National Nurses United

The National Voice for Direct-Care RNs

WASHINGTON DC
8630 Fenton Street
Suite 1100
Silver Spring MD 20910
phone: 800-287-5021
fax: 240-235-2019

OAKLAND
155 Grand Avenue
Oakland CA 94612
phone: 800-504-7859
fax: 510-663-1625

Kevin Graulich
Research and Standards Occupational Health Unit
Division of Occupational Safety and Health
California Department of Industrial Relations
kgraulich@dir.ca.gov

December 14, 2018

RE: Cal/OSHA Workplace Violence Prevention in General Industry Second Discussion Draft

Dear Mr. Graulich:

California Nurses Association/National Nurses United (CNA/NNU), representing over 100,000 members in California, is the largest labor union and professional association of registered nurses in the state and in the nation. As such, we are concerned that our members are afforded their right to a safe and healthy workplace and are fully protected by their employers from hazardous exposures, including workplace violence, which may occur in the course of providing care to patients.

We appreciate the opportunity to provide written comment to the Division of Occupational Safety and Health (Cal/OSHA) on their second discussion draft for the Workplace Violence Prevention in General Industry Standard (8 CCR §3343, "CA General Industry WPV Standard"). In this draft, Cal/OSHA addressed several concerns that were raised in response to the first discussion draft and the January 25, 2018 advisory meeting. However, the draft standard still does not contain all elements necessary for effective prevention of workplace violence and protection of employees. A comprehensive standard that mandates employer prevention plans is needed to protect workers from increasing levels of workplace violence.

As stated in our comments in response to the first discussion draft and advisory meeting,[1] CNA/NNU strongly encourages Cal/OSHA to hold the Workplace Violence Prevention in Healthcare Standard (8 CCR §3342, "CA Healthcare WPV Standard") as the model for constructing the CA General Industry WPV Standard. While Cal/OSHA has stated that this is their intent, there are still significant elements missing from the current discussion draft.

No worker goes to work at the start of their shift expecting to be hurt or to get sick and especially not threatened, hurt, or killed because of an act of violence. Given the increasing frequency of workplace violence incidents,[2] including workplace violence

[1] California Nurses Association/National Nurses United comments submitted to Cal/OSHA March 29, 2018. Posted at https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/Comments/California-Nurses-Association.pdf.

[2] Bureau of Labor Statistics (BLS) data from 2017 indicates that injuries requiring days away from work due to violence rose for healthcare workers as well as for general industry as compared to 2016 rates. Workplace

emergency situations, it is imperative that Cal/OSHA create a strong standard to require employers to protect employees from workplace violence. CNA/NNU's response to the Division's second discussion draft is described below and example language is attached to these comments.

Comment #1: Cal/OSHA Has and Should Continue to Maintain a Protective Scope

CNA/NNU supports the expansive scope included in Cal/OSHA's second discussion draft. We commend Cal/OSHA for recognizing that all workers in California need protections from workplace violence and for maintaining an expansive scope. As discussed in CNA/NNU's earlier comments submitted to Cal/OSHA on March 29, 2018, many CNA/NNU members would be covered under the CA General Industry WPV Standard. These members include nurses and other healthcare workers at outpatient clinics that are not covered by the CA Healthcare WPV Standard as well as nurses who work in telephone advice centers or call centers to provide medical advice and assistance to patients over the telephone. We strongly support Cal/OSHA's decision to maintain the general industry scope and to not adopt a two-tiered or "high hazard" approach.

In the second discussion draft, Cal/OSHA added a new exception that allows employers to comply with the CA Healthcare WPV Standard instead of the CA General Industry WPV Standard. It is unclear what purpose this exception serves. If an employer has complied with the CA Healthcare WPV Standard, does Cal/OSHA expect that they would be out of compliance with the CA General Industry WPV Standard? How would such an exception be enforced by Cal/OSHA's Compliance Safety and Health Officers (CSHOs)? Instead of including such an exception, Cal/OSHA should ensure that the CA General Industry WPV Standard requires the same high level of protection as the CA Healthcare WPV Standard.

Comment #2: More Detailed Definitions Are Still Needed

Cal/OSHA added only one definition of "union representative" to their second discussion draft. In our March 29, 2018 comments CNA/NNU stated that more detailed and descriptive definitions are needed in the CA General Industry WPV Standard. We suggested that definitions from the CA Healthcare WPV Standard be used. Definitions are an important element of any standard because they specify what terms mean, which is important for establishing and defending any citation of a standard. Cal/OSHA should add the following definitions from the CA Healthcare WPV Standard: emergency, engineering controls, environmental risk factors, patient-specific risk factors (possibly changed to person-specific risk factors to be more applicable to general industry), and work practice controls.

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homicide rates increased in 2016, the most recent year available, to the highest figure reported since the BLS began recording this data in 1992. Sources: https://www.bls.gov/data/#injuries and https://www.bls.gov/news.release/pdf/cfoi.pdf.

Further, the definition of injury should be removed. The first discussion draft required employers to investigate and record only those workplace violence incidents that resulted in an injury meeting the 300 log recording requirements. Cal/OSHA importantly changed this threshold in the second discussion draft, such that all workplace violence incidents must be investigated and information about each incident recorded in a Violent Incident Log. CNA/NNU strongly supports this change (also see Comment #4). With this change, inclusion of the definition of injury in subsection (b) is unnecessary and potentially confusing as it is no longer a salient part of the standard.

Comment #3: Workplace Violence Prevention Plan Requirements Need to be Strengthened

Cal/OSHA added a few elements to subsection (c) in the second discussion draft. However, these workplace violence prevention plan requirements are still missing several elements that are necessary to ensure that employer's plans are effective and that employees' safety is protected. These detailed elements would make clear all the things that employers need to do to create, implement, and maintain effective workplace violence prevention plans. Additionally and importantly, inclusion of such clear and explicit requirements would enhance Cal/OSHA's enforcement of the standard by facilitating CSHO's inspections and documentation of violations. CNA/NNU's March 29, 2018 comments advocated for these additional requirements to be included. Our comments, reasoning, and draft language are reiterated below.

Comment #3a: Workplace Violence Prevention Plans Must be in Effect at All Times and in All Work Areas

As CNA/NNU stated in our March 29, 2018 comments, Cal/OSHA should add an explicit requirement that employers' workplace violence prevention plans must be in effect at all times and in all work areas and operations. This is essential for 24-hour operations as well as other workplaces where a small number of employees may work late night or early morning shifts.

