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February 24, 2015

Cal/OSHA
Bob Nakamura, Senior Safety Engineer
1515 Clay Street, Room 1901
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Dear Mr. Nakamura,

The California Nurses Association/National Nurses United (CNA), sponsors of the health facilities workplace violence prevention plan statute[1] (SB 1299) that will be made specific and fully implemented through the rulemaking process, is pleased to submit comments on the pre-regulation discussion document dated February 5, 2015. In response to CNA's petition No. 539 and petition No. 538, CalOSHA has included numerous other healthcare settings in addition to those specifically referenced in SB 1299.

The Occupational Safety and Health Standards Board (CalOsha) has both the authority and the obligation to adopt ***standardized*** occupational protections for any settings wherein licensed healthcare providers[2] and other healthcare workers have contact or interaction with patients. The workplace safety regulations mandated under SB 1299 should be viewed as a benchmark set by the legislature and signed by the Governor. It was CNA's and the Legislature's intent to establish strong minimum requirements for the hospital setting specifically referenced in the statute. Indeed, section (e) of SB 1299 explicitly grants authority to CalOSHA broad authority to provide equivalent protections for employees in all other settings where licensed healthcare providers have patient contact, to wit:

> (e) This section does not limit the authority of the standards board to adopt standards to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require other employers, including, but not limited to, employers exempted from this section by subdivision (d), to adopt plans to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require an employer subject to this section, or any other employer, to adopt a workplace violence prevention plan that includes elements or requirements additional to, or broader in scope than, those described in this section.[3]

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[1] Workplace violence prevention plans: hospitals, Statutes of 2014, Chapter 842 (SB 1299)
[2] Employers of licensed and/or certified healthcare providers who have patient contact in every settings currently listed in the discussion document (a) (1) (A-G). Although this letter will not specifically mention all other healthcare workers throughout CNA's comments, all healthcare workers who have direct patient contact are being referenced in these comments.
[3] *supra., @ f.n. #1 Section 1(e).*

Specifically excluded from the reporting requirements in subsection (e) of the discussion document are healthcare settings[4] with fewer administrative and environmental controls than are found in acute care hospitals that provide 24 hour inpatient care or that are located within these acute care facilities. Employer's whose employees experience workplace violence in these other settings should also be required to report these events to CalOSHA and comply with all other healthcare workplace violence prevention standards for their employees. The definition of workplace violence has been modified from SB 1299 in the discussion document to include "...the use of physical force against an ***employee***[5] by a patient..." making the definition, by implication, apply to all employees rather than just to hospital employees. A standardized definition is rational and necessary for clarity and consistency of application. The definition and application of a "reportable workplace violence event" should be standardized in the same fashion and for the same reason.

We are unaware of any evidence that supports the underlying assumption that registered nurses working in retail clinics are unlikely to encounter the threat of violence in that work setting. Retail settings are new places of employment for registered nurses, physician assistants and physicians and we cannot evaluate the safety of healthcare professionals without collecting data on this relatively new worksite. The 2009 OSHA recommendations for late-night retail establishments report:

> According to an earlier survey conducted by the U.S. Bureau of Justice Statistics (BJS), retail sales occupations had the third highest victimization rate, after workers in the law enforcement and mental health professions. The BJS National Crime Victimization Survey (1993-1999) found that **20 out of 1,000 workers in retail had experienced some form of simple or aggravated assault** in the workplace annually, and the rate for convenience store and gas station workers was much higher.[6]

Retail settings bring in individuals who may engage in shop lifting or other illegal activities and that allow all members of the public to enter under the assumption that they are interested in purchasing goods or services. Retail establishment carry large amounts of cash that could potentially subject employees to violence associated with attempted

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[4] (A) Health facilities that are not licensed under H&S Code 1250 (a), (b) or (f); (B) Outpatient medical offices and clinics not under the license of health facilities licensed under H&S Code 1250 (a), (b), or (f); (C) Home Health care and home-based hospice not under the license of health facilities licensed under H&S Coder 1250 (a), (b), or (f); (D) Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders; (E) Mobile clinics and dispensing operations, medical outreach services, and other off-site operations, not under the license of health facilities licensed under H&S Code 1250 (a), (b) or (f); (F) Drug treatment programs not under the license of health facilities licensed under H&S Code 1250 (a), (b) or (f); (G) Ancillary health care operations.

[5] SB 1299 refers to "...the use of physical force against a **hospital** employee by a patient..." (*emphasis added in body of letter and in footnote*)

[6] OSHA 3153-12R 2009, Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments, Introduction, p. 4 (*emphasis added*)

robbery. In addition, retail settings that provide healthcare services by physicians, registered nurses or physician assistants are mostly located in establishments with pharmacies. The CDC website NIOSH Science Blog, "Violence Against Pharmacist", explains the difference between the healthcare workers experience of violence and that of the pharmacist:

> We are finding that violence against pharmacists differs from violence experienced by other healthcare workers. Increasingly, pharmacists face violence from robberies at their workplace. Across the United States, reports of pharmacy robberies specifically related to the theft of OxyContin and Vicodin have been reported...Currently, a comprehensive nationwide database of pharmacy robberies does not exist.[7]

Now that registered nurses are being set up in these retail settings, we need to know whether or not these employees have an increased incidence of violence and that can only be demonstrated through mandated reporting of workplace violence, as defined in SB 1299, against healthcare workers in this novel setting.

The ten percent (10%) rule set forth in the discussion document seems to be irrelevant and unnecessary. Although it may be useful to define "Ancillary healthcare operations" based on the number of employees engaged in the provision of health care, it is not a useful distinction with regards to workplace violence and occupational safety whether the registered nurses and/or pharmacists constitute less than 10% of the employees. We have been unable to find any evidence to support the 10% bright line rule and believe that this distinction is arbitrary and unfounded.

