Workplace Violence Prevention: Cal/OSHA's Impending Regulations

Gail Blanchard-Saiger, JD
Vice President, Labor & Employment
California Hospital Association

Caryn Thornburg, LVN, BAIS, MS
Safety, Emergency Management and Sustainability Officer
Stanford Health Care – ValleyCare

Connie Lackey, RN
Director, Emergency Preparedness/Safety/Security
Providence St. Joseph, Holy Cross & Tarzana Medical Centers

Job-Related Violence

Healthcare workers face significant risks of job-related violence

While under 20% of all workplace injuries happen to healthcare workers...

Healthcare workers suffer 50% of all assaults.

Source: Bureau of Labor Statistics
Current Status

- Cal/OSHA is developing formal, comprehensive health care workplace violence prevention regulations
  - Broad scope – including hospitals, school nurses, retail pharmacists, home health, physician offices, mobile clinics, prisons, etc.
  - Intended to serve as the foundation for workplace violence regulations that will apply in other settings, including education

Legislative Path
AB 508 (1993)

- Sponsored by the Emergency Nurses Association
- Created Health and Safety Code 1257.7 et seq.
- Required hospitals to conduct a security assessment and have a security plan
- Required hospital employees and medical staff regularly assigned to the emergency department or other high risk departments as determined by the safety and security plan, to receive training and education related to safety and security on an on-going basis
- Required reporting of any act of assault or battery against any on-duty hospital personnel to the local enforcement agency within 72 hours

AB 1083 (2009)

- Sponsored by SEIU
- Amended Health and Safety Code 1257.7 et seq.
- Required hospitals to annually review and update the security and safety assessment and plan
- Recommended that the plan include security considerations relating to efforts to cooperate with local law enforcement regarding violent acts in the facility
- Required the hospital to consult with affected employees, including the recognized collective bargaining agent or agents, if any, and members of the medical staff
SB 1299 (2014)

- Sponsored by California Nurses Association
- Third legislative attempt
- Requires Cal/OSHA to develop regulations by 7/1/16 to require hospitals to:
  - Develop a workplace violence prevention plan
  - Annually assess and improve upon factors that relate to workplace violence
  - Train all direct patient care workers on specified information
  - Refrain from disallowing an employee from seeking assistance and intervention from local emergency services or law enforcement
  - Maintain and provide specified information to Cal/OSHA

Regulatory Path
Cal/OSHA Guidance

  www.dir.ca.gov/dosh/dosh_publications/hcworker.html

Fed/OSHA Guidance

- Definition: Workplace violence is any physical assault, threatening behavior, or verbal abuse occurring in the work setting
  www.osha.gov/SLTC/workplaceviolence/evaluation.html
- Workplace Violence: Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers (2015)
Data

- BLS Data (2012)
  - Rate of workplace violence-related nonfatal occupational injuries and illnesses involving days away from work for health care and social assistance workers was 15.1 per 10,000 full-time workers; for private industry overall, the rate was 4.0

- BLS Data (2013)
  - Rate of workplace violence-related nonfatal occupational injuries and illnesses involving days away from work for health care and social assistance workers was 16.2 per 10,000 full-time workers; for private industry overall, the rate was 4.2

Labor Petitions to Cal/OSHA

- SEIU Local 121RN and SEIU Nurse Alliance of California
  - Broad scope covering all health care workers regardless of the setting

- California Nurses Association
  - Narrower scope covering health care workers in acute care hospitals

- Both sought broad definition of workplace violence — workplace violence, or violent incident, includes, but is not limited to, both of the following:
  - The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in or has a high likelihood of resulting in injury, psychological trauma, or stress, regardless of whether the employee sustains an injury
  - An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury
Cal/OSHA Regulatory Process

- Cal/OSHA convenes Advisory Committee in September 2014
- Five meetings held between September 2014 and April 2015
- CHA and its hospital/health system workgroup participate
- Discussion document is developed

Proposed Regulations as of August 2015

**Elements**

- Workplace Violence Prevention Plan
- Identification of management with responsibility for administering
- Coordination with other employers of employees
- Supervisory and non-supervisory compliance with plan
- Identifying and evaluating safety and security risks
- Investigation of violent incidents
- Correction of hazards
- Communication
- Training
- Recordkeeping
- Program Review
Key Provisions as of August 2015

Scope

- Health facilities including hospitals, long-term care, intermediate care, congregate care, correctional treatment center, psychiatric hospital
- Outpatient medical offices and clinics
- Home health care and home based hospice
- Paramedic and emergency medical services, including those services when provided by firefighters and other emergency responders
- Field operations such as mobile clinics and dispensing operations, medical outreach series and other off-site operations
- Drug treatment programs
- Ancillary health care operations (school nurse, retail pharmacy, worksite clinic, etc.)

