H. R.  

To direct the Secretary of Labor to issue an occupational safety and health rule that requires covered health care employers to adopt a comprehensive workplace violence prevention plan and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KHANNA introduced the following bill; which was referred to the Committee on ________________________

A BILL

To direct the Secretary of Labor to issue an occupational safety and health rule that requires covered health care employers to adopt a comprehensive workplace violence prevention plan and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the “Health Care Workplace Violence Prevention Act”.

5 (b) TABLE OF CONTENTS.—The table of contents of

7 this Act is as follows:
SEC. 2. WORKPLACE VIOLENCE PREVENTION STANDARD.

(a) Rulemaking.—

(1) Notwithstanding any other provisions of law, not later than one year of the enactment of the Act, the Secretary of Labor ("Secretary") shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), promulgate an interim final standard on workplace violence prevention (in this section such standard is referred to as the "workplace violence prevention standard") to require certain health care employers (hereinafter collectively referred to as "covered health care employers"), including hospitals, any outpatient settings or clinics operating within a hospital license or any setting or clinic that provides outpatient hospital services, psychiatric hospitals, rehabilitation hospitals, long-term care hospitals, and any hospital operated by any United States department or agency, to adopt a comprehensive plan to protect health care workers and other personnel from workplace violence. The interim final standard shall meet the specifications of this section, at a minimum, but may
exceed the requirements for covered health care facilities. The Secretary shall accept and consider public comments on any interim final standard published under this paragraph for 60 days after the date of such publication. The interim final standard shall remain in effect until it is replaced by a final standard on workplace violence prevention referred to in paragraph (2).

(2) Notwithstanding any other provisions of law, not later than two years of the enactment of the Act, the Secretary shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), promulgate a final standard on workplace violence prevention. The final standard shall be based on the interim final standard as promulgated under paragraph (1) of this subsection and shall meet the specifications of this section, at a minimum, but may exceed the requirements for covered health care facilities.

(3) Not later than two years of the enactment of the Act, the Secretary shall also promulgate a final standard on workplace violence prevention to require home health agencies or organizations and hospice agencies or organizations to adopt a comprehensive workplace violence prevention plan with
comparable workplace protections at home health agencies or organizations and hospice agencies or organizations. The standard promulgated under this paragraph shall include procedures for hazard evaluation and control that fit the work settings unique to home health and hospice, which shall include, but not be limited to, each of the following:

(A) Procedures to identify and evaluate environmental and patient-specific risk factors such as the presence of weapons, evidence of substance abuse, or the presence of uncooperative cohabitants. At minimum, such procedures must be utilized during intake procedures, at the time of the initial visit, and during any subsequent visit when there has been a change in conditions.

(B) Procedures to correct workplace violence hazards in a timely manner, which shall include, at minimum, procedures to ensure employees will not work alone in households where there is a high risk for violence, provision of functional and maintained security or communication devices for all employees working in a patient or client’s home or community, and provision of dedicated and available security per-
sonnel to respond to reports of violent incidents or threats.

(C) Procedures for responding to actual or potential workplace violence emergencies that shall include, at minimum, obtaining help from security personnel required under subparagraph (B), or law enforcement agencies as appropriate.

(4) Not later than two years of the enactment of the Act, the Secretary shall also promulgate a final standard on workplace violence prevention to require skilled nursing facilities and nursing facilities to adopt a comprehensive workplace violence prevention plan with comparable workplace protections at skilled nursing facilities and nursing facilities.

(b) WORKPLACE VIOLENCE PROTECTION STANDARD REQUIREMENTS.—The interim final standard promulgated pursuant to paragraph (1) of subsection (a) shall include each of the following:

(1) PLAN DEVELOPMENT.—A requirement that each covered health care employer shall, within six months of the date of promulgation of the interim final standard, develop and implement an effective written workplace violence prevention plan (in this
section such a plan is referred to as a “Workplace Violence Prevention Plan”), which shall be maintained and implemented at all times in every health care facility unit, service, and operation, be available to all employees at all times; and include, at minimum, each of the following for every health care facility unit, service, and operation:

(A) The names or job titles of the individuals responsible for implementing the Workplace Violence Prevention Plan.

(B) Effective procedures that meet the requirements under paragraph (2) to obtain the active involvement of employees and, where such employees are represented through a collective bargaining agent, the applicable recognized or certified collective bargaining agent in developing, implementing, and reviewing the Workplace Violence Prevention Plan.