The standard should also include an explicit requirement that the employer's workplace violence prevention plan be implemented and maintained in every work area and operation. Workplace violence is a hazard that should be addressed wherever employees perform their jobs. During rulemaking for the CA Healthcare WPV Standard, it was important to move past false assumptions that workplace violence was only a concern in certain "high risk" units like the emergency department and inpatient psychiatric units in order to develop a protective standard. Similarly for workplaces covered by the CA General Industry WPV Standard, workplace violence hazards should be assessed and addressed in all parts of the workplace.

An important role of an effective workplace violence prevention plan would be to identify not only whether a particular worksite presents risks for violence but whether

certain circumstances, including time of day, presents particular risks of workplace violence. For example, in clinic settings, our members report experiencing workplace violence incidents in the waiting room or reception area was well as in treatment rooms and hallways, parking lots and other outside areas.

This language can be added to subsection (c) of the second discussion draft as follows:

> (c)Workplace Violence Prevention Plan. ~~As part of the Injury and Illness Prevention Program (IIPP) required by title 8, section 3203, t~~The employer shall establish, implement and maintain an effective workplace violence prevention plan (Plan) that is in effect at all times in every work area and operation.[...]

Comment #3b: Cal/OSHA Added a Requirement for Employers to Periodically Review their Plans But This is Still Insufficient

Cal/OSHA added subsection (c)(12) to the second discussion draft requiring evaluation and revision of the workplace violence prevention plan periodically and after any workplace violence incident that results in an injury. While this is a step in the right direction from the first discussion draft, it is not protective enough.

First, the review requirement should be annual not periodic. Having a regular and consistent review is important. The use of the descriptor "periodically" is inadequate. Merriam-Webster Dictionary defines "periodically" as "at regular intervals of time."[3] If an employer were to evaluate the effectiveness of their workplace violence prevention plan once every ten years that would technically meet the definition of "periodically." But such a review would be ineffective given the physical, administrative, staffing, and other factors that can change substantially within periods of time much shorter than ten years. Cal/OSHA should be more precise in its regulatory requirement by including a requirement that plans be reviewed annually. Several other Cal/OSHA standards include an annual review requirement, including the Safe Patient Handling Standard (8 CCR 5120), the Aerosol Transmissible Diseases Standard (8 CCR 5199), and the Bloodborne Pathogens Standard (8 CCR 5193).

Second, the review requirement must include employee involvement. If employees are not included in the plan review process it is highly likely the employer will miss significant elements. Employees are most often the ones who experience and interact with workplace violence risks and hazards and prevention measures that their employer has implemented. Employees are situated to understand what is and is not working regarding workplace policies and procedures. CNA/NNU recommended in our March 29, 2018

[3] "Periodically." *Merriam-Webster.com*. 2018. https://www.merriam-webster.com/dictionary/periodically (11 December 2018).

comments that Cal/OSHA add an explicit requirement that employees be involved in the employer's annual plan review. We still suggest the following language edit:

> (c)(2)Effective procedures to obtain the active involvement of employees and their union representatives in developing ~~and~~ implementing, and reviewing the Plan, including their participation in identifying, evaluating, and correcting workplace violence hazards; designing and implementing training; and reporting and investigating workplace violence incidents.

Third, as CNA/NNU stated in our March 29, 2018 comments, Cal/OSHA should add more specific requirements for the annual plan review to mirror the requirements in the CA Healthcare WPV Standard. Specifying these requirements will make employers' prevention plans more effective and will enhance Cal/OSHA's enforcement activity. We still suggest including the following language:

> (e) Review of the Workplace Violence Prevention Plan. The employer shall establish and implement a system to review the effectiveness of the Plan for the overall facility or operation at least annually, in conjunction with employees and their representatives regarding the employees' respective work areas, services, and operations. Problems found during the review shall be corrected in accordance with subsection (c)(12). The review shall include evaluation 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 and other outdoor areas.
> >
> > (5) The Plan, in accordance with Section 3203(a)(4)(B) and (C), as it applies to units within a facility, the facility as a whole, or the particular operation, shall also be reviewed for the unit, facility or operation, and updated whenever necessary as follows:
> >
> > > (A) To reflect new or modified tasks and procedures which may affect how the Plan is implemented, such as changes in staffing, engineering controls, construction or modification of the facilities, evacuation procedures, alarm systems and emergency response;

(B) To include newly recognized workplace violence hazards;

(C) To review and evaluate workplace violence incidents which result in a serious injury or fatality; or

(D) To review and respond to information indicating that the Plan is deficient in any area.

(E) When a revision to the Plan is needed for only part of the facility or operation, the review process may be limited to the employees in the unit(s) or operation(s) affected by the revision, independently of the annual review for the Plan for the facility as a whole.

Finally, the requirement that the plan be reviewed and updated only following workplace violence incidents that result in an injury is insufficient and not protective. The CA Healthcare WPV Standard requires that employers develop and implement procedures for post-incident response and investigation, including "reviewing whether appropriate corrective measures developed under the Plan...were effectively implemented," (8 CCR 3342 (c)(12) and (c)(12)(F)) and that employers update the plan "to review and respond to information indicating that the Plan is deficient in any area," (8 CCR 3342(e)(5)(D)). Similarly, employers covered by the CA General Industry WPV Standard should review and update the plan in response to workplace violence incidents even where injuries have not occurred. An example that CNA/NNU included in our previous comments is illuminating here: "Two patients pulled out knives during group therapy." No one was physically injured in this incident, but it is still an incident that the employer needs to respond to and address to protect employees and to prevent future incidents.

Comment #3c: Protections for Employees Who Seek Assistance from Local Law Enforcement During a Violent Incident Are Necessary

As CNA/NNU previously commented, it is important that Cal/OSHA maintain the protections that were included in SB 1299 and the CA Healthcare WPV Standard for employees who call local law enforcement during a violent incident. Without such a requirement, employers may prohibit employees from gaining assistance from local law enforcement during a violent incident. Employees should always be able to exercise their right to call 911 in an emergency or to otherwise seek assistance from local law enforcement and emergency services.

Cal/OSHA should also maintain the important language from the CA Healthcare WPV Standard that prohibits retaliation against employees for seeking assistance from local law enforcement during a violent incident as this is an equally important protection to ensure that employees are able to exercise their right to seek assistance from local law

enforcement during a violent incident. We propose that this language from the CA Healthcare WPV Standard become new subsection (c)(4):

> (c)(4) Effective procedures for obtaining assistance from the appropriate law enforcement agency during all work shifts. The procedure may establish a central coordination procedure. This shall also include a policy statement prohibiting the employer 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.

Comment #3d: Hazard Assessment Requirements Need More Detail

In the second discussion draft Cal/OSHA added some elements to the hazard identification and evaluation requirements in subsection (c)(9)~~(8)~~. CNA/NNU appreciates Cal/OSHA's recognition of the importance of employee concerns and review of past workplace violence incidents to the hazard identification and evaluation process in addition to inspections of the workplace. These are both important elements to consider when identifying workplace violence hazards.

