific examples. Consider a new definition. Maybe put under "Definitions." i.e. "may." Consider new training requirements if new definitions added.

Robert Moutrie: agrees w/ Helen. Can be confusing. Clarify that these are factors to look at and not an absolute. Limit to WPV hazards. Change term "correct" in C10 to "address."

Jane Thomason: "effective," important to ensure requirement is for effective procedures so ERs aren't just checking a box to satisfy requirement. Re. New hazards – important to update plans w/ new hazards specific to their worksite. If unaddressed can expose EEs. In healthcare standard - "environmental risk factors," terminology is used. Should Capture any possible workplace changes.

Ryan Allain: aligns w/ Helen and Rob. Hazards are vague.

Suggests to say it's an illustrative list, "examples." Doesn't agree with "shall include."

Bryan Little: list belongs in a note or guidance and not regulatory language. Should not include a checklist.

Mike Donlon: "effective" problematic. Hazard terminology are vague. More appropriate in a Guidance.

Anne Katten: supports Jane Thomason – Agrees to use "environmental risk factors."

Anastacia NW: "effective," already legally defined through Decisions. Shouldn't remove term simply because appears ambiguous.

Michael Miller: re. Working outdoors at night – employees ID hazards. Re. Potential hazards – all listed factors are potential hazards. Some may not be hazards. Rather than include a list, should say, "may."

Robert Moutrie: "Effective," can be unclear. I.e. similar to the term "reasonableness."

Pamela Murcell: suggestion – likes term "risk factor." Look at 3395 where risk factors are defined. Environmental risk factor is defined. May want to use similar approach here.

Mike Donlon: concerned about work "effective," being misused and requires perfection during inspections.

Cassie Hilaski: term "correct" changed to "address," doesn't make substantive difference in C10.

Priscilla Rodriguez: agree "shall include" should not be there.

Should not have exhaustive list. Risk factor is better wording.

Hector Alavarez: Item 5 – add word "exchange" instead of "presence."

(B) The employer shall maintain records of scheduled and periodic inspections.

(10) Effective procedures to ~~address-correct~~ workplace violence hazards identified and evaluated in subsection (c)(9) subparagraph (I) to reduce workplace violence hazards in a timely manner in accordance with section 3203(a)(6) consistent with paragraph (6) of subdivision (a) of Section 3203 of Title 8 of the California Code of Regulations.

(A) Engineering and work practice controls appropriate for the workplace shall be implemented to eliminate or minimize employee exposure to identified workplace violence hazards.

~~(B) Employers shall not require or encourage employees to confront persons suspected of committing a criminal act or persons suspected of engaging in workplace violence.~~

~~EXCEPTION: Subsection (c)(10)(B) does not apply to dedicated security personnel.~~

~~(C) Employers shall allow employees to remove themselves from any unsafe condition when necessary, without fear of reprisal.~~

~~(B)~~ Employers shall keep a record of correction measures ~~considered or~~ implemented to address workplace violence hazards.

NOTES TAKEN REGARDING SUBSECTION (c)(10):

Rob Moutrie: List of items not necessary. A restates things. B problematic term "confront." - C – prior

Dan Leacox: some employees' jobs requires them to ensure other EE's safety.

Ryan Allain: agree that 10b should be struck. Re 10D, Term “considered,” at what point should a correction measure be considered. Suggests to use word “implemented.”

Jane Thomason: C10A- important to keep this requirement. Emphasizes “appropriate for the workplace.” Agrees with deletion of 10B.

Channing Sheets: Rob and Dan have good points. Law enforcement is exempt. To date LC 1139, has not protected EEs from being retaliated against. Depending on the severity of the situation, EEs have a right to leave, and ERs are not being held accountable.

Helen Cleary – Supports removal of word considered under (D). Also recommends moving to record keeping section.

Robert Moutrie: Echo’s Jane Thomason’s point. Patients and language for confrontation, dealing with students with special needs, and creates issues around confrontation. Considered should be struck and in record keeping.

Sabrina Lockhart: Supports Rob Moutrie’s comment, SB 1044. Subsection (C) and (D) is a point of contention, and exemption for us.

Amber Parish: Confront piece is an issue, many stores are thinly staffed. Confronting shoplifters and deterring shoplifters physically is not supported, especially for workers that are not trained. Staffing is a big issue.