(C) Effective procedures that meet the requirements under paragraph (2) to obtain the active involvement of security personnel who provide security services to the employer and, where such security personnel are represented through a collective bargaining agent, the applicable recognized or certified collective bar-
gaining agent in developing, implementing, and reviewing the Workplace Violence Prevention Plan.

(D) Methods that meet the requirements under paragraph (2) that the employer will use to coordinate the implementation of the Workplace Violence Prevention Plan with other employers whose employees work in the health care facility.

(E) Procedures that meet the requirements under paragraph (3) for identifying and evaluating workplace violence risks and hazards.

(F) Procedures that meet the requirements under paragraph (3) on communicating workplace violence risks and hazards to employees.

(G) Procedures that meet the requirements under paragraph (3) for employees to report concerns regarding workplace violence risks and hazards and potential workplace violence risks and hazards.

(H) Procedures that meet the requirements under paragraph (4) for correcting workplace violence hazards in a timely manner.
(I) Procedures that meet the requirements of paragraph (5) for post-incident response and investigation.

(J) Procedures that meet the requirements of paragraph (6) for reporting, documenting, and retaining a written record of every workplace violence incident, post-incident response, and workplace violence injury investigation.

(K) Procedures that meet the requirements of paragraph (6) for reviewing the effectiveness of the Workplace Violence Prevention Plan at least annually.

(L) The nonretaliation policy that the covered health care employer is required to establish under paragraph (7).

(M) Procedures that meet the requirements of paragraph (8) for providing effective education and in-person training to all employees, including temporary employees and personnel working in the facility but not directly employed by the employer.

(N) A copy of the most recent annual written evaluation of the Workplace Violence Prevention Plan as conducted under the requirements of paragraph (9).
(O) A copy of the current notice to employees that is required under paragraph (10).

(2) **Employee and Security Personnel Participation.**

(A) A requirement that each covered health care employer shall obtain active involvement from employees and, where such employees are represented through a collective bargaining agent, the applicable recognized or certified collective bargaining agent, in developing, implementing, and reviewing the Workplace Violence Prevention Plan. Active involvement shall include the participation of employees or their applicable representatives in—

(i) identifying, evaluating, and correcting workplace violence hazards;

(ii) designing and implementing training; and

(iii) reporting and investigating workplace violence incidents.

(B) Where security personnel are not employees of the health care facility, the covered health care employer shall be required to obtain active involvement with security personnel and, where such security personnel are represented
through a collective bargaining agent, the applicable recognized or certified collective bargaining agent. Active involvement shall include the participation of security personnel or their applicable representatives in—

(i) identifying, evaluating, and correcting workplace violence hazards;

(ii) designing and implementing training; and

(iii) reporting and investigating workplace violence incidents.

(C) A requirement that each covered health care employer shall establish methods to coordinate the implementation of the Workplace Violence Prevention Plan with other employers whose employees work in the health care facility.

(3) Workplace Violence Hazard Identification and Evaluation.—

(A) A requirement that each covered health care employer shall assess factors in each unit, area of the establishment, and areas surrounding the facility that may contribute to or help prevent workplace violence incidents.
Factors assessed shall include, at minimum, each of the following:

(i) Staffing, including staffing patterns that contribute to or are insufficient to address the risk of violence.

(ii) Sufficiency of security systems, including alarms, emergency response systems, and availability of security personnel.

(iii) Job design, equipment, and facilities.

(iv) Environmental risk factors, as defined in subparagraph (a)(6) of section 5.

(v) Patient-specific risk factors, as defined in subparagraph (a)(10) of section 5.

(B) A requirement that each covered health care employer shall establish procedures for employees to report concerns regarding workplace violence risks and hazards or potential workplace violence risks or hazards, including but not limited to, concerns regarding—

(i) the availability, condition, and maintenance of any engineering controls identified in the Workplace Violence Prevention Plan as corrective measures;
(ii) the implementation or enforcement of any work practice controls identified in the Workplace Violence Prevention Plan as corrective measures;

(iii) the sufficiency, availability, condition, and maintenance of security systems, including alarms, and emergency response systems;

(iv) potential or unaddressed hazards and risks related to job design, equipment, or facilities with regard to workplace violence;

(v) potential or unaddressed hazards and risks related to environmental and patient-specific risk factors with regard to workplace violence; and

(vi) the availability of sufficient staff or security personnel to implement the Workplace Violence Prevention Plan.