I. ***Subsection (a) Scope and Application Page 1***

As discussed above, the distinction that is being made between the various healthcare settings with respect to "Scope" and "Application" is unwarranted. The absence of a statutory mandate for settings other than General Acute Care, Acute Psychiatric and Special Hospitals does not relieve CalOSHA of the responsibility to establish the highest safeguards for all healthcare workers who have patient contact regardless of the healthcare setting. The separation of scope and application is confusing and lacks the clarity of the recently completed Safe Patient Handling regulations found in General Industry Order §5120 . CNA request that subsection (a) be modified as follows:

> **(a) Scope and Application:**
>
> **This section applies to employers with employees who work in the following health care facilities, service categories, or operations:**
>
> **(A) General Acute Care Hospitals, Acute Psychiatric Hospitals, Special Hospitals and all services licensed under these acute care health facilities including, but not limited to, emergency,**

[7] http://blogs.cdc.gov/niosh-science-blog/2009/02/17/pharmacists/

**outpatient observation, outpatient clinics, physical therapy and, if applicable, ambulatory surgery.**

**(B) Outpatient medical offices and clinics.**

**(C) Other health facilities, as defined in (b).**

**(D) Home health care and home-based hospice.**

**(E) Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders.**

**(F) Mobile clinics and dispensing operations, medical outreach services, and other off-site operations.**

**(G) Drug treatment programs**

**(H) Ancillary health care operations**

The definition of "health facilities", including General Acute Care Hospitals (GACH), Acute Psychiatric Hospitals (APH) and Special Hospitals , is defined in Section 1250 of the Health and Safety Code and is distinctly different from "clinics" in Section 1200 et. seq. as follows, in relevant part:

> (a) As used in this chapter, "clinic" means an organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients **who remain less than 24 hours**, and that may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit nursing services in a clinic licensed pursuant to this chapter. In no case shall the clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250)...[8]

Part of the rationale for the recommended changes contained in these comments is the fact that General Acute Care Hospitals outpatient services, including medical clinics and ambulatory surgery centers, are defined in 22 CCR §70525 as follows:

> Outpatient service means the rendering of nonemergency health care services to patients who remain in the hospital **less than 24 hours** with the appropriate staff, space, equipment and supplies.[9]

The discussion document attempts to bring the facilities under the umbrella of the license of acute hospitals by calling them "hospital based outpatient clinics (HBOCs)"

(b)Definitions:

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[8] *Emphasis added.*

[9] *Emphasis added.*

> " Health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one of more persons, to which the persons are admitted for a **24-hour stay or longer.** (Ref: Health and Safety Code Section 1250). For the purpose of this Section, a health facility includes **hospital based outpatient clinics (HBOCs) and other operations located at a health facility, and all off-site operations included within the license of the health facility**[10]. ...

There is consistency between the definition of outpatient clinics licensed under H&S Code Section 1200 et. seq. and those attached to, or under the umbrella of, the license of General Acute Care Hospitals licensed under H&S Code Section 1250(a) in that in both instances, the outpatient definition contains two related elements (1) non-emergency services and (2) less than 24 hours in the outpatient setting. While the distinction between "...a 24 hours stay or longer" and that of "less than 24 hours" may seem irrelevant to these particular regulations, the definitions have special significance within the various licensing schemes and poses a conflict if not remedied as suggested in these comments.

Subsection (a) (3) does not address scope or application and is inappropriately placed in this subsection. CNA recommends that it be moved into a new subsection (g) at the end of the document and modified to correctly reflect the content of these regulations. There is no mention in the discussion document of personal protective equipment for healthcare employees as part of a healthcare workforce violence protection plan and it is not clear why it is being included or what personal protective equipment this paragraph is referencing. The new subsection should be modified as follows:

> **(g) The employer shall provide all safeguards required by this section, including but not limited to, training and medical services, at no cost to the employee, at a reasonable time and place for the employee and during working hours.**

An alternative placement would be in subsection (c), new sub-subsection (M). If there is personal protective equipment that is appropriate to the healthcare workplace violence prevention plan, it should be identified in (b) Definitions.

II. ***Subsection (b) Definitions Page 1.***

Several definitions and abbreviations are included in subsection (b) and then not used anywhere else in the document.

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

[10] *Emphasis added.*

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

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

"Field operation" means an operation conducted by employees that is outside of the employer's fixed establishment, such as mobile clinics, health screening, and medical outreach services, or dispensing medications.

None of these defined terms are found in the discussion draft anywhere other than in (b) Definitions. We are unaware of any other regulations that define terms that are not used within the document itself.

If there is a role for Local Health Officers in the monitoring or reporting of healthcare workforce violence prevention, it is not stated in the discussion document. Medical specialty practice is not referenced within the document and we cannot envision a unique responsibility for medical specialty practitioners that would differ from that of a primary care, general practice or family medicine practitioner when referring to medical care or first aid. The employer is required to pay the costs of medical services, according to (a)(3) in the discussion document, and the Plan must contain procedures for providing immediate medical care or first aid to employees who have been injured, according to (c)(J)1. However, there is no other mention of physicians, licensed health care professionals, medical specialty practice, primary care, general practice or family medicine within this document other than in (b) definitions. CNA recommends deletion of these definitions unless the document is modified to reflect the need for these terms to be defined.