However, the language as written is unclear. Specifically, it is not clear why "identify" and "evaluate" are split regarding different procedures. The draft language indicates that procedures to identify hazards only need to include periodic inspections while evaluating hazards can include other sources of information about workplace violence hazards. But examining past reports of workplace violence incidents or listening to employees' concerns about workplace violence may identify new workplace violence hazards. We recommend that Cal/OSHA recombine "identify and evaluate" as well as include a list of specific aspects that need to be considered when identifying workplace violence risks and hazards.

As discussed in our previous comments, CNA/NNU maintains that the discussion draft should also include a requirement that employers also evaluate hazards whenever conditions in the workplace change.

However, even with these changes the current language is still inadequate. Cal/OSHA developed descriptive language in the CA Healthcare WPV Standard that should be used as a template for the CA General Industry WPV Standard to clarify what employers need to do to identify workplace violence hazards. This should also serve to dispel confusion expressed at the Advisory Meeting about how to assess workplace violence hazards while walking through the workplace. We have made suggestions on including adapted language from the CA Healthcare WPV Standard for fixed operations. Cal/OSHA may also consider including language for non-fixed workplaces such as work areas in the field and other off-site operations similar to the home healthcare requirements in subsection (c)(9)(B) of the CA Healthcare WPV Standard.

CNA/NNU's language recommendations are as follows:

(c)~~(8)~~ ~~(9)~~(10) Procedures to identify ~~and evaluate~~ workplace violence hazards, including scheduled periodic inspections to identify unsafe conditions and work practices; and procedures to evaluate workplace violence hazards identified through periodic inspections, employee concerns, workplace violence incidents, and whenever the employer is made aware of a new or previously unrecognized hazard. Assessment procedures to identify and evaluate environmental risk factors, including community-based risk factors, for each work area and operation. This shall include a review of all workplace violence incidents that occurred in the workplaces and operations within the previous year, whether or not an injury occurred.

(A) For fixed workplaces: Procedures to identify and evaluate environmental risk factors for workplace violence in each work area and operation, including areas surrounding the workplace such as employee parking areas and other outdoor areas. Assessment tools, environmental checklists, or other effective means shall be use to identify locations and situations where violent incidents are more likely to occur. Procedures shall specify the frequency with which such environmental assessments will take place. Environmental risk factors shall include, as applicable, but shall not necessarily be limited to, the following:

1. Employees working in locations isolated from other employees because of being assigned to work alone or in remote locations, during night or early morning hours, or where an assailant could prevent entry into the work area by responders or other employees;

2. Poor illumination or blocked visibility of areas where possible assailants may be present;

3. Lack of physical barriers between employees and persons at risk of committing violence;

4. Lack of effective escape routes;

5. Obstacles and impediments to accessing alarm systems;

6. Locations within the facility where alarm systems are not operational;

7. Entryways where unauthorized entrance may occur, such as doors designated for staff entrance or emergency exits;

8. Presence of furnishings or objects that can be used as weapons in the areas where workplace violence is likely to occur;

9. Storage of high value items, currency, or pharmaceuticals.

Comment #3e: Person- or Patient-Specific Risk Factor Assessments Should be Included

Given that healthcare operations that were excluded from the CA Healthcare WPV Standard are substantially similar to operations covered under the CA General Industry WPV Standard, we support inclusion of language requiring procedures to assess patients and visitors for risk factors for workplace violence. This is also a concern in other industries that interact with members of the public or others in a client-type relationship. In outpatient clinics not included in the CA Healthcare WPV Standard, the majority of workplace violence that nurses experience comes from patients and people accompanying patients. As we also included in our March 29, 2018 comments, some examples that our members who work in outpatient clinics have reported include:

- A patient threw a chair at a nurse.
- A patient hit a nurse with his cane.
- A patient was denied a bus pass at the clinic and they became aggressive and verbally abusive and threatening.
- A patient had reported that they had a means of transportation before a procedure that necessitated sedation. After the procedure, the patient threatened to leave AMA [against medical advice]. When the nurse intervened, the patient threatened the nurse, "You better not stand in my way."
- Two patients pulled out knives during group therapy.

We recommend adding adapted language from the CA Healthcare WPV Standard to new subsection (c)(11) in CNA/NNU's draft to expand the risk factors for workplace violence to reflect patient- or client-specific risks. It is important to include these risk factors that are important for effective workplace violence prevention plans in outpatient clinics even though they may not be applicable in all workplaces covered under the CA General Industry WPV Standard. For example, a patient or client's treatment and medication status, type, and dosage is highly unlikely to be known by a bank teller and assessing it as a risk factor for an individual in that setting would be inappropriate. The inclusion of the "as applicable" language is an important distinction here that enables Cal/OSHA to mandate elements important for some settings like outpatient clinics.

(c)(11) Procedures to identify and evaluate risk factors associated with individual patients, clients, or other persons who are not employees. Assessment tools or other effective means shall be used to identify situations in which Type 2 violence is more

likely to occur and to assess visitors or other persons who display disruptive behavior or otherwise demonstrate a risk of committing workplace violence. Person-specific risk factors shall include, as applicable, but not necessarily be limited to, the following:

(A) A patient or client's mental status and conditions that may cause them to be non-responsive to instruction or to behave unpredictably, disruptively, uncooperatively, or aggressively;

(B) A patient or client's treatment and medication status, type, and dosage, as is known to the health facility or other employer and employees;

(C) A patient or client's history of violence, as is known to the health facility and employees;

(D) Any disruptive or threatening behavior displayed by a patient or client.

Comment #3f: Engineering and Work Practice Controls Must Be Prioritized

As CNA/NNU stated in our March 29, 2018 comments, Cal/OSHA should add more detail that prioritizes the use of engineering and work practice controls in correction measures to subsection (c)~~(9)~~(10) of the discussion draft (new subsection (c)(12) in CNA/NNU's draft). The corresponding subsection in the CA Healthcare WPV Standard includes such requirements (8 CCR §3342(c)(11)). This is an important requirement to maintain in the CA General Industry WPV Standard.

Employers often rely exclusively on training and worker behavior when responding to workplace violence. When these are the only measures an employer implements, it effectively shifts the burden of prevention onto employees. While training is an important element of workplace violence prevention, engineering and work practice or administrative controls should be prioritized. Cal/OSHA should make this explicit in the CA General Industry WPV Standard.

