# Part 1: OSHA Steps up Inspections of Hospital Violence



## New Directive Issued September 2011 is More Than Mere Suggestions

It seems you can hardly open a newspaper or log onto the Internet without seeing a story about an incident of hospital violence:

- An Orlando surgeon was murdered by a disgruntled patient as he walked from Florida Hospital's downtown building into a parking garage.
- A pharmacist at Shands Jacksonville Medical Center was shot to death by a patient who was angry over not being allowed to go to the front of the line.
- A nurse at Danbury Hospital in Connecticut was punched in the jaw, and then fell and broke his hip.
- A 338-pound patient who was admitted to a Kaiser Permanente Hospital in Oakland got out of bed, took off his clothes, and began pummeling his 68-year-old roommate in the face.

The disturbing stories that make the news are only the tip of the iceberg. Between 1995 and 2010, hospitals and healthcare facilities experienced 256 assaults, rapes,

or homicides with 110 of those occurring since 2007, according to data from The Joint Commission. A 2010 survey sponsored by the Emergency Nurses Association (ENA) found that one in 10 nurses said they had been attacked in the previous week.



"This data underscores what nurses know first-hand," says Diane Gurney, past president of the ENA. "Hospitals that have policies in place to respond to violence and to prevent it are safer for the health care professionals that work in them and the patients who seek treatment in them."

## **Hospitals Put on Notice**

In the wake of such reports, the Occupational Safety and Health Administration (OSHA) issued its first-ever directive instructing its field officers how to conduct inspections in response to workplace violence, especially in hospitals and other industries with a high incident of workplace violence.

"This directive is a head's up from OSHA that 'we're going to start focusing our attention on workplace violence because of the increasing number of incidents on the job for healthcare workers." The September 8, 2011 mandate establishes uniform procedures for OSHA staff to investigate these incidents.

"Through this new directive, OSHA is attempting to establish an employer's general duty to protect against workplace violence," wrote attorneys Matthew Thomas Deffebach and Erin Shea in a blog about the new initiative. "Indeed, OSHA suggests that if the hazard of workplace violence exists then an employer should conduct an assessment and implement a 'Workplace Violence Prevention Program.' The practical result of this directive is that employers may now be held responsible for the erratic and often unpredictable actions of others."



Joseph Aron, safety officer and security investigator for Providence Hospital & Medical Centers in Southfield, MI doesn't believe the new directive represents a dramatic change from OSHA's previous stance toward violence in hospitals.

"For a long time, they've been stressing this issue under the [Occupational Safety and Health Act's] General Duty Clause,"

he says. "They've had a set of guidelines for preventing violence in healthcare. This directive is a heads-up from OSHA that 'we're going to start focusing our attention on workplace violence because of the increasing number of incidents on the job for healthcare workers.'"

In announcing the ruling, OSHA found that 10 percent of victims of workplace violence are in medical occupations, just behind the 13 percent who work in retail and the 19 percent in law enforcement. However many people feel that even those high numbers for healthcare workers understate the problem, primarily due to lack of reporting.

Healthcare violence is so endemic that a recent study in the *Annals of Epidemiology* found that more than half of hospital workers in California and New Jersey didn't bother to tell their supervisors they had been assaulted, partly because "workers often accept these events as part of their job."

"Probably the only time they report it is when they are physically assaulted," says Jennifer Elliott, director of emergency services at Baptist Hospital, Nashville, TN. "When patients spit and bite and scratch and curse the staff, I would say that they typically do not report that."

#### **Numerous Risk Factors**

The directive lists numerous risk factors that indicate the potential for workplace violence, and include:

- Working with unstable or volatile persons in certain health care settings;
- · Working alone or in small numbers;
- · Working late at night or during early morning hours;
- · Working in high crime areas;
- Working at community-based health or drug abuse clinics.

Certainly many of these issues broadly relate to the growing amount of violence in healthcare. However, interviews with hospital workers and security officers reveal a wide range of other culprits.

Hospitals have always been stressful environments that can put patients and their family members on edge. With doctors no longer seen as "god-like figures" they, and other healthcare workers, are commonly the targets of that rage. Hospitals are also not immune from the growing epidemic of bullying, which many believe has increased the issue of violence among hospital coworkers.