Definition of Workplace Violence

- “Workplace violence” means any act of violence or credible 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. Workplace violence includes the following:
  - The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury
  - An incident involving the threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury
Definition of Workplace Violence

- Four workplace violence types:
  - “Type 1 violence” means workplace violence committed by a person who has no legitimate business in the work site, and includes violent acts by anyone who enters the workplace with the intent to commit a crime.
  - “Type 2 violence” means workplace violence directed at employees by customers, clients, patients, students, inmates, or any others for whom an organization provides services.
  - “Type 3 violence” means workplace violence against an employee by a present or former employee, supervisor, or manager.
  - “Type 4 violence” means workplace violence committed in the workplace by someone who does not work there, but has or is known to have had a personal relationship with an employee.

Key Provisions as of August 2015 (cont.)

Training

- Training must include all employees, including temporary employees, working in the facility, unit, service or operation.
- Training must address workplace violence and the activities each employee is reasonably anticipated to perform under the Plan.
- Employees and their representatives shall be involved in developing training curriculum, training materials, conducting training sessions, and reviewing and revising the training program.
Training

- Training material must be appropriate in content to the educational level, literacy and language needs of the employee.
- An organization who employs proprietary private security officers, contracts with private patrol operator or other security services to provide security guards, or hires or contracts for the services of peace officers, shall arrange for those personnel to participate in the training provided to the employer’s employee.

Key Provisions as of August 2015 (cont.)

Training

- Initial training for all employees when the plan is adopted and, for new employees, at the start of employment:
  - Overview of the Plan
  - Recognizing potential for violence
  - Strategies for avoiding harm
  - Reporting incidents
  - Resources
- Opportunity to ask questions
Key Provisions as of August 2015 (cont.)

Training

- Specified training for employees and their supervisors whose job responsibilities include violent incident response
  - General and personal safety measures
  - Aggression and violence predicting factors
  - The assault cycle
  - Characteristics of aggressive and violent patients and victims
  - Verbal and physical maneuvers to defuse and prevent violent behavior
  - Strategies to prevent physical harm
  - Restraining techniques (manual, mechanical)
  - Appropriate use of medications as safety restraints
- The opportunity to practice maneuvers and techniques with other team members and a de-brief after the training to identify and correct issues

Refresher Training

- Employees performing patient contact activities and those employees’ supervisors shall be provided refresher training at least annually to review topics included in the initial training and results of the annual review
- Refresher training will include an opportunity for interactive questions and answers with a person knowledgeable about the employer’s workplace violence prevention plan
Post-Incident Response

- Provide appropriate medical/psychological care
- De-brief
- Investigate
- Document
- Correct identified hazards

Violent Incident Log

- To be reviewed during the annual plan review
- For each incident:
  - Date, time, location, employee name, gender, job title, department, supervisor name
  - Employee detailed description of the incident
  - Type of incident
  - Consequences of incident
  - Outcome
Key Provisions as of August 2015 (cont.)

Acute Care Hospital Reporting

- Required by SB 1299
- Must report any violent incident that involves:
  - The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury; or
  - An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury
- 24 hours if involves injury or weapon; 72 hours for all others

Key Provisions as of August 2015 (cont.)

Other Plan Elements

- Procedures to identify and evaluate patient-specific risk factors and assess visitors
- Procedures to implement corrective action including but not limited to:
  - Increased staffing
  - Eliminating line of sight obstacles
  - Removing, fastening or controlling items that could be used as a weapon
  - Preventing transport of unauthorized firearms or other weapons
- Annual Review
**Other Plan Elements**

- Identification of leaders responsible for implementation
- Procedures to obtain the active involvement of employees or their representatives in all aspects of plan development, implementation and evaluation/assessment
- Prohibition of a policy that prevents employees from calling local law enforcement
- Procedures to assess the work environment, including parking lots, etc., for safety/security risks

---

**What’s Next?**

- Cal/OSHA will commence formal regulatory process Q4 2015 with final regulations to be adopted in Q3 2016
- Cal/OSHA will use these regulations to develop similar regulations for other industries
- Fed/OSHA has increased scrutiny in this area
- Top labor agenda
- Connecting employee safety with patient safety
Resources

- NIOSH
  www.cdc.gov/niosh/topics/violence/pubs.html
- Minnesota Hospital Association
- Fed/OSHA
- Emergency Nurses Association
  www.ena.org/practice-research/Practice/ViolenceToolKit/Documents/toolkitpg4.htm

Questions?
Thank you

Gail Blanchard-Saiger
gblanchard@calhospital.org

Caryn Thornburg
cthornbu@valleycare.com

Connie Lackey
connie.lackey@providence.org