The Honorable Roy Blunt
Chairman
Subcommittee on Labor, Health and Human
  Services, Education, and Related Agencies
Committee on Appropriations
United States Senate
  Washington, DC 20510

Dear Chairman Blunt:

I am pleased to transmit this report prepared by the Centers for Medicare & Medicaid (CMS), as requested by Senate Report 115-289, which accompanied the Department of Health and Human Services' Appropriations Act, 2019. The enclosed title is, "Safety in Healthcare Facilities."

Sincerely,

Jen Moughalian
Principal Deputy Assistant Secretary

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Senate Appropriations Committee Report to Congress on:

Safety in Healthcare Facilities

OVERVIEW

In its report on the FY 2019 appropriation for the Department of Health and Human Services (HHS), the Senate Appropriations Committee states the following:

> *The Committee directs the Department to work with the Department of Labor to provide a report to the Committees on Appropriations in the House of Representatives and the Senate 180 days after enactment on how they can collaborate to strengthen protections and support safe environments for healthcare workers, patients, families, and visitors.*

The Centers for Medicare & Medicaid (CMS), working with the Department of Labor, prepared this report in response to this request from the Senate Appropriations Committee.

I.   Introduction

Workers in hospitals, nursing homes, and other healthcare settings face risks of workplace violence.[1] Many factors contribute to this risk, including working directly with people who have a history of aggressive behavior, behavioral issues, or may be under the influence of drugs. From 2002 to 2013, the rate of serious workplace violence incidents (those requiring days off for an injured worker to recuperate) was more than four times greater in healthcare than in private industry on average. In fact, healthcare accounts for nearly as many serious violent injuries as all other industries combined. Exposure to workplace violence hazards come at a high cost; however, with appropriate controls in place, it can be addressed.

OSHA initiated and is currently co-chairing a Healthcare Thought Leaders work group. HHS is actively collaborating in this work group with representation from the Centers for Medicare & Medicaid Services (CMS) and the National Institute for Occupational Safety and Health (NIOSH). This work group also includes senior subject matter experts from a variety of healthcare associations, professional organizations, healthcare systems, government agencies, and consumer groups. The group is beginning its efforts and will focus on improving workforce safety through collaboration, with an initial focus on workforce safety indices and workplace violence.

II.   Centers for Medicare & Medicaid Services

Medicare and Medicaid certified facilities and providers currently have a regulatory obligation to care for patients in a safe setting under the Medicare Hospital Conditions of Participation at §482.13(c)(2). The intention of this requirement is to specify that each patient receives care in an environment that a reasonable person would consider to be safe. For example, hospital staff should follow current standards of practice for patient environmental safety, infection control, and security. The hospital must protect vulnerable patients, including newborns and children. Additionally, this standard is intended to provide protection for the patient's emotional health and safety as well as his/her physical safety. Respect, dignity and comfort would also be components of an emotionally safe environment.

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[1] Occupational Safety and Health Administration. Caring for our Caregivers: Strategies and Tools for Workplace Violence Prevention in Healthcare. Available at: https://www.osha.gov/dsg/hospitals/workplace_violence.html.

In order to provide care in a safe setting, hospitals should identify patients at risk for intentional harm to self or others, identify environmental safety risks for such patients, and provide education and training for staff and volunteers. Patients at risk of suicide (or other forms of self-harm) or who exhibit violent behaviors toward others receive healthcare services in both inpatient and outpatient locations of hospitals. Although all risks cannot be eliminated, hospitals are expected to demonstrate how they identify patients at risk of self-harm or harm to others and steps they are taking to minimize those risks in accordance with nationally recognized standards and guidelines. The potential risks include, but are not limited to, those from ligatures, sharps, harmful substances, access to medications, breakable windows, accessible light fixtures, plastic bags (for suffocation), oxygen tubing, bell cords, etc.

All hospitals are expected to implement a patient risk assessment strategy, but it is up to the hospital to implement the appropriate strategies. For example, a patient risk assessment strategy in a post-partum unit would most likely not be the same risk assessment strategy utilized in the emergency department.

Hospitals should also provide the appropriate level of education and training to staff regarding the identification of patients at risk of harm to self or others, the identification of environmental patient safety risk factors, and mitigation strategies. Staff would include direct employees, volunteers, contractors, per diem staff and any other individuals providing clinical care under arrangement. Hospitals have the flexibility to tailor the training to the particular services staff provide and the patient populations they serve. CMS expects hospitals to provide education and training to all new staff initially upon orientation and whenever policies and procedures change. Additionally, CMS recommends ongoing training at least every two years after initial training.

CMS believes that, in general, healthcare workers should have a right to provide care in a safe setting. CMS health and safety requirements do not preclude healthcare workers from taking appropriate action to protect themselves from workplace violence.

However, it is incumbent on the leadership at these healthcare facilities to ensure they provide adequate training, sufficient staffing levels, and ongoing assessment of patients and residents for aggressive behavior and indicators to adapt their care interventions and environment appropriately.

CMS has cited hospitals in the past for failures to meet these obligations. Examples include a nurse in a unit without adequate staffing who was sexually assaulted by a behavioral health patient that was stopped following intervention by other patients; a patient who died after hospital staff and law enforcement performed a takedown that resulted in a hospital custodian holding the patient down on the floor with his knee against the patient's back, during which the patient stopped breathing and died; and a patient who was acting out and shot in his hospital room by off-duty police officers following the failure of hospital staff to perform appropriate assessment and de-escalation of the patient. These cases highlight systemic failures in facilities that place both patients and staff at risk.

CMS will continue to enforce the regulatory expectations that patient and staff have an environment that prioritizes their safety to ensure effective delivery of healthcare.

III.   Department of Labor

The Department of Labor's Occupational Safety and Health Administration (OSHA) has been working diligently to protect healthcare workers from workplace violence as part of its mission to assure the safe and healthful working conditions for working men and women in America. To carry out this goal in the healthcare industry, OSHA has developed enforcement directives and guidance materials to assist employers in developing workplace violence prevention plans that protect workers.[2]

These materials include:

- Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers – The Guidelines describes five components of an effective workplace violence prevention program and provide extensive examples. Available at: https://www.osha.gov/Publications/osha3148.pdf.

- DOL Directive Number CPL 02-01-058, Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence – The Directive provides compliance safety and health officers with general enforcement policies and procedures during inspections when workplace violence is identified as a hazard. Like all OSHA directives, the Directive also helps employers by providing clear instructions about the agency's policies, procedures, and expectations. The Directive's coverage includes national, regional, and local emphasis programs and guidance on responding to incidents of workplace violence, especially when conducting inspections at worksites in industries with a high incident rate. Available at: https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-058.pdf.

- Workplace Violence Toolkit – The Toolkit provides information on the extent of violence in the workplace, hazard assessment in different settings, and development of workplace violence prevention plans for individual worksites. Available at: https://www.osha.gov/SLTC/workplaceviolence/index.html,

- How Safe Is Your Hospital for Workers? – This publication provides a suite of resources to help hospitals assess workplace safety needs, implement safety and health management systems, and enhance safe patient handling programs. The resources include best practices that enable employers to reduce workplace injuries while saving money and improving patient care. Available at: https://www.osha.gov/dsg/hospitals/documents/4.1_Overview_508.pdf, and https://www.osha.gov/dsg/hospitals/workplace_violence.html.

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[2] OSHA's jurisdiction is narrow. It is tasked with protecting *workers* and, thus, its efforts focus only on the protection of healthcare workers, not patients, families, or visitors. Outside of OSHA, DOL does not have any jurisdiction over safety in the healthcare industry.