Reference is made to classification of violence on page 5 (c) (2) (E) 2 "Types 3 and 4" and on page 6 (c) (2) (H) Type 1 violence. However, none of these terms has been placed into subsection (b) Definitions. Type 2 violence, which is violence directed at employees by customers, clients, patients, students, inmates or any others for whom an organization provides services, has been left out completely. According to the U.S. Department of Justice Federal Bureau of Investigation document, *Workplace Violence* Type 2 violence is the most comment assault in emergency rooms, not Type 1 violence:

> Employees experiencing the largest number of Type 2 assaults are those in healthcare occupations—nurses in particular, as well as doctors, nurses and aides who deal with psychiatric patients; members of emergency medical response teams; and hospital employees working in admissions, **emergency rooms,** and crisis or acute care units.[11]

[11] DOJ, FBI, *Workplace Violence, Issues in Response*, 2001, p. 14 (*emphasis added*)

CNA suggests modifications to subsection (b) Definitions as follows[12]:

(b) Definitions

"Acute psychiatric hospital" ~~(APH)~~[13] means a hospital, **as defined in Section 1250 (b) of the Health and Safety code and** licensed by the California Department of Public Health as such in accordance with Title 22, California Code of Regulations, **and all services within the hospital's license including, but not limited to, emergency, outpatient observation, and outpatient clinics located at the hospital facility and all off-site operations included within the hospital's license**

"Alarm" No change.

"Ancillary health care operation" No change

"Chief" No change

"Dangerous Weapon" No change

"Drug treatment programs" No change

"Emergency" No change

"Environmental risk factors" No change

"~~Field operation~~" *Delete unless the document is modified to reflect a need for the term to be defined. The term is only found in (b) Definitions.*

"General acute care hospital" ~~(GACH)~~[14] means a hospital **including a rural general acute care hospital as defined in Section 1250(a) of the Health and Safety Code and** licensed by the California Department of Public Health as such in accordance with Title 22, California Code of Regulation, **and all services within the hospital's license including, but not limited to, emergency, outpatient observation, outpatient clinics, physical therapy and ambulatory surgery services located at the hospital facility and all off-site operations included within the hospital's license**

"**Other** health facility" **for the purposes of the section** means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including care during and after pregnancy, or for any one or more of these purposes, for one of more persons, to which the persons are admitted for a 24-hour stay or longer. ~~For the purposes of this Section, a health facility includes hospital based outpatient clinics~~

[12] New or added language is in bold and underlined. Deleted language has strikethrough.
[13] "APH" as an abbreviation for Acute psychiatric hospital is not used in the discussion document.
[14] GACH as an abbreviation for General Acute Care Hospital is not used in this discussion document.

~~(HBOCs) and other operations located at a health facility and all off-site operations included within the license of the health facility.~~ The term "health facility" includes facilities with the following bed classifications, as established **in the Health and Safety Code** by the California Department of Public Health:
~~(1) General acute care.~~
~~(2)~~**(1)** Skilled nursing.
~~(3)~~**(2)** Intermediate care-developmental disabilities.
~~(4)~~**(3)** Intermediate care-other.
~~(5) Acute Psychiatric.~~
~~(6) Specialized care, with respect to special hospitals only.~~
~~(7)~~**(4)**Chemical dependency recovery.
~~(8)~~**(5)** Intermediate care facility/developmentally disabled habilitative.
~~(9)~~**(6)** Intermediate care facility/developmentally disabled nursing.
~~(10)~~**(7)** Congregate living health facility.
~~(11)~~**(8)** Pediatric day health and respite care facility, as defined in Section 1760.2 **of the Health and Safety Code.**
~~(12)~~**(9)** Correctional treatment center.
~~(13)~~**(10)** Hospice facility.

"Individually identifiable medical information" No change.

~~"Local Health Officer"~~ *Delete unless the document is modified to reflect a need for the term to be defined. The term is only found in (b) Definitions.*

~~"Medical specialty practice"~~ *Delete unless the document is modified to reflect a need for the term to be defined. The term is only found in (b) Definitions.*

"Outpatient medical offices and clinics" No change.

**"Patient classification system" means a method for establishing staffing requirements by unit, patient and shift based on the assessment of individual patients by the registered nurse as specified in Title 22 General Acute Care Hospitals.**

"Patient-related risk factors" No change.

"Patient Contact" No change.

~~"Physician or other licensed health care professional (PLHCP)"~~ *Delete unless the document is modified to reflect a need for the term to be defined. The term is only found in (b) Definitions.*

"Reportable workplace violence incident" means an incident which meets either or both of the following criteria:

(A) The **threat of or the** use of physical force against a**n** ~~hospital~~ employee by a patient or a person accompanying a patient that results in, or has a high likelihood of

resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury. **(Type 2 workplace violence)**

(B) An incident involving the **threat of or** use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

**"Special Hospital" means a hospital as defined in Section 1250(f) of the Health and Safety Code and all services within the hospital's license.**

**"Type 1 workplace violence" means violent acts by criminals who have no other connection with the workplace but enter to commit robbery or another crime.**

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

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

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

"Workplace violence" No change.

III. ***Subsection (c) Workplace violence prevention plan. Page 4***

8 CCR § 3203 Injury and Illness Prevention Program is referenced in (c) (1) of the discussion document as follows, in relevant part:

> (1) As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, each employer covered by this section shall establish, implement and maintain an effective **written**[15] workplace violence prevention plan (Plan).