(11) Effective Procedures for post-incident response and investigation including:

- (A) Providing immediate medical care or first aid to employees who have been injured in the incident;
- (B) Identifying all employees involved in the incident (names, and other personal identifiable information as described in subsection (d)(1) shall not be included in the written investigation report);
- (C) For employers with more than 25 employees, making available individual trauma counseling to employees affected by the incident;
- (D) Conducting a post-incident debriefing as soon as possible after the incident with employees, supervisors, and security involved in the incident;
- (E) Identifying and evaluating any workplace violence hazards that may have contributed to the incident;
- (F) Identifying and evaluating whether appropriate corrective measures developed under the Plan were effectively implemented and if any new or additional corrective measures are recommended pursuant to subsection (c)(10); and
- (G) Soliciting from employees involved in the incident their ~~observations-opinions~~ regarding the cause of the incident, and whether any measure would have prevented the incident.

(H) For each workplace violence incident, prepare a written investigation report, which shall include all of the following:

1. Description of how the employer complied with subsections (c)(11)(A) through (c)(11)(G).
2. All information the employer received or produced regarding subsections (c)(11)(E) through (c)(11)(G).
3. Results and recommendations of the incident investigation.

NOTES TAKEN REGARDING SUBSECTION (c)(11)

Pamela Murcell: Under (C), why is trauma counseling limited to those ERs with 25 or more EEs? Should apply to all ERs.

David Cook: How to apply investigation, report, and correction, and how to maintain, use a key for individuals. Some reports are 50-60 pages, and redaction can be challenging. Identities shall be released within the organization on a need-to-know basis. Summary report can be given to some people, and WV response team would get the full report. EE and EE Reps need to participate and getting involved can make the name relevant.

Steven Johnson: Agrees with Cal/Chamber and other ER Reps. Number 11 and everything that follows is adding more and more to what ERs are required to do. If counseling is required, that is a WC remedy. Other areas of the law can be remedies. (C) and (E), ERs have spent resources to put together written programs and conducting training, and anything else is moving the goal post and adding burdens. The current written plans include what is in the current legislation. The additional list adds an undue burden.

Robert Moutrie: Trauma counseling for small/medium businesses are different settings than hospitals with far less money. WC handles this as a remedy. (G) have an issue with the word opinion, as information from someone who is not an expert on workplace safety. Having the word effective on the line means that you will be cited if something goes wrong.

Channing Sheets: (B) where joint inspections are conducted, we have a right to unredacted documents. Problem with WC system, and injured EE will get treatment, but someone who was part of the event i.e., assisted the victim, they may not receive the appropriate treatment as WC may be denied.

Dan Leacox: Eliminate the whole list. This list was not in the legislature. General Industry was not involved in the Healthcare standard. The construct for providing help is necessary and becomes a requirement for the ER and belongs within the WC system and not

here. Trauma counseling should not be misidentified as medical surveillance. Sending an EE for tests versus providing treatment (remedy).

Jane Thomason: supports current draft because they are similar to healthcare standard. These details have helped in response and mitigation efforts. WC is not a sufficient remedy, and you have to be off to qualify and there are denials. Ensuring medical care is provided and investigations, and trauma counseling are important measures.

Helen Cleary: (C)(11) items are extensive and are not necessary. The focus should be on prevention, and not on emergency response. Some of these elements are already covered in other regulations and other agencies (law enforcement). Counseling should be addressed with WC. Trauma and treatment should be determined by medical professionals and therefore should not be carved out here. Are Cal/OSHA inspectors qualified to evaluate law enforcement procedures and the issue that will result from that. Using the word "opinion" is concerning and is not a good choice. This seems like a catch-all and a bit random/scattered/too specific.

Cassie Hilaski: A-H problems and agrees with other. Not naming EEs under (B), the log goes into a lot of detail. It is hard to conduct an investigation, and it does not make sense and not write any names down. Currently, our report is sanitized to avoid sharing information. B is problematic and should be struck. C for counseling and the definition of WV is so broad, and there are situations where it would not be appropriate to offer trauma counseling for every single incident. During incident investigations, facts are to be considered and not opinions as people are not necessarily experts on the issue or relevance on the facts of the case. (H)(1), this is an opportunity for citations on things that were not done when an incident occurs. All of this is covered under incident log and is duplicative.

Anne Katten: Strongly support Jane Thomason, that these requirements are essential, and WC system does not deal with mental health and leaves EEs without any recourse. It harms EE and society as a whole.

