

MARCH 27, 2017 | OSHA RULEMAKINGS & STANDARDS

Cal/OSHA's Workplace Violence Rules for Health Care Take Effect April 2017

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Effective April 1, 2017, a new California Occupational Safety and Health Standards Board (“Standards Board”) [regulation at Title 8, Section 3342](#) requires certain employers in the health care industry to develop and implement a Workplace Violence Prevention Plan. The passage of these regulations came after nearly two years of meeting and work within the Agency, and more than two years after the California legislature passed [Senate Bill 1299](#), which instructed the Standards Board to implement these workplace violence regulations.

Rules Apply to Health Care Facilities



Senate Bill 1299 only directed the Standards Board to adopt regulations requiring licensed hospitals to adopt violence prevention plans to protect health care workers and other facility personnel from aggressive and violent behavior. The regulations that were adopted by the Standards Board, however, apply not just to licensed hospitals, but more broadly to any “health facility,” defined as:

“any facility, place or building that is organized, maintained, and operated for diagnosis, care,

prevention or treatment of human illness, physical or mental...to which [] persons are admitted for a 24-hour stay or longer.”

Additionally, the regulations apply to the following facilities regardless of their size or how long a patient stays there:

1. Home health care and home-based hospice;
2. Emergency medical services and medical transport, including services provided by firefighters and other emergency responders;
3. Drug treatment programs;
4. Outpatient medical services to the incarcerated in correctional and detention settings.

Immediate Requirement to Begin Reporting Violent Incidents

Beginning April 1, 2017, every general acute care hospital, acute psychiatric hospital and special hospital generally must report to the Division of Occupational Safety and Health (DOSH) any incident involving either of the following:

1. Use of physical force against an employee by a patient (or companion) that has “a high likelihood of resulting in, injury, psychological trauma, or stress”; or
2. Use of a firearm or dangerous weapon

The report must be made to DOSH within 24 hours after the employer knows or with diligent inquiry would have known of the incident, if the incident results in injury, involves the use of a firearm or other dangerous weapon, or present an urgent or emergent threat to the welfare, health, or safety of hospital personnel. Otherwise, the report must be made within 72 hours. “Injury” is defined as a fatality or an injury that requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement.”

Keep Violent Incident Logs

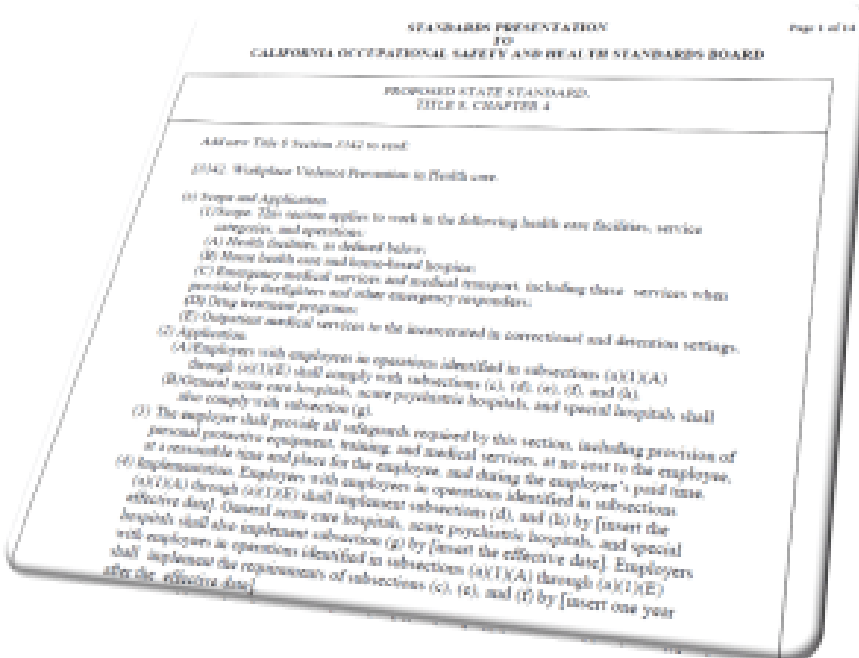
Also beginning April 1, 2017, any health care employer covered by these regulations must keep a “violent incident log” recording details about every incident of workplace violence, including the post-incident response and investigation, based on information solicited from employees who involved in the workplace violence incident.