(c)~~(9)~~ ~~(10)~~(12) Procedures to correct workplace violence hazards in a timely manner in accordance with title 8, section 3203(a)(6). Engineering and work practice controls shall be used to eliminate or minimize employee exposure to the identified hazards to the extent feasible. The employer shall take measures to protect employees from imminent hazards immediately, and shall take measures to protect employees from identified serious hazards within seven days of the discovered of the hazard, where there is a realistic possibility that death or serious physical harm could result from 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, as applicable, but shall not be limited to:

(A) Ensuring that sufficient numbers of staff are trained and available to prevent and immediately respond to workplace violence at all times. A staff person is not considered to be available if other assignments prevent the person from immediately responding to an alarm or other notification of a violent incident.

(B) Providing line of sight or other immediate communication in all areas where patients, clients, or members of the public may be present. This may include removal of sight barriers, provision of surveillance systems or other sight aids such as mirrors, use of a buddy system, improving illumination, or other effective means.

(C) Configuring work areas and other spaces in the workplace so that employee access to doors and alarm systems cannot be impeded by a patient, client, other persons, or obstacles.

(D) Removing, fastening, or controlling furnishings and other objects that may be used as improvised weapons in areas where patients, clients, or other persons who have been identified as having a potential for workplace Type 2 violence are reasonably anticipated to be present.

(E) Creating a security plan to prevent the transport of unauthorized firearms and other weapons into the workplace in areas where visitors or arriving patients, clients, or other persons are reasonably anticipated to possess firearms or other weapons that could be used to commit Type 1 or Type 2 violence. This shall include monitoring and controlling designated public entrances by use of safeguards such as weapon detection devices, remote surveillance, alarm systems, or a registration process conducted by personnel who are in an appropriately protected work station.

(F) Maintaining sufficient staffing, including security personnel, who can maintain order in the workplace and respond to workplace violence incidents in a timely manner.

(G) Installing, implementing, and maintaining the use of an alarm system or other effective means by which employees can summon security and other aid to defuse or respond to an actual or potential workplace violence emergency.

(H) Creating an effective means by which employees can be alerted to the presence, location, and nature of a security threat.

(I) Establishing an effective response plan for actual or potential workplace violence emergencies that includes obtaining help from workplace security or law enforcement agencies as appropriate. Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm to assist other staff. The response plan shall also include procedures to respond to mass casualty threats, such as active shooters, by developing evacuation or sheltering plans that are appropriate and feasible for the workplace, a procedure for warning employees of the situation, and a procedure for contacting the appropriate law enforcement agency.

(J) Assigning or placing sufficient numbers of staff, to reduce patient or client-specific Type 2 workplace violence hazards.

Comment #3g: Cal/OSHA's Edit to Mandate Response Plans for All Workplace Violence Incidents, Regardless of Injury, is Important

CNA/NNU strongly supports Cal/OSHA's edit to subsection (c)(11)~~(10)~~ in the discussion draft, requiring employers to include procedures for response and investigation of all workplace violence incidents in their written workplace violence prevention plans. Cal/OSHA's first discussion draft required employers to respond to and investigate only workplace violence incidents that resulted in injuries. This was insufficient because there are many workplace violence incidents that do not result in injury but that need an immediate response and after which the workplace violence prevention plan needs to be updated. This is an important change that means the discussion draft is closer to being a protective standard.

Comment #3h: CNA/NNU Supports Cal/OSHA's Addition of Requirements for Procedures to Respond to Workplace Violence Emergencies

CNA/NNU also strongly supports Cal/OSHA's addition of new subsection (c)(7) to require employers to include procedures to respond to workplace violence emergencies in their written plans. It is an unfortunate reality that workplace violence emergencies are occurring with increasing frequency,[4] and it is vital that employers prepare response and communication plans and provide effective training to employees. The language in subsection (c)(7) is a good addition to this standard.

[4] "Quick Look: 250 Active Shooter Incidents in the United States from 2000 to 2017." Federal Bureau of Investigations. https://www.fbi.gov/about/partnerships/office-of-partner-engagement/active-shooter-incidents-graphics (14 Dec 2018).

Comment #3i: Language on Coordination Between Employers Should be Clarified

Cal/OSHA should mirror language from the CA Healthcare WPV Standard to ensure better coordination between employers. In the second discussion draft Cal/OSHA distinguished two types of employment relationships where employers must coordinate with each other. This may be insufficient given the constantly changing landscape of employment relationships. Cal/OSHA should make it clear that all employers have a responsibility to ensure their employees' safety, including with regard to workplace violence, and they must work together to ensure effective creation and implementation of workplace violence prevention plans.

Additionally, the way subsection (c)(3) is constructed in Cal/OSHA's second discussion draft is unclear. It is possible to read the current language that only training must be coordinated between employers. However, we know that that is inadequate protection as there are many other systems that must be coordinated between employers—communication systems, reporting systems, prevention measures, staffing plans, etc.

We recommend that Cal/OSHA adopt the language from the CA Healthcare WPV Standard:

> (c)(3) Methods the employer will use to coordinate implementation of the Plan with other employers ~~whose employees work in same workplace, where applicable, as set forth in subsection (c)(3)(A) and (c)(3)(B). These methods shall ensure that all employess are provided the training required by subsection (e).~~ to ensure that those employers and employees understand their respective roles as provided in the Plan. These methods shall ensure that all employees are provided the training required by subsection (f) and shall ensure that workplace violence incidents involving any employee are reported, investigated, and recorded.
>
> > ~~(A) Employers in a direct contracting relationship to perform work at a multi-employer worksite shall coordinate with each other.~~
> > ~~(B) Employers in a dual- employer relationship, where one or more employees are employed by both employers at the same time to perform work at the worksite, shall coordinate with each other.~~

Comment #4: CNA/NNU Strongly Supports the Addition of the Violent Incident Log Requirement

As outlined in our March 29, 2018 comments, CNA/NNU strongly advocated for the inclusion of a violent incident log requirement in the CA General Industry WPV Standard. CNA/NNU supports Cal/OSHA's addition of such a requirement. However, we would advocate that Cal/OSHA include more information in the violent incident log, as is required in the CA Healthcare WPV Standard. Such information, including a detailed description of

the incident, can be important for understanding what happened in order to guide prevention.

(d) **Violent Incident Log.** The employer shall record information in a violent incident log (Log) about every incident and post-incident response and investigation performed in accordance with subsection (c)~~(11)~~(13). Information about each incident shall be based on information solicited from the employees who experienced the workplace violence. 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, or 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 annual review of the Plan required in subsection ~~(c)(12)~~(e). The information recorded in the Log shall include, but not necessarily be limited to:

(1) Date, time, and specific location of the incident;

(2) The workplace violence type or types, as defined in subsection (b), involved in the incident (for example, "Type 1," "Type 2," or "Type 3 and Type 4");

(3) A detailed description of the incident;

~~(3)~~(4) Nature of the incident, including whether it involved:

(A) Physical attack, including biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting;

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

(C) Threat of physical force or threat of the use of a weapon or other object;

(D) Sexual assault or threat, including rape/attempted rape, physical display, or unwanted verbal/physical sexual contact;

(E) Animal attack;

(F) Other.

