

Proposed Healthcare Workplace Violence Prevention Standard Anticipated for December, by Abbye Alexander, Esq. and Christopher Tellner, Esq., 11-4-2024

Workplace violence in healthcare continues to be an important public health issue and a growing problem. Still, there is no federal standard specific to the prevention of workplace violence in the healthcare industry. But that is expected to change when the Occupational Safety and Health Administration (OSHA) releases an anticipated proposed rule in December intended to prevent workplace violence. Given that timeline, a final rule could be published potentially by next year creating greater compliance obligations for healthcare employers.

According to OSHA, such a standard is much needed considering nonfatal workplace violence is more widespread in the healthcare and social assistance sectors than in any other industry. Absent of a standard, OSHA can now cite employers for infractions based on the “general duty clause,” which states that employers have a general duty to “furnish to each of its employees, employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”

But creating a formal standard has been on their radar for some time.

Workplace Violence Prevention Standard Timeline

In December 2016, OSHA issued a request for information “seeking information on issues that might be considered in developing a standard, including scope and types of controls that might be required.” In a Fall 2022 statement of regulatory priorities, the U.S. Department of Labor referenced the rule, noting that “OSHA will initiate small business consultations as its first step in developing a Prevention of Workplace Violence rulemaking, to provide protections for healthcare and other economy workers, who are the most frequent victims of violence on the job.”

In March 2023, OSHA convened a Small Business Advocacy Review (SBAR) panel and heard from small businesses and Small Entity Representatives from various industry sectors including hospitals for input on the proposed rule.

Topics being considered in the potential draft standard include:

- A programmatic approach to workplace violence prevention;
- Workplace violence hazard assessments;
- Workplace violence control measures;
- Preventive training;
- Violent incident investigations and recordkeeping;
- Anti-retaliatory provisions; and,
- Approaches that avoid stigmatization of healthcare patients and social assistance clients.

Key Considerations

In anticipation of the proposed standard, healthcare employers should consider preemptive measures including:

- Reviewing their workplace safety policies and protocols;
- Conducting hazard assessments;
- Identifying any gaps that need to be addressed; and,
- Training employees on potential hazards, policies and procedures for documenting incidents and ways to recognize, prevent or

diffuse volatile situations.

Companies may also want to review OSHA's "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers." Kaufman Dolowich will continue to monitor development and provide updates accordingly.

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