

# Healthcare Establishments in California are Subject to New Workplace Violence Requirements

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**PRACTICES** Healthcare Transactions and Regulatory, Healthcare and Life Sciences

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Effective April 1, 2017, California became the state with the strictest workplace violence requirements in the nation for healthcare employers. Title 8 of the California Code of Regulations Section 3342 outlines California's attempt to protect employees working in healthcare and reduce the number of injuries suffered by employees from violent acts. The new regulation applies to California health facilities, as defined in the regulation, which includes various hospitals and nursing facilities; home healthcare and home-based hospice; drug treatment programs; outpatient medical offices and clinics; and emergency medical services and medical transport, among others. The California Division of Occupational Safety and Health ("Cal/OSHA") promulgated the regulation and will administer compliance with the regulation.

## **Violent Incident Log and Recordkeeping**

On April 1, 2017, the Violent Incident Log and Recordkeeping aspects of the new regulation's provisions went into effect. First, employers are required to record information about each workplace violence incident in a Violent Incident Log. The log must omit personal identifying information (of any person involved in the incident) and include specific information about the incident like a detailed description of what happened, whether law enforcement was contacted, and whether actions were taken to protect employees from a continuing threat. Second, employers must maintain records of training, workplace violence hazard identification, and violent incidents.

## **Reporting Requirement for Certain Hospitals**

General acute care hospitals, acute psychiatric hospitals, and special hospitals are additionally required starting April 1, 2017, to report any incident involving (1) a firearm or other dangerous weapon or (2) the use of physical force against an employee by a patient or a person with a patient that results in or has a high likelihood of resulting in injury, psychological trauma, or stress. The reporting requirement is triggered by the firearm or the use of physical force regardless of whether there is actual harm. Reporting must be made within 72 hours or within 24 hours of when the employer knows or should have known of the incident if the incident results in injury, involves the use of a firearm/dangerous weapon, or presents an urgent threat to the safety of hospital personnel. This requirement does not absolve employers from the requirement of Section 342 to immediately report serious injuries, illness, or death.

## **Workplace Violence Prevention Plan and Requirement to Review the Plan and for Training**

The remaining provisions of the new regulation—the workplace Violence Prevention Plan and provisions for reviewing the plan and training—go into effect on April 1, 2018. Covered employers must establish a workplace violence prevention plan, which can be incorporated into the employer's written Injury and Illness Prevention Program (already required by Cal/OSHA regulations) or can be kept separately. The regulation requires that the plan include 12 elements, including procedures to obtain employees' active involvement in developing the plan, procedures for obtaining help from

law enforcement, communication procedures, and procedures for post-incident response and investigation. Employers must also establish a system for reviewing the plan at least annually and provide effective employee training.