(5) A classification of the 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;

(6) 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 log or other area outside the building, personal residence, break room, cafeteria, or other area;

~~(4)~~(7) Consequences of the incident, including:

(A) Whether medical treatment was provided to the employee;

(B) Who, if anyone, provided necessary assistance to conclude the incident;

(C) Whether security was contacted and whether law enforcement was contacted;

(D) Amount of lost time from work, if any;

(E) Actions taken to protect employees from a continuing threat, if any;

~~(5)~~(8) Information about the person completing the Log including their name, job title, phone number, email address, and the date completed.

Comment #5: Training Requirements Need to be More Robust

As stated in CNA/NNU's March 29, 2018 comments, the training requirements in the discussion draft are insufficient. Cal/OSHA's second discussion draft, like the first, requires training employees just once on the workplace violence hazards that the employee may encounter and the employer's workplace violence prevention plan. This is insufficient because conducting a brief training when an employee is hired or when the employer's workplace violence prevention plan is created does not ensure the employee remains up-to-date on the employer's workplace violence prevention plan.

For the employer's plan to be effective, the employer must adjust and adapt the plan in response to new hazards, changing conditions in the workplace, the introduction of new equipment or work practices, or when an injury occurs. But the discussion draft only requires that employers conduct additional training when new or previously unrecognized hazards are identified and that additional training can be specific to the new/unrecognized hazard. There is no requirement that employers keep employees updated on changes to their workplace violence prevention plans.

An annual refresher training requirement is an important mechanism to ensure that employees have information about employers' updated workplace violence prevention plans. Additionally, if an employee receives training only when they are first hired, it is

unlikely they will remember important information from that training five or ten years later without a refresher. It is important for the effectiveness of an employer's workplace violence prevention plan that employees understand the plan, their roles under the plan, policies and procedures included in the plan, what workplace violence hazards have been identified in the workplace, what measures the employer has put in place to prevent workplace violence, and how to report incidents and other concerns to their employer. Training is vital for employees to understand the employer's workplace violence prevention plan and to be able to activate it should a workplace violence incident arise.

In CNA/NNU's experience, the majority of training for employees is conducted through online modules that rarely have a mechanism for employees to ask questions unless Cal/OSHA has required such a mechanism. The CA Healthcare WPV Standard requires that there be a clear mechanism for employees to be able to ask questions and to get an answer from someone who is knowledge about the employer's workplace violence prevention plan. We have proposed adding similar language to the CA General Industry WPV Standard.

For workplaces that have on-site or on-call security staff or other responders to workplace violence incidents as part of their workplace violence prevention plans, appropriate and effective training for these employees is important to an effective response. Such training is also important for employees who are expected to encounter and respond to violent or potentially violent patients, clients, or other individuals. Where security staff is contracted, training on the workplace violence prevention plan for the worksite is equally important. We have proposed adapting language from the CA Healthcare WPV Standard to require training for security staff or other responders to workplace violence incidents.

It is also important to include a requirement in subsection (d)(1) of the discussion draft (new subsection (f)(1) in CNA/NNU's draft) that all employees who are working in the covered work areas or operations be provided training on the employer's workplace violence prevention plan. Increasingly workplaces employ contracted employees. Under Cal/OSHA's discussion draft language, employers are only required to train direct employees. Cal/OSHA should clearly require that all employees who work in the covered work areas or operations should be covered.

> ~~(d)(e)~~(f) **Training.** The employer shall provide effective training to employees as specified in subsections ~~(d)(e)~~(f)(1) and ~~(d)(e)~~(f)(2) that addresses the workplace violence risks that employees are reasonably anticipated to encounter in their jobs. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(1) All employees working in the work area, facility, service or operation shall be provided initial training as described in subsection ~~(d)(e)~~(f)(2) when the Plan is first established and when an employee is newly hired or newly assigned to perform duties for which the training required in this subsection was not previously provided, and shall also be provided additional training as described in subsection (f)(3).

(2) Initial training shall address the workplace violence hazards specific to the employees' jobs ~~identified at the workplace~~ and in the work area or operation, the corrective measures the employer has implemented, an explanation of the employer's ~~workplace violence prevention p~~Plan, how to seek assistance to prevent or respond to violence, strategies to avoid physical harm, ~~and~~ how to report workplace violence incidents or concerns to the employer without fear of reprisal, how the employer will address workplace violence incidents, and how the employee can participate in reviewing and revising the Plan.

(3) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified. The additional training may be limited to addressing the new workplace violence hazard.

(4) Refresher training shall be provided at least annually to review the topics included in the initial training and the results of the review required in subsection (e).

(5) Employees assigned to respond to workplace violence incidents or whose jobs involve confronting or controlling persons exhibiting aggressive or violent behavior shall be provided training on the following topics prior to initial assignment and at least annually thereafter. This is in addition to the training required in subsection (f)(1). This additional training shall include:

(A) General and personal safety measures;
(B) Aggression and violence predicting factors;
(C) The assault cycle;
(D) Characteristics of aggressive and violent patients and victims;
(E) Verbal intervention and de-escalation techniques and physical maneuvers to defuse and prevent violent behavior;
(F) Strategies to prevent physical harm;
(G) Appropriate and inappropriate use of restraining techniques in accordance with Title 22, as applicable;
(H) Appropriate and inappropriate use of medications as chemical restraints in accordance with Title 22, as applicable;

(I) An opportunity to practice the maneuvers and techniques included in the training with other employees they will work with, including a meeting to debrief the practice session. Problems found shall be corrected.

(4) All training provided under subsection (f) shall include an opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan.

Comment #6: Recordkeeping

CNA/NNU supports Cal/OSHA's addition of the requirement for employers to maintain violent incident logs for five years. As we stated in our March 29, 2018 comments, maintenance of violent incident logs is an essential part of creating an effective workplace violence prevention plan. Access to violent incident logs and other records regarding the employer's workplace violence prevention plan is important for employees to be able to actively engage with the employer regarding the development and review of the effectiveness of the plan.

CNA/NNU also supports Cal/OSHA's changes to new subsection (f) (4) to require that employers maintain records of workplace violence incident investigations. This importantly follows other changes that Cal/OSHA made in new subsection (c)(11) (see Comment #3g).

