

February 20, 2015



*Supporting People,  
Health and  
Quality of Life*

Robert Nakamura  
Senior Safety Engineer  
DOSH Research and Standards Health Unit  
Cal/OSHA  
Elihu Harris State Building  
1515 Clay Street  
Oakland, CA 94612

Dear Mr. Nakamura:

On behalf of the California Association of Health Facilities (CAHF) which represents skilled nursing facilities and intermediate-care facilities for people with intellectual disabilities, offers the following comments and information to assist Cal/OSHA as it evaluates the issue of health care workplace violence. Cal/OSHA's efforts to address the issue of violence in health facilities is appreciated. California skilled nursing facilities and intermediate care facilities for people with intellectual disabilities take seriously their duty to provide a safe and healthy environment for both residents in the facilities as well as the staff.

#### **Current Compliance Requirements**

Currently, the long term care industry is already the second most regulated industry in the nation. There are county, state and federal regulations that must be adhered to on a daily basis by our members. The California Department of Public Health Licensing and Certification is tasked by the Federal Government Centers for Medicaid and Medicare to assure they are adhered to. This is done through the process of a minimum of one recertification survey per year as well as any complaint investigations that are conducted.

A sample of the regulations that cover the rights of resident rights that must be adhered to include:

Code of Federal Regulations (CFR) 483.10 Resident Rights: The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights. 483.10(a) (1) Exercise of Rights the resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States. 483.20(a) (2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights.

CFR 483.13 (a) Restraints: The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, not required to treat the resident's medical symptoms.

There is also the CFR requirements that the staff treat resident with dignity and respect. Also the CFR have requirements that allow for a limited use of any type of anti-psychotic medication.

The CFR's that are in place that govern when a resident can be discharged include but are not limited to CFR 483.12 (a)(2). The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless (i) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility; (ii) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

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(iii) The safety of the individuals in the facility is endangered; (iv) The health of individuals in the facility would otherwise be endangered. However the CFR's continue and require documentation and notices to be given to the resident. Also the facility is required to hold the bed for seven days and to then offer the first available bed to the resident after the seven days has expired.

Also the long term care setting is to be a home like environment. There is a Federal movement to go a more homelike environment and provide resident centered care and move away from an institutional type setting. Any type of security force would certainly take away from this.

The Intermediate Care Facilities for the Developmentally Disabled whether it be a licensed as a habilitative or nursing level, are almost all six beds homes. They care for those residents with moderate to severe developmentally disabled. CAHF would expect these to be exempt from any type of requirements that are implemented.

**External Factors Impacting Health Care Workplace Violence:**

1. The patient population is changing. With the aging population, the long term care setting is seeing more Dementia and Alzheimer residents in their facilities that require more care and are more medically fragile as they are living longer. These residents are at increased risk for aggressive behavior.
2. Our long term care facilities have a large population as well that have a mental health issue. There is a lack of psychiatric beds in California, especially in the last 15 years. Therefore the long term care setting, whether they have a mental health program or not, is the setting the resident will reside in receive the care they need.
3. Often it is noted that law enforcement will not take a report on these residents when there is resident to staff or even resident to resident violence. Often they do not even respond. In fact in talking to our members resident to resident violence is more of concern and there is little resident to staff occurrences.

**Conclusion:**

Given the lack of data on specific actions that would be effective in reducing workplace violence and the current existing regulations and the external factors impacting this issue at this time CAHF believes Cal/OSHA should 1) create a standard definition for workplace violence 2) adhere to current reporting requirements of employee injuries and 3) what requirements are put forward an exemption for the ICF-DD both habilitative and nursing.

CAHF is ready to assist Cal/OSHA as it moves forward to develop policies to provide employees with a safe work environment. Thank you for allowing us to submit this information.

Sincerely,



Lisa Hall

Director of Regulatory Affairs

Cc: James H. Gomez  
CEO/President  
California Association of Health Facilities