However, 3203 (a) (3) contains an exception for employers with fewer than 10 employees. These employers may "...communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3)." In order to assure that every employer has a written workplace violence prevention plan the sentence should be modified as follows:

> (1) As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, ~~each~~ **every** employer covered by this section **including small employers exempt from having a written plan under 3203(a)(3)**

[15] *Emphasis added.*

**"exception",** shall establish, implement and maintain an effective written workplace violence prevention plan (Plan).

Subsection(c) (2) (D) states that the place shall include the following elements:

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

The reference to 3203(a) (2) in the Illness and Injury Prevention Program includes the following:

"Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, ***disciplinary actions***, or any other such means that ensures employee compliance with safe and healthful work practices."[16]

SB 1299 includes the requirement that there be "Provisions prohibiting hospitals 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."[17] These statutory protections supersede regulatory standards which are less protective. The structure of the sentence in 3203 (a) (2) of Title 8 states that substantial compliance, includes "disciplinary actions" but it is not clear that such actions would be taken only against the perpetrator of a violent action rather than against the victimized employee who might seek outside assistance or intervention from law enforcement or local emergency services. Reference to (c) (2)(M) is necessary in order to make clear that there is no confusion between the language of 3203(a)(2) and the statutory protections for employee victims of workplace violence.

(D) Procedures to ensure that supervisory and non-supervisory employees comply with the plan in accordance with 3203(a)(2) **except that (c)(2)(M) in this section controls with respect to discipline of those employees who are the victims of workplace violence and (c)(2)(E)3. controls with respect to the right to communicate workplace violence concerns without fear of reprisal** .

Discussion document subsection (c) (2) (J) (8) states:

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

a. Date, time and Location

[16] 8 CCR §3203(a) (2) *emphasis added.*

[17] Chapter 842, stats. of 2014 (SB 1299) Section 1 (b) (6).

b. Name**(s) of the personnel who were injured or the target of the violent action** including names and contact information of personnel of other employers, and the names of responders and witnesses.
c. A brief description of the incident.
d. A summary of the information collected during the incident investigation.
e. Whether security or law enforcement were contacted, and names of responders.
**f. The patient's individually identifiable medical information shall not be included in the log.**[18]

It is not clear if (f) refers to an injured employee as "the patient" whose individually identifiable medical information shall not be included in the log or if it is meant to protect the medical information of a patient of the injured employee who may have been a witness to or the aggressor in the incident. If the goal is to provide for protection of individually identifiable medical information the following change would be made to make it clearer that protected medical information is not to be included in the log:

f. ~~The patient's~~ **I**ndividually identifiable medical information shall not be included in the log.

There is arguably a conflict between the prohibition against including individually identifiable medical information and the requirement that the log contain the name of any **injured** individuals and witnesses, since the definition of "individually identifiable medical information" in (b) Definitions, includes use of a patient's name along with the medical information. However, the goal seems to be the exclusion of ***protected health information*** belonging to the employee and patients rather than the protection of the identity of the injured individual and witnesses. Subsection (f) (3) states more simply that the records shall not contain "medical information" as defined by Civil Code §56.05(g)[19]. Medical information is actually defined in Civil Code §56.05(j)

Civil Code 56.06 (j) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

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[18] *Emphasis added.*

[19] Civil Code 56.05 (g) "Health care service plan" means any entity regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

It may be preferable to use the definition of "medical information" that is in the Civil Code in (b) Definitions as it more clearly makes the point that medical information is what is being protected.

Subsection (c) (2) (L) requires the Workplace Violence Plan (Plan) to contain procedures for the annual review of the Plan to include "staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence." Within the context of hospital requirements, the patient classification system is understood as a tool to enhance staffing needs above the minimum nurse-to-patient ratios based on the registered nurses' assessment of the needs of individual patients. However, when the reference to patient classification systems is taken out of that specific context and placed in the Labor Code regulations, the reference needs to be clarified through a definition in (b) Definitions. Without context, a patient classification system in regulations dealing with workplace violence could be mistaken for a system of classifying patients according to their potential for violent behavior. SB 1299 is legislation sponsored by CNA and the language is clear when referencing General Acute Care Hospitals but needs to be defined when the reference is placed outside of the Title 22 regulations governing the licensing of General Acute Care Hospitals.

## IV. ***Subsection (d) Training. Page 8***

Subsection (d) (1) (A-C) addresses the frequency of training required for healthcare workforce violence prevention. Following the requirement for initial workplace violence prevention training in subsection (d) (1) (A) for all employees, subsection (d) (1) (B) requires employers to provide refresher training "...in violence prevention while performing patient contact activities." The sentence is awkwardly constructed in a manner that appears to require the training while the employee is engaged in performing patient care (patient contact) activities. We assume that CalOSHA is attempting to comply with SB 1299 by emphasizing the need for annual refresher training for employees who engage in patient care activities and not is suggesting that patients who have sought out healthcare services would be subjected to anti-violence role playing with their healthcare provider. Certainly, healthcare providers would not engage in healthcare workplace violence prevention role playing while providing patient care. The sentence should be modified as follows:

(B) At least every twelve months, employees and their supervisors shall also receive refresher training in violence prevention ~~while the employee is engaged in performing patient contact activities~~ **in compliance with the standards set forth in this subsection**.

Subsection (d) (2) (G) of the discussion document states:

(G) An employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, shall arrange for those personnel to participate in the workplace violence training provided to employees.

The purpose of this requirement is unclear. Is this a requirement that assures healthcare employees that security personnel will be present during training as resources for healthcare personnel or is this meant to require security personnel to be provided with healthcare workforce violence prevention training equivalent to that provided to employees? While both are essential and can be accomplished during the same training, the requirement for each should be stated clearly and placed under applicable sub-subsections to make the distinction clear. In the absence of clarity, it is conceivable that a few administrative security personnel could be assigned the role of resource persons for employee training while the majority of security personnel would not receive training.