Mike Donlon: Supports Helen's comments and highlights the duplicity of this subsection. This is supposed to be performance standards and not prescriptive. What works in health care may not work elsewhere.

Channing Sheets: We have had 6 months of enforcing the regulation. As currently written, it is not effective. The section does need to be reworded. Some ERs may not know what response means, and that's why this piece is here. It needs to be here so that ERs comply. It should not be eliminated. Just because it is captured somewhere else, there are ERs that are not knowledgeable and having it detailed is important.

Andrew Sommer: aligns with Mike Donlon. The IIPP is effective and subsection (11), it would require sufficient measures for ERs.

Concerned about the degree of detail. The opinion requirement is not effective, and ERs should not be compelled to adopt that practice. This needs to be removed or significantly pared down.

Hector Alvarez: 11 seems like 2 sections blended into 1. Incident response and investigation should be separated. Concerned about (A), especially if it's a violent incident and can have unintended consequences. Clarifying violence has passed then responding. (D) debriefing should be done by a qualified person and not just talking and retraumatizing EEs.

Amber: UFCW –Supports therapy.

Robert Moutrie: This is not a binary talk. Who is covered, and how long, and the availability of trauma counselors. The frequency of the triggering of this regulation. For who and how much. This is not similar to first aid and is not clear for trauma. To invent a new system seems like a bad move. Limiting it to physical injury or those who saw it and having it in another regulation does not make it correct.

David Cook: Section (A), immediate care should be reconsidered, makes it proactive, i.e. providing first aid. Agrees with Robert Moutrie about trauma counseling and the impact that it can have and modifying it to capture workplace violence and other incidents, rather than having an undefined clause. There must be framework. Asking for opinions during an investigation can create confusion. Names and identifying information does not align with capturing all the information.

Cassie Hilaski: (H)(1) why is it there? What positive effect will come from this review? This is a post investigative report and requires ER to document what you did or did not do (A) - (G). Thought it was what an ER did before the incident. It's a checklist of what you did after the investigation.

Dan Leacox: (H)(1) implies admission of noncompliance for ERs and may not be appropriate versus what happened as part of the investigation. If there is duplication, then maybe it's better to not restate because of complexities of restating and the implications. The reference to IIPP can be included in the duplicated sections. The trauma counseling is response to an incident and therein lies the problem as people react differently. It's not the correct path to fixing it. Enforceability of who should have been offered counseling, but there is another construct to use.

Mike Donlon: I was not suggesting to eliminate (11) but rewriting it to leave it as a performance standard. (A) through (H) may not be the best way to respond. "Include a procedure to respond to and investigate a workplace violence incident" suggested language.

Anastacia NW: aligns with Ann Katten, Jane Thomason. Trauma counseling is a specific term in the field, and the type of incident experienced and supports keeping the term. Section (H) comments were submitted previously for review.

Helen Cleary: Having law enforcement experience is important for this rule and recommends bringing those professionals in for input. For (H), the definition of WV is broad and compare it to a serious emergency and trying to create procedures is not reasonable or make sense. If we require so much detail and can have negative consequences. Recommends limiting the scope of (11). Some of these components are already in the rule. There should be some flexibility for the ER to decide the level of responses depending on the severity of the event.

Michael Miller: Trauma counseling belongs in the WC arena. We don't really know trauma counseling and how it works. Trauma counseling is different, and medication may be administered with career advice or even see a life coach. Trauma counseling can be very complicated. Is concerned with aligning with WV in healthcare as we don't know if it really works.

Dan Leacox: The effectiveness of trauma counseling and you can see it with WC. Not something that should be adjudicated by DOSH.

Cassie Hilaski: The regulation is meant to provide a safer workplace. Requiring extensive written incident reports, the more time it takes to written smaller incident reports takes resources away from the field. Try to reign in the scope.

Steven Johnson: If there has been a serious WV incident, the ER is going to rely heavily on law enforcement for information for the report that they generate. The ER in trying to comply with t8 may or may not run afoul with everything that is required.

Kyle Schmidt: WC does indeed provide coverage and treatment for workplace stressors that leads to mental illness. The term "effectiveness" does add confusion for ERs.

- (12) Effective procedures to review the effectiveness of the Pplan and revise the Pplan as needed, including, but not limited to, procedures to obtain the active involvement of employees and authorized employee representatives in reviewing the Pplan. The Pplan shall be reviewed at least annually, when a deficiency is observed or becomes apparent, and after a workplace incident.