Cal/OSHA's edits to new subsection (f)(6) are clarifying. However, as written, the discussion draft only requires that employers make the records required by (f)(1), (f)(2), and (f)(3) available to employees and their representatives. Cal/OSHA should add new subsection (f)(4), which requires employers to maintain records of workplace violence incident investigations, to this list of records that need to be made available to employees and their representatives. Employees and their representatives must have access to detailed records of violent incidents in addition to the summary violent incident logs in order to understand workplace violence incidents that have happened in the workplace and to communicate clearly with the employer about their workplace violence prevention plan.

Conclusion

As in our March 29, 2018 comments, CNA/NNU continues to advocate that Cal/OSHA hold the CA Healthcare WPV Standard as the model and develop a protective CA General Industry WPV Standard. Such a general industry standard should mandate that employers develop workplace-specific workplace violence prevention plans developed with active employee involvement. We have attached draft language to that effect. Thank you for the opportunity to add our written comments to the record in response to Cal/OSHA's second discussion draft for a CA General Industry WPV Standard. If you have

any questions regarding these comments, please contact me at 510-433-2771 or jthomason@nationalnursesunited.org.

Sincerely,

Jane Thomason
Industrial Hygienist
Health and Safety Division
National Nurses United

CNA/NNU Draft Language- General Industry Workplace Violence Prevention Standard (8 CCR §3343)

Adaptions of the Cal/OSHA Second Discussion Draft are based on the model provided by the Workplace Violence Prevention in Health Care Standard (8 CCR §3342).

(a) Scope and Application. This section applies to all employers except as listed below.

EXCEPTION 1: This section does not apply to health care facilities, service categories, and operations covered by California Code of Regulations, title 8, section 3342.

~~EXCEPTION 2: Employers may comply with title 8, section 3342 in lieu of complying with this section.~~

EXCEPTION ~~2~~3: This section does not apply to the following facilities operated by the California Department of Developmental Services (DDS) and scheduled to close by the end of 2021: (1) Porterville Developmental Center General Treatment Area; (2) Fairview Developmental Center; and (3) Sonoma Developmental Center. These facilities shall still comply with title 8, section 3203 during the closure process.

EXCEPTION ~~3~~4: This section shall not apply to facilities operated by the California Department of Corrections and Rehabilitation. These facilities shall still comply with title 8, section 3203.

EXCEPTION 4~~5~~: This section shall not apply to law enforcement agencies that are a "Department or Participating Department" as defined in title 11, section 1001, and have received confirmation of compliance with the Commission on Peace Officer Standards and Training (POST) Program from the POST Executive Director in accordance with title 11, section 1010. These facilities shall still comply with title 8, section 3203.

(b) Definitions.

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

"Division" means the Division of Occupational Safety and Health of the Department of Industrial Relations.

"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.

"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. For purposes

of reducing workplace violence hazards, engineering controls include, as applicable, but are not limited to: electronic access controls to employee occupied areas; weapon detectors (installed or handheld); enclosed workstations with shatter resistant glass; deep service counters; separate rooms or areas for high risk patients; locks on doors; furniture affixed to the floor; opaque glass in patient rooms (protects privacy, but allows the health care provider to see where the patient is before entering the room); closed circuit television monitoring and video recording; sight aids; and personal alarm devices.

"Environmental risk factors" means factors in the workplace or area in which work is performed 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.

"Person-specific risk factors" means factors specific to a patient, client, or customer that may increase the likelihood or severity of a workplace violence incident, such as use of drugs or alcohol, psychiatric condition or diagnosis associated with increased risk of violence, any condition or disease process that would cause confusion and/or disorientation, or history of violence.

~~"Injury" means an injury to an employee that meets the recording criteria listed in title 8, section 14300.7(b)(1).~~

"Threat of violence" means a statement or conduct that causes a person to fear for ~~his or her~~their safety because there is a reasonable possibility the person might be physically injured, and that serves no legitimate purpose.

"Union representative" means a recognized or certified collective bargaining agent representing the employer's employees.

"Work practice controls" means procedures, rules and staffing which are used to effectively reduce workplace violence hazards. Work practice controls include, as applicable, but are not limited to: appropriate staffing levels; provision of dedicated safety personnel (i.e. security guards); employee training on workplace violence prevention methods; and employee training on procedures to follow in the event of a workplace violence incident.

"Workplace violence" means any act of violence or threat of violence that occurs ~~at the work site~~in the place of employment. The term workplace violence shall not include lawful acts of self-defense or defense of others. Workplace violence includes 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 the threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury;
(C)Four workplace violence types:

1. "Type 1 violence" means workplace violence committed by a person who has no legitimate business at the work site, and includes violent acts by anyone who enters the workplace with the intent to commit a crime.
2. "Type 2 violence" means workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
3. "Type 3 violence" means workplace violence against an employee by a present or former employee, supervisor, or manager.
4. "Type 4 violence" means workplace violence committed in the workplace by someone who does not work there, but has or is known to have had a personal relationship with an employee.

(c) Workplace Violence Prevention Plan. ~~As part of the Injury and Illness Prevention Program (IIPP) required by title 8, section 3203, t~~The employer shall establish, implement and maintain an effective workplace violence prevention plan (Plan) that is in effect at all times in every work area and operation. The Plan shall be in writing and shall be available to employees at all times. The written Plan may be incorporated into the written Injury and Illness Prevention Program (IIPP) required by title 8, section 3203 or maintained as a separate document, and shall include all of the following elements:

(1) Names or job titles of the persons responsible for implementing the Plan.

(2) Effective procedures to obtain the active involvement of employees and their union representatives in developing, ~~and~~ implementing, and reviewing the Plan, including their participation in identifying, evaluating, and correcting workplace violence hazards, designing and implementing training, and reporting and investigating workplace violence incidents.

(3) Methods the employer will use to coordinate implementation of the Plan with other employers ~~whose employees work in same workplace, where applicable, as set forth in subsection (c)(3)(A) and (c)(3)(B). These methods shall ensure that all employess are provided the training required by subsection (e).~~ to ensure that those employers and employees understand their respective roles as provided in the Plan. These methods shall ensure that all employees are provided the training required by subsection (f) and shall ensure that workplace violence incidents involving any employee are reported, investigated, and recorded.

~~(A) Employers in a direct contracting relationship to perform work at a multi-employer worksite shall coordinate with each other.~~

~~(B) Employers in a dual- employer relationship, where one or more employees are employed by both employers at the same time to perform work at the worksite, shall coordinate with each other.~~

(4) Effective procedures for obtaining assistance from the appropriate law enforcement agency during all work shifts. The procedure may establish a central coordination procedure. This shall also include a policy statement prohibiting the employer 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.