Without the training required under this standard, security personnel would respond to emergency calls for assistance without a full understanding of the employer's healthcare workforce violence prevention plan or an opportunity for interactive questions with a person knowledgeable about the plan. The employer can accomplish both goals by assuring that there are security personnel present at every training to interact with employees in addition to another individual knowledgeable about the employers healthcare workplace violence prevention plan. The employer could choose to have designated security personnel knowledgeable about the plan available at each training to answer questions but the employer/contractor would still be a need to schedule Initial and annual refresher training for all other security. In order to make both requirements clear, we recommend the following modifications and additions to the discussion document:

(d)(2)(G) An employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, shall arrange for ~~those~~ **security** personnel **knowledgeable about the employer's healthcare workforce violence prevention plan** to participate in ~~the healthcare workplace violence prevention~~ training provided to employees **as an additional resource for interactive questions by employees.**

(d)(4) Employers shall ensure that all personnel present in health care facilities, services and operation have been trained on the employer's Plan, and what to do in the case of an alarm or other notification of emergency. Non-employee personnel who are reasonably anticipated to participate in the implementation of the Plan shall be provided with the training required for the specific assignment **except that an employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, shall arrange for those personnel to receive the same initial healthcare workplace violence prevention training and annual refresher training provided to employees.**

V. ***Subsection (e) Reporting requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals. Page 10***

CalOSHA should standardize the reporting requirements for all healthcare settings in order to clarify employer requirements in this section and provide for consistency in enforcement. SB 1299 set the benchmark for healthcare workforce violence prevention and, as mentioned previously, **explicitly authorized Cal OSHA** to extend the statutory protections of SB 1299 to all healthcare settings. CNA recommends the following modifications in order to provide for uniformity of occupational standards throughout healthcare settings with respect to the reporting of workplace violence incidents resulting in injury, involving the use of firearms or other dangerous weapons, and threats of violence to healthcare employees:

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

(1) ~~Each general acute care hospital, acute psychiatric hospital, and special hospital shall report each r~~**R**eportable violent incidents **shall be submitted** to the Division within 24 hours, if the incident results in an injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health or safety of hospital personnel. All other incidents of violence **without injury, including credible threats to harm an employee by an individual or individuals capable of inflicting harm,** shall be reported to the Division within 72 hours.

A. ~~Hospital~~ **Employer** name, site address, representative, phone number and email address, and the name, representative name , and contact information for any other employer of employees affected by the incident.
B. Date, time and specific location of the incident.
C. A brief description of the incident.
D. The number of employees injured and the types of injuries sustained.
E. Whether there is a continuing threat, and if so, what measures are being taken to protect employees.
F. Whether security or law enforcement ~~were~~ **was** contacted, and what agencies responded.
G. A unique incident identifier.
H. The report shall not include any employee or patient names. Employee names shall be furnished upon request to the Division.
I. State if this was also reported to the nearest District Office of the Division of Occupational Safety and Health [see ~~(5)~~ **(4)** below].

**(2)**~~(3)~~ The report shall be provided by mail to the following address:

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

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

VI. ***Subsection (f) Recordkeeping. Page 11***

The discussion document states that the records of workplace violence "shall be created and maintained in accordance with Section 3203(b)". This section of the IIPP contains an exception for employers with fewer than 10 employees in 3203(b) (1) and (b) (2). CalOSHA has the same obligation to protect employees of small employers as they have for employees of larger employers. It is nonsensical that an employer with 11 employees must comply with all standards while an employer with 2 fewer employees does not. CNA recommends the following modification of subsection (f) Recordkeeping:

(1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained in accordance with Section 3203(b). **Notwithstanding Section 3203 (b) (1) Exception, employers with fewer than 10 employees shall be required to comply with the standards in this subsection**.

(2) Training records shall be created and maintained for a minimum of one year and include the following information: training dates; contents or a summary of the training sessions; names and qualifications of persons conducting the training; and names and job titles of all persons attending the training sessions. **Notwithstanding Section 3203 (b) (2) Exception No. 1, employers with fewer than 10 employees shall be required to comply with the standards in this subsection.**

(3) Records of violent incidents, including but not limited to, the reports required by subsection (e), and workplace violence injury investigations shall be created in accordance with subsection (c)(2)(J)8. These records shall be maintained for a minimum of 5 years. These records shall not contain "medical information" as defined by Civil Code Section 56.05(g).

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

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

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

As noted earlier in the comments, (f) (3) of the discussion document needs to reflect the correct subsection of the Civil Code definition of "medical information" which is (j) and not (g).

> (f) (3) Records of violent incidents, including but not limited to, the reports required by subsection (e), and workplace violence injury investigations shall be created in accordance with subsection (c)(2)(J)8. These records shall be maintained for a minimum of 5 years. These records shall not contain "medical information" as defined by Civil Code Section 56.05~~(g)~~ **(j).**

VII. **New Subsection (g) Employee rights and employer responsibilities.**

**(g) The employer shall provide all safeguards required by this section, including but not limited to, training and medical services, at no cost to the employee, at a reasonable time and place for the employee and during working hours.**

Attached hereto, for your convenience, is the discussion document including all of our recommended changes.