These logs must contain specific types of information as enumerated under the regulations and be retained for a minimum of five years. Similarly, as of April 1, 2017, covered employers must also create and retain records concerning training and workplace violence hazard identification, evaluation and correction.

Workplace Violence Prevention Plan

Beginning on April 1, 2018, covered employers are required to establish, implement and maintain an effective written Workplace Violence Prevention Plan (Plan). The written plan must include the following elements:

- Effective procedures to obtain the active involvement of employees and their representatives in developing, implementing and reviewing the Plan.



- Methods the employer will use to coordinate implementation of the plan with other employers whose employees work in the same health care facility, service, or operation.
- Effective procedures for obtaining assistance from the appropriate law enforcement agency during all work shifts, including a policy statement prohibiting the employer from disallowing an employee for seeking assistance and intervention from local law enforcement or retaliating against an employee for taking such action.
- Effective procedures for the employer to accept and respond to reports of workplace violence, and to prohibit retaliation against an employee who makes such a report.
- Procedures to ensure that supervisory and non-supervisory employees comply with the Plan.
- Procedures to communicate with employees regarding workplace violence matters, including how an employee can report a violent incident, threat or other workplace violence concern, and how such matters will be investigated.
- Procedures to develop and provide training that address workplace violence risks.
- Procedures to identify and evaluate environmental risk factors, including a review of all workplace violence incidents that occurred at the facility over the prior year.
- Procedures to identify "patient-specific risk factors" and assess visitor or other non-employees, which may be done through "[a]ssessment tools, decision trees, algorithms, or other effective means."
- Procedures to correct workplace violence hazards in a timely manner. Specifically, engineering and work practice controls must be used to eliminate or minimize employee exposure to workplace violence hazards to the extent feasible.
- Procedures for post-incident response and investigation.

The written Workplace Violence Prevention Plan may be incorporated into the employer's Injury and Illness Prevention Program or maintained as a separate document. The employer must conduct a detailed review of the effectiveness of the Plan at least annually, in conjunction with employees and their representatives.

Health Care Employers Must Review Existing Safety Procedures and Develop the Comprehensive Written Plan

The myriad, intricate requirements under these regulations present a significant compliance burden for health care employers. Beginning next month, health care facilities will need to use the required violent incident logs, and hospitals must ensure workplace violence incidents are reported to DOSH under the mandated procedures.

Although employers have another year to finalize and implement the written Workplace Violence Prevention Plan, it is advisable to begin this work much earlier given the number of components required under the rule and the need to conduct comprehensive hazard evaluations and assess existing procedures and practices. Health care facilities will also need to implement administrative and engineering controls, which could even involve capital projects to reconfigure their facilities, for example, to ensure employees have a line of sight or other immediate communication to all areas where patients or the public may be present, as required by the rule. The facilities will also need to ensure sufficient staff are trained and available to prevent and immediately respond to workplace violence incidents during each shift.

Like Cal/OSHA's Injury and Illness Prevention Program standards, this regulation provides DOSH ample opportunity to barrage employers with citations for violations related to a failure to establish, implement and/or maintain Plan requirements, or to provide the necessary training, and of course, to second guess judgments made by employers after incidents occur. It is imperative that covered health care facilities work with counsel or qualified safety consultants to develop a strategy for ensuring compliance before employers fall under scrutiny by DOSH.

For more information about this new Cal/OSHA rule and other significant Cal/OSHA developments, join Conn Maciel Carey for a complimentary webinar on April 11th regarding "[New Cal/OSHA Issues That California Employers Must Track.](#)"

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