- (d) Violent Incident Log. The employer shall record information in a violent incident log (Log) for every workplace violence incident.

- (1) Information that is recorded in the Log for each incident shall be based on information solicited from the employees who experienced the workplace violence, on witness

statements, and on investigation findings. The employer shall omit any element of personal identifying information sufficient to allow identification of any person involved in a violent incident, such as the person's name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person's identity. The Log shall be reviewed during the periodic reviews of the Plan required in subsection (c)(12) subparagraph (L) of paragraph (2) of subdivision (c).

- (2) For purposes of this section, at a multiemployer worksite, the employer or employers whose employees experienced the workplace violence incident shall record the information in a violent incident log pursuant to subsection (d) subparagraph (A) and shall also provide a copy of that log to the controlling employer.
- (3) The information recorded in the log shall include all of the following:
 - (A) The date, time, and location of the incident.
 - (B) The workplace violence type or types, as defined in subsection (b)(6)(C) described in clause (iii) of subparagraph (B) of paragraph (6) of subdivision (a), involved in the incident.
 - (C) A detailed description of the incident.
 - (D) A classification of who committed the violence, including whether the perpetrator was a client or customer, family or friend of a client or customer, stranger with criminal intent, coworker, supervisor or manager, partner or spouse, parent or relative, or other perpetrator.
 - (E) A classification of circumstances at the time of the incident, including, but not limited to, whether the employee was completing usual job duties, working in poorly lit areas, rushed, working during a low staffing level, isolated or alone, unable to get help or assistance, working in a community setting, ~~or~~ working in an unfamiliar or new location, or other circumstances.
 - (F) A classification of where the incident occurred, ~~such as~~ in the workplace, parking lot or other area outside the workplace, or other area.
 - (G) The type of incident, including, but not limited to, whether it involved any of the following:
 1. Physical attack without a weapon, including, but not limited to, biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting.
 2. Attack with a weapon or object, including, but not limited to, a firearm, knife, or other object.
 3. Threat of physical force or threat of the use of a weapon or other object.
 4. Sexual assault or threat, including, but not limited to, rape, attempted rape, physical display, or unwanted verbal or physical sexual contact.

5. Animal attack.
6. Other.

(H) Consequences of the incident, including, but not limited to:

1. Whether security or law enforcement was contacted and their response.
2. Actions taken to protect employees from a continuing threat or from any other hazards identified as a result of the incident.

(I) Information about the person completing the log, including their name, job title, and the date completed.

(e) **Training.** The employer shall provide effective training to employees, as specified in subsections (e)(1) and (e)(2) paragraphs (2) and (3). Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(1) The employer shall provide employees with initial training when the Pplan is first established, and annually thereafter, on all of the following:

- (A) The employer's Pplan, how to obtain a copy of the employer's Pplan at no cost, and how to participate in development and implementation of the employer's Pplan.
- (B) The definitions and requirements of this section.
- (C) How to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal.
- (D) Workplace violence hazards specific to the employees' jobs, the corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.
- (E) The violent incident log required by subdivision subsection (d) and how to obtain copies of records required by subsections (f)(1), (f)(2), and (f)(3) paragraphs (1) to (3), inclusive, of subdivision (f).
- (F) An opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan.

(2) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the Pplan. The additional training may be limited to addressing the new workplace violence hazard or changes to the Pplan.

(f) **Recordkeeping.**

- (1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained for a minimum of five years.
- (2) Training records shall be created and maintained for a minimum of one year and include 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) Violent incident logs required by ~~subdivision~~ subsection (d) shall be maintained for a minimum of five years.
- (4) Records of workplace violence incident investigations conducted pursuant to subsection (c)(11) ~~subparagraph (K) of paragraph (2) of subdivision (c)~~ shall be maintained for a minimum of five years. These records shall not contain "medical information," as defined by Civil Code Section 56.05(j) ~~in subdivision (j) of Section 56.05 of the Civil Code~~.
- (5) All records required by ~~this subdivision~~ subsection (f) shall be made available to the Division upon request for examination and copying.
- (6) All records required by subsections (f)(1), (f)(2), and (f)(3) ~~paragraphs (1) to (3), inclusive~~, shall be made available to employees and their authorized employee representatives, upon request and without cost, for examination and copying within 15 calendar days of a request.