Very Truly Yours,

CALIFORNIA NURSES ASSOCIATION/
NATIONAL NURSES UNITED

Donald W. Nielsen
Director of Government Relations

February 24, 2015
CNA HWPV Attachment:

**(a) Scope and Application:**

**This section applies to employers with employees who work in the following health care facilities, service categories, or operations:**

- **(A) General Acute Care Hospitals, Acute Psychiatric Hospitals, Special Hospitals and all services licensed under these acute care health facilities including, but not limited to, emergency, outpatient observation, outpatient clinics, physical therapy and, if applicable, ambulatory surgery.**
- **(B) Outpatient medical offices and clinics.**
- **(C) Other health facilities, as defined in (b).**
- **(D) Home health care and home-based hospice.**
- **(E) Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders.**
- **(F) Mobile clinics and dispensing operations, medical outreach services, and other off-site operations.**
- **(G) Drug treatment programs**
- **(H) Ancillary health care operations**

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

~~(A) Health facilities, as defined below.~~

~~(B) Outpatient medical offices and clinics.~~

~~(C) Home health care and home-based hospice.~~

~~(D) Paramedic and emergency medical services including these services when provided by firefighters and other emergency responders~~

~~(E) Mobile clinics and dispensing operations, medical outreach services, and other off-site operations.~~

~~(F) Drug treatment programs~~

~~(G) Ancillary health care operations~~

~~(2) Application.~~

~~(A) All employers with employees in operations identified in subsection (a)(1)(A)~~

~~through (a)(1)(F) shall comply with subsections (c), (d), and (f).~~

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

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

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

(b) Definitions

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

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

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

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

"Dangerous weapon" means an instrument capable of inflicting death or serious bodily injury. "Drug treatment program" means a program that is (A) licensed pursuant to Chapter 7.5
(commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code; or

Chapter 1 (commencing with Section 11876), Part 3, Article 3, Division 10.5 of the Health and Safety Code; or
(B) ) certified as a substance abuse clinic or satellite clinic pursuant to Section 51200, Title 22, CCR, and which has submitted claims for Medi-Cal reimbursement pursuant to Section 51490.1, Title 22, CCR, within the last two calendar years or (C) certified pursuant to Section 11831.5 of the Health and Safety Code.

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

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

"Environmental risk factors" means factors in the facility or area in which health care services or operations are conducted that may contribute to the likelihood or severity of a workplace violence incident. Environmental risk factors include risk factors associated with the specific task being performed, such as the collection of money.

~~"Field operation" means an operation conducted by employees that is outside of the employer's fixed establishment, such as mobile clinics, health screening and medical outreach services, or dispensing of medications.~~

"General acute care hospital" (GACH)[1] means a hospital **including a rural general acute care hospital as defined in Section 1250(a) of the Health and Safety Code and** licensed by the California Department of Public Health as such in accordance with Title 22, California Code of Regulation, **and all services within the hospital's license including, but not limited to, emergency, outpatient observation, outpatient clinics, physical therapy and ambulatory surgery services located at the hospital facility and all off-site operations included within the hospital's license**

"**Other** health facility" **for the purposes of the section** means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including care during and after pregnancy, or for any one or more of these purposes, for one of more persons, to which the persons are admitted for a 24-hour stay or longer. ~~For the purposes of this Section, a health facility includes hospital based outpatient clinics (HBOCs) and other operations located at a health facility and all off-site operations included within the license of the health facility.~~ The term "Other health facility" includes facilities with the following bed classifications, as established

[1] GACH as an abbreviation for General Acute Care Hospital is not used in this discussion document.

**in the Health and Safety Code** by the California Department of Public Health:
~~(1) General acute care.~~
~~(2)~~**(1)** Skilled nursing.
~~(3)~~**(2)** Intermediate care-developmental disabilities.
~~(4)~~**(3)** Intermediate care-other.
~~(5) Acute Psychiatric.~~
~~(6) Specialized care, with respect to special hospitals only.~~
~~(7)~~**(4)**Chemical dependency recovery.
~~(8)~~**(5)** Intermediate care facility/developmentally disabled habilitative.
~~(9)~~**(6)** Intermediate care facility/developmentally disabled nursing.
~~(10)~~**(7)** Congregate living health facility.
~~(11)~~**(8)** Pediatric day health and respite care facility, as defined in Section 1760.2 **of the Health and Safety Code.**
~~(12)~~**(9)** Correctional treatment center.
~~(13)~~**(10)** Hospice facility.

"Individually identifiable medical information" means medical information that includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

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

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

"Outpatient medical offices and clinics" means establishments **other than those listed under the license of a General Acute Care Hospital, Acute Psychiatric Hospital or Special Hospital** where patients are provided with diagnosis and treatment for medical, or psychiatric care, but are not admitted for a 24-hour stay or longer. These establishments include, but are not limited to, physician's offices, phlebotomy drawing stations, therapy offices, imaging centers, ambulatory surgery centers, and clinics.

**"Patient classification system" means a method for establishing staffing requirements by unit, patient and shift based on the assessment of individual patients by the registered nurse as specified in Title 22 General Acute Care Hospitals.**

"Patient-related risk factors" means factors specific to a patient, such as use of drugs or alcohol, psychiatric condition or diagnosis, or history of workplace violence, which may

increase the likelihood or severity of a workplace violence incident.

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

"Reportable workplace violence incident" means an incident which meets either or both of the following criteria:

(A) The **threat of or the** use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury **(Type 2 workplace violence)**

(B) An incident involving the **threat of or** use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury

"Patient Contact means providing a patient with treatment, observation, comfort, direct assistance, bedside evaluations, office evaluations, and any other action that involves or allows direct physical contact with the patient.

**"Special Hospital" means a hospital as defined in Section 1250(f) of the Health and Safety Code and all services within the hospital's license.**

**"Type 1 workplace violence" means violent acts by criminals who have no other connection with the workplace but enter to commit robbery or another crime.**

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

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

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

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

(A) The use of physical force against an employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury. **(Type 2 workplace violence)**

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

(c) Workplace violence prevention plan.

(1) As part of the Injury and Illness Prevention Program (IIPP) required by Section 3203, each employer covered by this section **including small employers exempt from having a written plan under 3203(a)(3) "exception",** shall establish, implement and maintain an effective written workplace violence prevention plan (Plan). The Plan shall be maintained and implemented at all times for all units, services and operations, and shall be specific to the hazards and corrective measures for each unit, service or operation. The Plan may be incorporated into the IIPP, or may be maintained as a separate document. The Plan applicable to the unit, service or operation shall be available to employees at all times.