(C) A requirement that each covered health care employer establish procedures for how employee concerns will be investigated, and how employees will be informed of the results of the investigation and any correct actions to be taken.
(D) A requirement that each covered health care employer establish communication procedures regarding the Workplace Violence Prevention Plan, including how employees can document and communicate information regarding conditions that may increase the potential for workplace violence incidents to other employees and between shifts and units.

(4) Workplace violence hazard correction.—

(A) A requirement that each covered health care employer shall correct workplace violence hazards in a timely manner. Each covered health care employer shall be required to use engineering controls and work practice controls to eliminate or minimize employee exposure to the identified hazards. Corrective measures taken under this paragraph shall include, at minimum, each of the following as appropriate:

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

(ii) Maintenance of sufficient numbers of trained staff, including security per-
sonnel, who are available to prevent and immediately respond to workplace violence incidents during each shift. A staff person is not considered to be available if other assignments prevent him or her from immediately responding to an alarm or other notification of a violent incident.

(iii) Reconfiguration of facility spaces so that—

(I) employee access to doors and alarm systems cannot be impeded;

(II) employees can maintain line of sight and other immediate means of communication in all areas where patients or members of the public may be present; and

(III) furnishings and other objects cannot be used as improvised weapons.

(iv) Procedures to prevent the transport of unauthorized firearms and other weapons into the facility.

(v) Procedures by which employees can summon security and other aid and be
alerted to the presence, location, and nature of a security threat.

(vi) Establishment of an effective response plan for actual or potential workplace violence emergencies that shall include, at minimum—

(I) procedures for warning employees of the situation;

(II) procedures for obtaining help from security or law enforcement agencies as appropriate; and

(III) procedures to respond to mass casualty threats, such as active shooters, by developing evacuation or sheltering plans that are appropriate and feasible for the facility.

(5) INCIDENT RESPONSE AND POST-INCIDENT INVESTIGATION.—A requirement that each covered health care employer shall establish procedures to accept and respond to reports of workplace violence, and to perform a post-incident investigation of each workplace violence incident based on information solicited from the employees who experienced the violence that shall include, at minimum, each of the following:
(A) Procedures for how an employee can report a violent incident, threat, or other workplace violence concern.

(B) Procedures for response to reports of violent incidents, threats, or other workplace violence concerns.

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

(D) Procedures for making individual trauma counseling available to all employees affected by the incident.

(E) Conducting a post-incident debriefing as soon as possible after the incident with all employees, supervisors, security personnel, and other personnel involved in the incident.

(F) A review of whether the Workplace Violence Prevention Plan and any corrective measures developed under the plan were effectively implemented and the circumstances surrounding the workplace violence incident.

(G) Procedures for investigating the circumstances of each employee injury, if any, related to the workplace violence incident.
(H) Solicitation of opinions from all employees or personnel involved in the incident, including any injured employee, regarding the cause of the incident and whether any corrective measures could have prevented the incident from occurring.

(I) A policy prohibiting the employer from holding any employee or personnel who participates in an incident investigation at fault for workplace violence.

(6) Violent Incident Log Maintenance and Review.—

(A) A requirement that each covered health care employer establish procedures for reporting and maintaining a written log of—

(i) each violent incident against health care facility employees or personnel regardless of whether the employee or personnel sustains an injury, and regardless of whether the report is made by the personnel who is the subject of the violent incident or any other personnel;

(ii) each post-incident response; and

(iii) each workplace violence injury investigation.
(B) Written records of violent incidents maintained under this paragraph shall be based on reports made by employees and personnel and shall include, each of the following:

(i) A detailed description of the incident.

(ii) A classification of the perpetrator, circumstances surrounding the incident, and location of the incident.

(iii) The type of incident and consequences of the incident, including any injuries.

(C) As part of the procedures required under subparagraph (A), each covered health care employer shall be required to provide all employees or personnel the opportunity to provide input pertaining to their own experience of the incident.

(D) A requirement that each covered health care employer shall establish a review program to analyze data relevant to the implementation of the covered health care employer’s Workplace Violence Prevention Plan.

(E) Each covered health care employer shall, upon request, make available their find-
ings and data used in such review to employees, any designated representatives or collective bargaining agents, and the Secretary or other Federal agency. Each covered health care employer shall maintain the data and findings from their review for at least five years.

(7) NONRETAIATION.—

(A) A requirement that each covered health care employer establish a policy 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.

(B) A requirement that each covered health care employer establish a policy prohibiting the employer from disallowing an employee from, or taking punitive or retaliatory action against an employee for, reporting violent incidents, threats, or other workplace violence concerns.