In addition, the economic downturn has exacerbated the problem of hospital violence in numerous ways. Tight resources have led many hospitals to reduce security spending, and many say that cutbacks in the health care arena have led to an increase in the number of patients that are prone to violence, being taken to hospitals.

"The economic pressures have changed everything in the mix," Aron says. "The emergency room has had to take up the slack for people who, in the past, would have been taken to a publicly run psychiatric facility. Also alcohol and drug use rises in parallel with unemployment and financial woes. People who acted out aggressively while intoxicated used to spend the night in a city jail. Now they are often seen spending the night 'under observation' in an Emergency Department."

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A study from the federal Substance Abuse and Mental Health Services Administration found that violent incidents committed in emergency rooms by patients with drug and alcohol problems increased a staggering 31.5 percent from 2006 to 2008.

## **Key OSHA Definitions**

To analyze how the OSHA directive's policies and procedures apply to individual hospitals, it's critical to understand the agency's definitions of workplace violence. OSHA considers workplace violence "as violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty." OSHA classifies violence into four categories, depending on the relationship between the perpetrator and the target:

- Criminal Intent: Violent acts by people who enter the workplace to commit a robbery or other crime — or current or former employees who enter the workplace with the intent to commit a crime.
- Customer/Client/Patients: Violence directed at employees by customers, clients, patients, students, inmates or any others to whom the employer provides a service.

- Co-worker: Violence against co-workers, supervisors, or managers by a current or former employee, supervisor, or manager.
- **Personal:** Violence in the workplace by someone who does not work there, but who is known to, or has a personal relationship with an employee.

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## **Triggers for Investigation**

In their new directive, OSHA clarifies that it will generally not inspect a violence prevention program in response to coworker or personal threats of violence. Instead, three scenarios can trigger an inspection:

- 1. An employee files a workplace violence complaint
- 2. The company is in an industry with known risk factors for workplace violence, which includes healthcare
- **3.** Workplace violence results in a fatality or three or more hospitalizations



OSHA doesn't have a specific standard for workplace violence, and issues citations under the Occupational Safety and Health Act's General Duty Clause. To trigger an investigation under that clause, OSHA must demonstrate three elements: (1) that a workplace hazard exists; (2) that the employer recognizes the hazard; and (3) that the employer had a feasible way in which to abate the hazard.

For example, if a patient in a psychiatric ward attacks a nurse at a local hospital, it would trigger an investigation since it encompasses all criteria:

- The "known risk factor" is working with unstable or volatile persons in healthcare
- The "employee recognition" is the large body of studies on the existence of potential workplace violence in these kinds of healthcare settings, as well as previous incidents reported to the hospital
- The "abatement methods" are numerous, such as having two or more employees present when an unstable client is at the facility

"OSHA has done a good job with setting guidelines and expectations, which gives hospitals the awareness of the kind of processes they need to have in place," says Lisa Ward, director of risk management/patient experience for the west region of Providence Hospital & Medical Centers. "By acknowledging the risk, hospitals can be systematic and proactive in developing countermeasures to those risks."

### Required Documentation

OSHA has indicated what documentation hospitals should be expected to provide during a workplace violence inspection. OSHA inspectors will likely ask for information on any hazard assessment that was performed, incident investigations regarding any workplace violence issues, and documentation of the workplace violence prevention program.

The inspector will also examine the hospital's OSHA Form 300 injury, as well as the hospital's illness records for the past five years to identify the number of recordable injuries associated with workplace violence. Those records will be compared with workers' compensation records, police reports, and first aid reports to see if other incidents of workplace violence were undocumented.

OSHA has made it clear that citations will follow any inspection that turns up an existing hazard of workplace violence that is likely to cause death or physical harm, which is recognized by either the individual hospital or the healthcare industry. OSHA can issue citations to employers for violations of the "General Duty Clause" of the Occupational Safety and Health Act, which requires employers to keep their employees safe from "recognized"

hazards." For example, OSHA recently cited a Maine psychiatric hospital for not having adequate safeguards against workplace violence after it determined more than 90 instances in which workers were assaulted on the job by patients from 2008 through 2010.

In the words of OSHA Administrator Dr. David Michaels, "These incidents, and others like them, can be avoided or decreased if



employers take appropriate precautions to protect their workers."

In Parts 2 and 3 of this white paper, we will examine the steps hospitals are taking to implement violence prevention programs in order to meet the new OSHA directive.

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