~~(4)~~ (5) Effective procedures for the employer to accept and respond to reports of workplace violence~~, including Type 3 violence,~~ and to prohibit retaliation against an employee who makes such a report.

~~(5)~~ (6) Procedures to ensure that supervisory and non-supervisory employees comply with the Plan in accordance with title 8, section 3203(a)(2).

~~(6)~~ (7) Procedures to communicate with employees regarding workplace violence matters including:

(A)How an employee can report a violent incident, threat, or other workplace violence concern without fear of reprisal;

~~(B) How employees can communicate workplace violence concerns without fear of reprisal;~~

~~(C)~~(B) 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~~;~~.

~~(7)~~(8) Procedures to respond to workplace violence emergencies, including active shooter threats:

(A) How employees will be alerted about workplace violence emergencies;

(B) Evacuation or sheltering plans that are appropriate and feasible for the worksite;

(C) Procedures to obtain help form staff, if any, assigned to respond to workplace violence emergencies; security personnel, if any; or the appropriate law enforcement agency.

~~(7)~~ ~~(8)~~(9) Procedures to develop and provide the training required in subsection (~~d~~e).

~~(8)~~ ~~(9)~~(10) Procedures to identify ~~and evaluate~~ workplace violence hazards, including scheduled periodic inspections to identify unsafe conditions and work practices; and procedures to evaluate workplace violence hazards identified through periodic inspections, employee concerns, workplace violence incidents, and whenever the employer is made aware of a new or previously unrecognized hazard. Assessment procedures to identify and evaluate environmental risk factors, including community-based risk factors, for each work area and operation. This shall include a review of all workplace violence incidents that occurred in the workplaces and operations within the previous year, whether or not an injury occurred.

(A) For fixed workplaces: Procedures to identify and evaluate environmental risk factors for workplace violence in each work area and operation, including areas surrounding the workplace such as employee parking areas and other outdoor areas. Assessment tools, environmental checklists, or other effective means shall be use to identify locations and situations where violent incidents are more likely to occur. Procedures shall specify the frequency with which such environmental assessments will take place. Environmental risk factors shall include, as applicable, but shall not necessarily be limited to, the following:

1. Employees working in locations isolated from other employees because of being assigned to work alone or in remote locations, during night or early morning hours, or where an assailant could prevent entry into the work area by responders or other employees;

2. Poor illumination or blocked visibility of areas where possible assailants may be present;

3. Lack of physical barriers between employees and persons at risk of committing violence;

4. Lack of effective escape routes;

5. Obstacles and impediments to accessing alarm systems;

6. Locations within the facility where alarm systems are not operational;

7. Entryways where unauthorized entrance may occur, such as doors designated for staff entrance or emergency exits;

8. Presence of furnishings or objects that can be used as weapons in the areas where workplace violence is likely to occur;

9. Storage of high value items, currency, or pharmaceuticals.

(11) Procedures to identify and evaluate risk factors associated with individual patients, clients, or other persons who are not employees. Assessment tools or other effective means shall be used to identify situations in which Type 2 violence is more likely to occur and to assess visitors or other persons who display disruptive behavior or otherwise demonstrate a risk of committing workplace violence. Person-specific risk factors shall include, as applicable, but not necessarily be limited to, the following:

(A) A patient or client's mental status and conditions that may cause them to be non-responsive to instruction or to behave unpredictably, disruptively, uncooperatively, or aggressively;

(B) A patient or client's treatment and medication status, type, and dosage, as is known to the health facility or other employer and employees;

(C) A patient or client's history of violence, as is known to the health facility and employees;

(D) Any disruptive or threatening behavior displayed by a patient or client.

~~(9)~~ ~~(10)~~(12) Procedures to correct workplace violence hazards in a timely manner in accordance with title 8, section 3203(a)(6). Engineering and work practice controls shall be used to eliminate or minimize employee exposure to the identified hazards to the extent feasible. The employer shall take measures to protect employees from imminent hazards immediately, and shall take measures to protect employees from identified serious hazards within seven days of the discovered of the hazard, where there is a realistic possibility that death or serious physical harm could result from 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, as applicable, but shall not be limited to:

(A) Ensuring that sufficient numbers of staff are trained and available to prevent and immediately respond to workplace violence at all times. A staff person is not considered to be available if other assignments prevent the person from immediately responding to an alarm or other notification of a violent incident.

(B) Providing line of sight or other immediate communication in all areas where patients, clients, or members of the public may be present. This may include removal of sight barriers, provision of surveillance systems or other sight aids such as mirrors, use of a buddy system, improving illumination, or other effective means.

(C) Configuring work areas and other spaces in the workplace so that employee access to doors and alarm systems cannot be impeded by a patient, client, other persons, or obstacles.

(D) Removing, fastening, or controlling furnishings and other objects that may be used as improvised weapons in areas where patients, clients, or other persons who have been identified as having a potential for workplace Type 2 violence are reasonably anticipated to be present.

(E) Creating a security plan to prevent the transport of unauthorized firearms and other weapons into the workplace in areas where visitors or arriving patients, clients, or other persons are reasonably anticipated to possess firearms or other weapons that could be used to commit Type 1 or Type 2 violence. This shall include monitoring and controlling designated public entrances by use of safeguards such as weapon detection devices, remote surveillance, alarm systems, or a registration process conducted by personnel who are in an appropriately protected work station.

(F) Maintaining sufficient staffing, including security personnel, who can maintain order in the workplace and respond to workplace violence incidents in a timely manner.

(G) Installing, implementing, and maintaining the use of an alarm system or other effective means by which employees can summon security and other aid to defuse or respond to an actual or potential workplace violence emergency.

(H) Creating an effective means by which employees can be alerted to the presence, location, and nature of a security threat.

(I) Establishing an effective response plan for actual or potential workplace violence emergencies that includes obtaining help from workplace security or law enforcement agencies as appropriate. Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm to assist other staff. The response plan shall also include procedures to respond to mass casualty threats, such as active shooters, by developing evacuation or sheltering plans that are appropriate and feasible for the workplace, a procedure for warning employees of the situation, and a procedure for contacting the appropriate law enforcement agency.

(J) Assigning or placing sufficient numbers of staff, to reduce patient or client-specific Type 2 workplace violence hazards.

~~(10)~~ ~~(11)~~(13) Procedures for post-~~injury~~ 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;

(C) Making available individual trauma counseling to all employees affected by the incident;

(D) Conducting a post incident debriefing as soon as possible after the incident with all employees, supervisors, and security involved in the incident;

(E) Reviewing any patient-specific risk factors and any risk reduction measures that were specific for that patient;

(F) Reviewing whether appropriate corrective measures developed under the Plan such as adequate staffing, provision and use of alarms or other means of summoning assitnace, and response by staff or law enforcement, were effectively implemented;

(G) Soliciting from the injured employee and other personnel involved in the incident their opinions regarding the cause of the incident, and whether any measure would have prevented the injury.