(8) EDUCATION AND TRAINING.—A requirement that each covered health care employer shall provide in-person training to all employees, including temporary employees and personnel working in the
facility but not directly employed by the employer. Such training shall be on the Workplace Violence Prevention Plan as established under paragraph (1) and shall—

(A) address the workplace violence hazards identified in the facility, unit, work area, or operation;

(B) address the corrective measures the employer has implemented with regard to workplace violence hazards identified;

(C) address the activities that each employee is reasonably anticipated to perform under the Workplace Violence Prevention Plan;

(D) be provided—

(i) upon entering employment;

(ii) on an annual basis;

(iii) when such employee is transferred to a new patient care unit;

(iv) when conditions change or previously unrecognized hazards are identified;

(v) when requested by an employee; and

(vi) as otherwise necessary;
(E) provide an opportunity for in-person interactive questions and answers;

(F) be conducted in-person by an individual with knowledge of workplace violence prevention and the covered health care employer’s Workplace Violence Prevention Plan and procedures;

(G) include training on emergency response plans and procedures related to workplace violence and practice drills on emergency response plans and procedures, including any procedures adopted for responding to mass casualty threats; and

(H) utilize material appropriate in content and vocabulary to the educational level, literacy, and language of employees.

(9) ANNUAL EVALUATION.—

(A) IN GENERAL.—A requirement that each covered health care employer shall conduct an annual written evaluation with employees regarding their respective work areas, services, and operations of the implementation and effectiveness of the Workplace Violence Prevention Plan, including hazard assessment and evaluation procedures and findings, hazard correction
procedures, selection of engineering and work practice controls, and post-incident response and investigation.

(B) **ACTIVE INVOLVEMENT.**—The evaluation shall—

(i) be conducted with the active involvement of employees, and if applicable, the representatives and collective bargaining agents of such employees; and

(ii) document the input of the individuals described in clause (i) regarding employees’ respective work areas, services, and operations.

(C) **CORRECTIVE ACTION.**—Each covered health care employer shall correct unsafe conditions, work practices, and work procedures identified in the annual written evaluation in a timely manner.

(10) **NOTICE OF WORKPLACE VIOLENCE PREVENTION PLAN AND RIGHTS UNDER THIS ACT.**—A requirement that each covered health care employer shall post a uniform notice in a form specified by the Secretary that—

(A) explains the workplace violence prevention standard;
(B) includes information regarding workplace violence prevention policies and training;
(C) explains procedures to report and record information on workplace violence incidents and workplace violence-related injuries; and
(D) explains employees’ rights under this Act, including rights to report concerns regarding potential workplace violence risks or hazards without punitive or retaliatory action taken by the employer.

c) EMERGENCIES.—The Secretary shall establish procedures to be followed in cases where emergency situations affect the operation of a workplace violence prevention plan.

d) INSPECTIONS.—The Secretary shall conduct unscheduled inspections under section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657) to ensure implementation of and compliance with the workplace violence prevention standard.

SEC. 3. APPLICATION OF THE WORKPLACE VIOLENCE PREVENTION STANDARD TO FACILITIES RECEIVING MEDICARE AND MEDICAID FUNDS.

(a) IN GENERAL.—Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—
(1) in subsection (a)(1)(V), by inserting “and Workplace Violence Prevention Standard (as initially promulgated under section 2 of the Health Care Workplace Violence Prevention Act of 2018)” before the period at the end; and

(2) in subsection (b)(4)—

(A) in subparagraph (A), by inserting “and Workplace Violence Prevention Standard after Bloodborne Pathogens standard”; and

(B) in subparagraph (B), by inserting “or Workplace Violence Prevention Standard” after “Bloodborne Pathogens standard”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to health care facilities beginning on the date that is 1 year after the date of issuance of the interim final standard on workplace violence prevention required under section 2.

SEC. 4. RULES OF CONSTRUCTION.

(a) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed to—

(1) curtail or limit authority of the Secretary under any other provision of the law, including the application of other safety orders in health care facilities, services, and operations not covered by this Act;
(2) preempt the application of any other statute or regulation of any State or local government related to workplace violence in health care facilities except to the extent that such provisions are inconsistent with this Act, an interim final standard, or a final standard promulgated under this Act, and then only to the extent of the inconsistency. A provision of law of a State or local government is not inconsistent with this Act, an interim final standard, or a final standard promulgated under this Act if such provision provides equal or greater protection to workers than the protection provided under this Act or such regulation;

(3) impair or diminish the rights, privileges, or remedies of any health care worker or other employee under any Federal or State law, or under any collective bargaining agreement.

