

Annual security assessments become California law

HC Pro / Briefings on Hospital Safety
June 1, 2010

Annual security assessments become California law

Noncompliance becomes a crime

California, often the forerunner in compliance standards, may be leading the pack when it comes to security assessments.

In October 2009, the state revised California Health and Safety Code 1257.7, requiring hospitals to conduct security risk assessments annually and making failure to do so a crime. It took effect in January and requires that the first annual assessments begin no later than July 1, 2010, making some California hospitals scramble to perform a security assessment. CEOs or managers responsible for failure to comply could receive a criminal complaint. The law is a revision of AB 508, which passed in 1995.

Although it's unlikely OSHA has the resources to check each and every hospital throughout the state and charge individuals with noncompliance, it is more likely that a criminal complaint will result from an incident that is reported to state authorities, who then may decide to bring the case to the district attorney, says **Mark Mooring, MS, CPP, CHPA**, founder of consulting firm Proper Authorities in Ventura, CA. This threat would not only mean legal and financial troubles for the hospital, but a slew of bad press. "No one wants to be the first one to have the CEO get a criminal complaint," says Mooring. "You can imagine if it hits the news media and becomes negative publicity."

The law also states that hospitals should consider OSHA's *Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers*. Although many hospitals consult these guidelines when developing a security plan, they still serve only as guidelines and are not required by law. The 42-page document is prescriptive and suggests performing risk assessments, creating a security plan, and training staff members on 11 content areas, says Mooring. He notes that a small handful of states have similar laws, but that California is in the forefront of compliance by making noncompliance a crime that can also result in civil penalties—a move that may be a sign of things to come.

Violence on the rise

California's current Health and Safety Code 1257.7, previously known as AB 1083, was originally brought to California legislators by Southern California's Registered Nurse Union, SEIU Local 121RN, which surveyed members about workplace violence in March and April 2009. The survey found that about half of respondents witnessed violence or aggression at their hospitals, and more than half said they had not received adequate safety training at their hospital. This survey was on par with another well-cited study by the Emergency Nurses Association, "Violence Against Nurses in U.S. Emergency Departments," published in the July/August 2007 *Journal of Nursing Administration*. That study found that more than half of 3,465 ED nurses experienced physical violence—including being spit on, pushed, scratched, and kicked—and 67% of ED nurses rated their perception of safety at five or lower on a 10-point scale. One in three even said they had considered leaving the department or nursing because of the violence.

"Our members were reporting acts of violence and aggression by patients who were disoriented by their medical conditions and/or under the influence of drugs or alcohol," says **Aimee Barajas**, communications director for SEIU 121RN. "Many hospital security policies prevented security guards from restraining patients or helping medical staff who are dealing with an aggressive patient." Barajas says the new law, with criminal penalties, brings to the attention of hospital leaders the importance of preventing violence in hospitals.

"Our members felt that hospital administration could be a bit out of touch with what really happens in the emergency room or any other department of the hospital," Barajas says. "Many hospital security plans are out of date and don't reflect reality. So our nurses felt it was critical to have input when safety and security plans are written. This bill accomplishes that."

To the joy of Barajas and other SEIU Local 121RN members, the bill passed unanimously through all committees and the Senate floor. "The bill will allow registered nurses and other healthcare workers who are on the floor and at the bedside day after day to give their realistic input on whether the current security plan has been successful or not and how it can be amended to make the hospital safer for employees and visitors," says Barajas.

Joint Commission may take notice

Mooring says the overwhelming support of the bill indicates that California just might be the first of many states to require annual assessments.

"You may see this continue to expand into other states, particularly as statistics and surveys show that violence against healthcare workers is on the rise. I think more and more legislators are going to get involved in it and want to pass something that gets [workplace violence] out in front and gets hospitals to create as safe an environment as possible," he says.

Fredrick G. Roll, MA, CHPA-F, CPP, president and principal consultant at Healthcare Security Consultants, Inc., in Frederick, CO, also believes the new state law will help reinforce security compliance.

"I think it is going to help strengthen the OSHA guidelines somewhere down the road because similar violent events are going to happen across the country, and all of a sudden it will tighten up, and I predict that eventually, they'll move from a guideline to standard," says Roll.

It's very likely The Joint Commission will take special notice, particularly because the bill makes noncompliance a crime—a sign that legislators did not believe hospitals were complying with the previous bill, AB 508, which addressed the need for hospitals to conduct a security assessment but did not require one every year and did not have criminal penalties attached, Roll says.

The perceived noncompliance leads Mooring to think that The Joint Commission may refocus attention on security assessments, planning, and training.

"I think The Joint Commission is very aware of the requirements of California law," he says. Although it may have looked to some as though security requirements were being watered down after they were made part of the safety management plan section under the Environment of Care standards, Mooring believes there will be a renewed focus on the area.

"Some surveyors seemed like they had a lot of things on their plate, so they were not delving deeply into security sometimes, but I fully expect this will kind of get them going again because ... this shows that the legislature was convinced that hospitals were not compliant. So that means The Joint Commission is going to look closer like they did when AB 508 passed originally," says Mooring.

AB 508 was more open to interpretation, leaving a wide discrepancy in what constituted compliance. The new law not only requires an annual assessment, but involvement of affected employees and unions when developing the plan. California hospitals must also collaborate with local law enforcement. New focus will also be spurred by what Mooring calls a growing, nationwide problem of assault against healthcare workers.

Striving for compliance and beyond

Although California hospitals are required to perform a security assessment every year, Mooring recommends making the best use of each assessment.

The first assessment should be a "full-blown, door-to-door, floor-to-floor, cover-every-little-iota assessment," he says.

After that, however, the assessment can focus on what incident reports show as high-problem areas and look at what's changed and progressed. Mooring notes that the new state law also focuses on better incident tracking and reporting; hospitals should have on record when incidents occur, what department they

occurred in, what time of day they occurred, and so on. The safety assessor can then go back and review these data and focus on problem areas.

Although the law doesn't mandate a specific number of hours or frequency, Mooring says training should be supplied to all hospital employees. However, not everyone needs to receive the same type of training. "For example, the ED and security staff might receive all-day in-person training that includes hands-on elements, including restraint," he says, whereas other departments would receive less in-depth training.

Mooring reminds safety and security directors that assessments are a minimal expense compared to the potential expense of noncompliance. Training can be the more expensive element of security, but staggering the levels of education is a more frugal option, he says.

Mooring also reminds safety and security directors that The Joint Commission might take a close look at documentation of training, including the original sign-in sheet for a training class, who was there, what departments attended, and whether there was a 90% or higher compliance rate.

"They do look beyond just the management plan," says Mooring, who's been through seven surveys. "I've had them look at the outline for the curriculum of the training, of the trainer's résumé, etc."

Place a particular focus on security assessments and have all of them well documented, Mooring says. "Nationwide, I think hospitals are going to have to amp up their compliance a little more because California tends to be the forerunner in this sort of thing," he adds.