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

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

(B) Effective procedures for the active involvement of employees and their representatives in the development, implementation and review of the plan, including participation in the identification, evaluation and correction of workplace violence hazards, design and implementation of training, and the reporting and investigation of workplace violence incidents.

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

(D) Procedures to ensure that supervisory and non-supervisory employees comply with the Plan in accordance with 3203(a)(2)~~,~~ **except that (c)(2)(M) in this section controls with respect to discipline of those employees who are the victims of workplace violence**.

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

1. How employees will communicate to other employees and between shifts and units, information regarding conditions that may create increased potential for workplace violence incidents.
2. How an employee can report a violent incident, threat, or other

workplace violence concerns regarding a co-worker or former employee, or a person who has a relationship to the employee or another employee. (Types 3 and 4 violence).

3. How employees can communicate workplace violence concerns without fear of reprisal.
4. How employee concerns will be investigated, and how employees will be informed of the results of the investigation and any corrective actions to be taken.

(F) Assessment Procedures for the identification and evaluation of environmental risk factors for each facility, service or operation. These procedures shall include a review of all workplace violence incidents that occurred in the facility, service or operation, within the year previous to the evaluation, whether or not an injury occurred.

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

a. Isolation from other areas where employees are located, due to factors such as remote location, hours of use, or the ability of an assailant to prevent entry by other employees or responders into an area during an attack.
b. Designated entrances and areas where unauthorized entrance may occur (such as doors designated for staff entrance or emergency exit).
c. Areas where there are large amount of high-value items or pharmaceuticals
d. Use of outside areas during hours of darkness

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

3. For home health care and home-based hospice, procedures shall be implemented to identify and evaluate environmental risk factors such as the presence of weapons, evidence of substance abuse, the presence of uncooperative cohabitants, etc. during intake procedures, and at the time of the initial visit.

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

5.For ancillary health care operations, environmental risk factors including those listed in subsection (c)(2)(F)1. the evaluation shall include the area in which the health care operation is located, as well as other areas of the host establishment that may contribute to workplace violence hazards.

(G) Procedures for the identification and evaluation of patient-specific workplace violence risk factors through the use of assessment tools, decision trees, algorithms or other effective means. This shall include identification of areas or units in which patient-related **Type 2 workplace** violence is more likely to occur. This shall also include procedures for visitors or other persons who may pose workplace violence hazards to the patient or employees, in accordance with applicable laws and regulations.

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

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

1. Procedures to ensure that sufficient staff, trained in appropriate disciplines, is available to prevent and respond to workplace violence incidents. An employee is not considered to be available if the employee's other assignments prevent the person from immediately responding to an alarm or other notification of a violent incident.
2. Providing line of sight or other immediate communication in all areas in which patients or members of the public may be present. This may include removal of sight barriers, provision of surveillance systems or

other sight aids such as mirrors, use of a buddy system, or other effective means. Where patient privacy prevents line of sight, alarm systems or other effective means shall be provided for an employee who needs to enter the area.

3. Configuration of spaces, including, but not limited to, treatment areas, patient rooms, interview rooms, and common rooms, so that employee access to doors and alarm systems cannot be impeded by a patient, other persons, or obstacles.
4. In areas where patients who have been identified as having a potential for **Type 2** workplace violence are reasonably anticipated to be present, removal, fastening, or control of furnishings and other objects that may be used as improvised weapons.
5. In areas in which patients or visitors are reasonably anticipated to possess firearms or other weapons, a security plan for prevention of the transport of unauthorized firearms and other weapons into the facility.
6. Maintenance of sufficient staffing to implement the plan at all times, including maintaining order in the facility, and responding to workplace violence incidents in a timely manner.
7. An alarm system, or other effective means, by which employees can summon aid to defuse or respond to an actual or potential workplace violence emergency.
8. An effective means by which employees can be alerted to the presence of a security threat, including providing information on the location and nature of the threat.
9. An effective response plan for actual or potential workplace violence emergencies, including, where applicable, the employees designated to respond, the role of facility security and how the assistance of law enforcement agencies will be obtained. Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm.
10. Placement, staffing requirements, or other measures to be taken to reduce **Type 2** patient-specific workplace violence hazards.

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

1. Procedures for providing immediate medical care or first aid to employees who have been injured in the incident.
2. Identification of all employees involved in the incident.
3. A procedure for providing individual trauma counseling to all

employees affected by the incident.

4. As soon as possible after the incident, a post-incident debriefing to include all employees and supervisors involved in the incident.
5. Review of any patient-specific risk factors, and any risk reduction measures that were specified for that patient.
6. Review of whether the Plan was effectively implemented, including whether appropriate preventive measures, such as individual staffing, had been implemented, whether alarms or other means of summoning assistance had been activated, whether the timeframe and type of response was sufficient, and what factors may have helped to prevent injury or may have impeded effective interventions.
7. Solicitation from the injured employee and other personnel involved in the incident of their opinions regarding the cause of the incident, and whether any measure would have prevented the injury.
8. The information collected in accordance with this subsection shall be recorded in a Violent Incident Log. The Log shall be included in the review of the Plan. The information recorded on the log shall include, but is not limited to:
    a. Date, time and Location.
    b. Name(s) of the personnel who were injured or the target of the violent action including names and contact information of personnel of other employers, and the names of responders and witnesses.
    c. A brief description of the incident
    d. A summary of the information collected during the incident investigation.
    e. Whether security or law enforcement were contacted, and names of responders.
    f. ~~The patient's i~~Individually identifiable medical information shall not be included on the log.