SEC. 5. DEFINITIONS.

(a) DEFINITIONS.—For the purposes of this Act.

(1) ALARM.—The term “alarm” means a mechanical, electrical, or electronic device that does not rely upon an employee’s vocalization in order to alert others.

(2) COVERED HEALTH CARE EMPLOYER.—The term “covered health care employer” includes—
(A) hospitals (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)), and any outpatient settings or clinics operating within a hospital license or any setting or clinic that provides outpatient hospital services;

(B) psychiatric hospitals (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(f));

(C) rehabilitation hospitals (as defined by the Secretary of Health and Human Services under section 1886(d)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(ii));

(D) long-term care hospitals as defined in section 1861 of the Social Security Act (42 U.S.C. 1395x(ecc)); and

(E) hospitals operated by the Department of Veterans Affairs, the Department of Defense, the Indian Health Service under the Department of Health and Human Services, or any other department or agency of the United States.

(3) DANGEROUS WEAPON.—The term “dangerous weapon” means an instrument capable of in-
flicting death or serious bodily injury, regardless of whether it was designed for that purpose.

(4) EMPLOYEE.—The term “employee” includes any individual employed by a covered health care employer, including independent contractors.

(5) ENGINEERING CONTROLS.—The term “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, 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.

(6) ENVIRONMENTAL RISK FACTORS.—The term “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 inci-
dent. Environmental risk factors may be associated
with the specific task being performed or the work
area, such as working in an isolated area, poor illu-
mination or blocked visibility, lack of physical bar-
riers between employees and persons at risk of com-
mitting workplace violence.

(7) HOME HEALTH AGENCY.—The term “home
health agency” has the meaning given such term in
section 1861(o) of the Social Security Act (42
U.S.C. 1395x(o)).

(8) HOSPICE.—The term “hospice” has the
meaning given such term in section 1861(d) of the
Social Security Act (42 U.S.C. 1395x(dd)(1)).

(9) NURSING FACILITY.—The term “nursing
facility” has the meaning given such term in section
1919 of the Social Security Act (42 U.S.C.
1396r(a)).

(10) PATIENT-SPECIFIC RISK FACTORS.—The
term “patient-specific risk factors” means factors
specific to a patient that may increase the likelihood
or severity of a workplace violence incident, includ-
ing a patient’s mental status, treatment and medica-
tion status, history of violence as known to the
health care facility, use of drugs or alcohol as known
to the health care facility, and any other conditions
or disease processes that may cause the patient to
experience confusion or disorientation, to be non-re-
sponsive to instruction, or to behave unpredictably.

(11) Skilled Nursing Facility.—The term
“skilled nursing facility” has the meaning given such
term in section 1819(a) of the Social Security Act
(42 U.S.C. 1395i–3(a)).

(12) Threat of Violence.—The term “threat
of violence” means a statement or conduct that
causes a person to fear for his or her safety because
there is a reasonable possibility the person might be
physically injured, and that serves no legitimate pur-
pose.

(13) Workplace Violence.—The term
“workplace violence” means any act of violence or
threat of violence that occurs at the work site. The
term workplace violence shall not include lawful acts
of self-defense or defense of others. The term work-
place 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, psycho-
logical 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, includ-
ing the use of common objects as weapons, re-
gardless of whether the employee sustains an
injury.

(C) Four workplace violence types:

(i) “Type 1 violence” means work-
place violence directed at an employee 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.

(ii) “Type 2 violence” means work-
place violence directed at an employee by
customers, clients, patients, students, in-
mates, or any others for whom an organi-
ization provides services.

(iii) “Type 3 violence” means work-
place violence directed at an employee by a
present or former employee, supervisor, or
manager.

(iv) “Type 4 violence” means work-
place violence directed at an employee by
someone who does not work there, but has
or is known to have had a personal rela-
tionship with an employee.

(14) Work practice controls.—The term
“work practice controls” means procedures, and
rules which are used to effectively reduce workplace
violence hazards. Work practice controls include, but
are not limited to, assigning and placing sufficient
numbers of staff to reduce patient-specific Type 2
workplace violence hazards, provision of dedicated
and available safety personnel (i.e., security guards),
employee training on workplace violence prevention
methods, and employee training on procedures for
response in the event of a workplace violence inci-
dent and for post-incident response.