~~(12) Procedures to review the effectiveness of the Plan periodically and after any workplace violence incident that results in an injury, and to revise the Plan as needed.~~

(d) **Violent Incident Log.** The employer shall record information in a violent incident log (Log) about every incident and post-incident response and investigation performed in accordance with subsection (c)~~(11)~~(13). Information about each incident shall be based on information solicited from the employees who experienced the workplace violence. 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, or 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 annual review of the Plan required in subsection ~~(c)(12)~~(e). The information recorded in the Log shall include, but not necessarily be limited to:

(1) Date, time, and specific location of the incident;

(2) The workplace violence type or types, as defined in subsection (b), involved in the incident (for example, "Type 1," "Type 2," or "Type 3 and Type 4");

(3) A detailed description of the incident;

~~(3)~~(4) Nature of the incident, including whether it involved:

(A) Physical attack, including biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting;
(B) Attack with a weapon or object, including a gun, knife, or other object;
(C) Threat of physical force or threat of the use of a weapon or other object;
(D) Sexual assault or threat, including rape/attempted rape, physical display, or unwanted verbal/physical sexual contact;
(E) Animal attack;
(F) Other.

(5) A classification of the 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;

(6) 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 log or other area outside the building, personal residence, break room, cafeteria, or other area;

~~(4)~~(7) Consequences of the incident, including:

(A) Whether medical treatment was provided to the employee;

(B) Who, if anyone, provided necessary assistance to conclude the incident;

(C) Whether security was contacted and whether law enforcement was contacted;

(D) Amount of lost time from work, if any;

(E) Actions taken to protect employees from a continuing threat, if any;

~~(5)~~(8) Information about the person completing the Log including their name, job title, phone number, email address, and the date completed.

(e) Review of the Workplace Violence Prevention Plan. The employer shall establish and implement a system to review the effectiveness of the Plan for the overall facility or operation at least annually, in conjunction with employees and their representatives regarding the employees' respective work areas, services, and operations. Problems found during the review shall be corrected in accordance with subsection (c)(12). The review shall include evaluation 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 and other outdoor areas.

(5) The Plan, in accordance with Section 3203(a)(4)(B) and (C), as it applies to units within a facility, the facility as a whole, or the particular operation, shall also be reviewed for the unit, facility or operation, and updated whenever necessary as follows:

(A) To reflect new or modified tasks and procedures which may affect how the Plan is implemented, such as changes in staffing, engineering controls, construction or modification of the facilities, evacuation procedures, alarm systems and emergency response;

(B) To include newly recognized workplace violence hazards;

(C) To review and evaluate workplace violence incidents which result in a serious injury or fatality; or

(D) To review and respond to information indicating that the Plan is deficient in any area.

(E) When a revision to the Plan is needed for only part of the facility or operation, the review process may be limited to the employees in the unit(s) or operation(s) affected by the revision, independently of the annual review for the Plan for the facility as a whole.

~~(d)~~~~(e)~~(f) **Training.** The employer shall provide effective training to employees as specified in subsections ~~(d)~~~~(e)~~(f)(1) and ~~(d)~~~~(e)~~(f)(2) that addresses the workplace violence risks that employees are reasonably anticipated to encounter in their jobs. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

(1) All employees working in the work area, facility, service or operation shall be provided initial training as described in subsection ~~(d)~~~~(e)~~(f)(2) when the Plan is first established and when an employee is newly hired or newly assigned to perform duties for which the training required in this subsection was not previously provided, and shall also be provided additional training as described in subsection (f)(3).

(2) Initial training shall address the workplace violence hazards specific to the employees' jobs ~~identified at the workplace~~ and in the work area or operation, the corrective measures the employer has implemented, an explanation of the employer's ~~workplace violence prevention p~~Plan, how to seek assistance to prevent or respond to violence, strategies to avoid physical harm, ~~and~~ how to report workplace violence incidents or concerns to the employer without fear of reprisal, how the employer will address workplace violence incidents, and how the employee can participate in reviewing and revising the Plan.

(3) Additional training shall be provided when a new or previously unrecognized workplace violence hazard has been identified. The additional training may be limited to addressing the new workplace violence hazard.

(4) Refresher training shall be provided at least annually to review the topics included in the initial training and the results of the review required in subsection (e).

(5) Employees assigned to respond to workplace violence incidents or whose jobs involve confronting or controlling persons exhibiting aggressive or violent behavior shall be provided training on the following topics prior to initial assignment and at least annually thereafter. This is in addition to the training required in subsection (f)(1). This additional training shall include:

(A) General and personal safety measures;
(B) Aggression and violence predicting factors;
(C) The assault cycle;
(D) Characteristics of aggressive and violent patients and victims;
(E) Verbal intervention and de-escalation techniques and physical maneuvers to defuse and prevent violent behavior;
(F) Strategies to prevent physical harm;
(G) Appropriate and inappropriate use of restraining techniques in accordance with Title 22, as applicable;
(H) Appropriate and inappropriate use of medications as chemical restraints in accordance with Title 22, as applicable;
(I) An opportunity to practice the maneuvers and techniques included in the training with other employees they will work with, including a meeting to debrief the practice session. Problems found shall be corrected.

(4) All training provided under subsection (f) shall include an opportunity for interactive questions and answers with a person knowledgeable about the employer's workplace violence prevention plan.

~~(ef)~~ (g) **Recordkeeping.**

(1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained for a minimum of one year ~~in accordance with title 8, section 3203(b)(1), except that the exception to title 8, section 3203(b)(1) does not apply~~.

(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. ~~Title 8, section 3203(b)(2) EXCEPTION NO. 1 does not apply to these training records.~~

(3) Violent incident logs required by subsection (d) shall be maintained for a minimum of five years.

~~(3)~~(4)Records of workplace violence incident ~~injury~~ investigations conducted pursuant to subsection (c)~~(10)~~(11) 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).

(4) All records required by ~~this~~ subsection ~~(f)~~ (g) shall be made available to the Chief on request, for examination and copying.

(5) All records required by ~~this~~ subsections ~~(f)~~(g)(1), ~~(f)~~(g)(2), ~~and (f)~~(g)(3), and (g)(4) shall be made available to employees and their representatives, on request, for examination and copying within 15 calendar days of a request ~~in accordance with title 8, section 3204(e)(1) of these orders~~.