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

(L) Procedures for the annual review of the Plan, including procedures for the effective involvement employees in the review of the effectiveness of the Plan in their work areas, services or operations. Problems found during the review of the Plan shall be corrected in accordance with subsection (c)(2)(I). This review shall include, all of the following:

1. Staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence.
2. Sufficiency of security systems, including alarms, emergency response, and security personnel availability.
3. Job design, equipment, and facilities.
4. Security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas.

(M) The plan shall include provisions prohibiting employers from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

(d) Training. The employer shall provide training to all employees in the facility, service or operation, including temporary employees. The training shall effectively address the workplace violence hazards identified in the facility, the corrective measures the employer has implemented, and the activities the employee is reasonably anticipated to perform under the Plan. Employees and their representatives shall participate in the creation of training curriculum and training materials, conduct of training sessions, and the review and revision of the training program. Training material appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.

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

(A) Initial training shall be provided when the Plan is first established, to all new employees, and to all employees given new job assignments for which training has not previously been received;

(B) At least every twelve months, employees and their supervisors shall also receive refresher training in violence prevention ~~while performing patient contact activities~~, **in compliance with the standards set forth in this subsection**.

(C) Employers shall provide additional training when new equipment or work practices are introduced. The additional training may be limited to addressing the new equipment or work practices.

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

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

including the employer's hazard identification and evaluation procedures, general and personal safety measures the employer has implemented, how the employee can communicate concerns about workplace violence without fear of reprisal, and how the employee can participate in the review and revision of the plan

(B) How to recognize potential for violence, factors contributing to the escalation of violence and how to counteract them, and when and how to seek assistance to prevent or respond to violence.

(C) Strategies to avoid physical harm.

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

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

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

(G) An employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, shall arrange for ~~those~~ **security** personnel **knowledgeable about the employer's healthcare workforce violence prevention plan** to participate in the workplace violence training provided to employees **as an additional resource for interactive questions by employees**.

(3) ~~Additional training requirements for health facilities~~. In addition to the training requirements listed in subsection (d)(2)**, employers covered under this section** ~~health facilities~~ shall ensure that all employees who are assigned to respond to alarms or other notifications of violent incidents or whose assignments involve confronting or controlling persons exhibiting aggressive or violent behavior shall receive the following training:

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

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

(B) No less frequently than every 90 days, the employees covered by this subsection, shall have an opportunity to practice the maneuvers and

techniques included in the training with other employees they will work with, and to debrief the practice session. Problems found shall be corrected.

(4) Employers shall ensure that all personnel present in health care facilities, services and operations have been trained on the employer's Plan, and what to do in the case of an alarm or other notification of emergency. Non-employee personnel who are reasonably anticipated to participate in implementation of the Plan shall be provided with the training required for the specific assignment. **except that an employer who employs proprietary private security officers, contracts with a private patrol operator or other security service to provide security guards, or hires or contracts for the services of peace officers, shall arrange for those personnel to receive the same initial healthcare workplace violence prevention training and annual refresher training provided to employees**.

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

(1) ~~Each general acute care hospital, acute psychiatric hospital, and special hospital shall report each r~~**R**eportable violent incident **shall be submitted** to the Division within 24 hours, if the incident results in an injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health or safety of hospital personnel. All other incidents of violence **without injury, including credible threats to harm an employee by an individual or individuals capable of inflicting harm,** shall be reported to the Division within 72 hours.

A. ~~Hospital~~ **Employer** name, site address, hospital representative, phone number and email address, and the name, representative name, and contact information for any other employer of employees affected by the incident.
B. Date, time and specific location of the incident.
C. A brief description of the incident
D. The number of employees injured and the types of injuries sustained
E. Whether security or law enforcement ~~were~~ **was** contacted, and what agencies responded.
F. Whether there is a continuing threat, and if so, what measures are being taken to protect employees.
G. A unique incident identifier.
H. The report shall not include any employee or patient names. Employee names shall be furnished upon request to the Division.
I. State if this was also reported to the nearest District Office of the

Division of Occupational Safety and Health [see (5) below].

~~(3)~~ **(2)**The report shall be provided by email to the following address:

~~(4)~~ **(3)**The employer shall provide supplemental information regarding the incident within four hours of a request to the Division.

~~(5)~~ **(4)**Note: this report does not relieve the employer of the requirements of Section 342, Regulations of the Division of Occupational Safety and Health, to report a serious injury, illness, or death to the nearest District Office of the Division of Occupational safety and Health.

(f) ) Recordkeeping

(1) Records of workplace violence hazard identification, evaluation, and correction shall be created and maintained in accordance with Section 3203(b). **Notwithstanding Section 3203 (b) (1) Exception, employers with fewer than 10 employees shall be required to comply with the standards in this subsection**.

(2) Training records shall be created and maintained for a minimum of one year and include the following information: training dates; contents or a summary of the training sessions; names and qualifications of persons conducting the training; and names and job titles of all persons attending the training sessions. **Notwithstanding Section 3203 (b) (2) Exception No. 1, employers with fewer than 10 employees shall be required to comply with the standards in this subsection.**

(3) Records of violent incidents, including but not limited to, the reports required by subsection (e), and workplace violence injury investigations shall be created in accordance with subsection (c)(2)(J)8. These records shall be maintained for a minimum of 5 years. These records shall not contain "medical information" as defined by Civil Code Section 56.05(g).

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

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

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

**(g) Employee rights and employer responsibilities.**

**The employer shall provide all safeguards required by this section, including but not limited to, training and medical services, at no cost to the employee, at a reasonable time and place for the employee and during working hours.**