Workplace Violence and Legal Protections for Health Care Providers

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Agenda

- Definition of Workplace Violence
- Current Trends
- Prevention Strategies
- Terminating Care
- Legal Remedies

Workplace Violence

“A violent act (or acts) including physical assaults or threats of assault directed towards a person at work on while on duty”

- CDC/NIOSH, Occupational Hazards in Hospitals

While under 20% of all workplace injuries happen to health care workers, health care workers suffer 50% of all assaults.

- Bureau of Labor Statistics

Examples of Workplace Violence

Threats: Intent to cause physical harm

- Verbal
- Written

Intimidation/Harassment

- Psychological: Making statements that are derogatory, abusive, disparaging, malicious, false, etc.
- Physical: Stalking, blocking one's movement, following, inappropriate contact/advances

Assault

Trends in Workplace Violence

Increase in incidences of violence taking place in hospitals.

Bill Tabor – Uptick in assaults on nurses, hospital security, emergency room staff and others within the past few years, but within the past couple of months, the violence has spiked.

- Hospital Masking
- Mental Health

Tulsa, Oklahoma hospital shooting

Risk Factors

Generally, anyone who works in a hospital or health care setting.

- Nursing home, assisted living, heath clinic, hospital, etc.

Specifically, nurses and aides with the most direct contact with patients. During times of increased contact such as meal times, visiting hours, patient transportation, and when administering care.

Higher risk scenarios:

- Working with volatile people
- Working when understaffed
- Transporting patients
- Poorly-lit areas
- Unrestricted movement of the public
- Overcrowded waiting rooms

Effects of Workplace Violence

Direct:

- Physical Injuries
- Trauma
- Death

Indirect:

- Increased worker turnover
- Hostile work environment
- Low worker morale
- Increased stress
- Reduced trust in management

Prevention

- Develop and enforce comprehensive policies and procedures against workplace violence.
- Evaluate objective measures of violence to identify risks and risk levels.
- Train staff to recognize the warning signs of violent behavior and respond proactively.
- Establish a comprehensive workplace violence prevention program.
- Encourage all employees and other staff to report incidents of violence or any perceived threats of violence.
- Ensure appropriate follow-up to violent events, including communication, postincident support, and investigation.
- Ensure that the violence prevention program addresses the possibility of gun violence, including active shooters.

Prevention (cont.)

Physical preventative measures

- Emergency alarms
- Signaling and monitoring systems
- Security Devices
- Better lighting
- Enclosed nurses’ stations
- Bullet-proof/shatter-proof glass enclosures

Prevention (cont.)

Practical preventative measures

- “Buddy system”
- Provide security escorts to parking lots
- Ensure personnel aren’t working alone
- Restrict movement of public using controlled-access cards

Actions

- Contact Local Law Enforcement
- Terminate Patient Care
- Document Incident

Termination of Care

(a) The practitioner shall give reasonable written notice to a patient or to those responsible for the patient's care when the practitioner withdraws from a case so that another practitioner may be employed by the patient or by those responsible for the patient's care. **A practitioner shall not abandon a patient.**

(b) A practitioner who withdraws from a case, except in emergency circumstances, shall, upon written request and in conformity with the provisions of IC 16-4-8-1 through IC 16-4-8-11 and of any subsequent amendment or revision thereof, make available to his/her patient or to those responsible for the patient's care, and to any other practitioner or specific professional health care provider employed by the patient, or by those responsible for the patient's care, all records, test results, histories, x-rays, radiographic studies, diagnoses, files, and information relating to said patient which are in the practitioner's custody, possession, or control, or copies of such documents hereinbefore described.

Detention of a Patient

An individual may be detained in a facility for no more than seventy-two (72) hours (excluding Saturdays, Sundays, and legal holiday) upon written application for detention with the facility. The individual may not be detained in a state institution unless instituted by the state institution.

The application for detention of an individual must contain the following:

1. A statement of the applicant's belief that the individual is:

(A) Mentally ill and either dangerous or gravely disabled; and

(B) In need of immediate restraint; and

2. A statement by a physician that the individual may be mentally ill and either dangerous or gravely disabled.

IC 12-26-5-1

Documentation

Effective Documentation can:

- Limit exposure to liability
- Serve as evidence of compliance with standard of care
- Ensure that a provider has complied with the relevant laws

Documentation is the best witness at trial

Ineffective documentation hinders counsel’s ability to defend claim at trial

Any letter written must be included in patient’s file.

Documentation (cont.)

What We Tend To See:

- Non-Specific charting
- Lack of objective data
- Critical information sacrificed for efficiency’s sake
- “Emotional charting”
- Failure to note outcome/result
- Informed consent issues
- Differential diagnosis

SAVE Act

- Safety From violence for Healthcare Employees (SAVE) Act
- Legislation would impose tougher penalties on those who attack and intimidate health system employees. Currently no federal law granting specific protections for healthcare workers.
- Modeled after similar protections for airline and airport employees.

Documentation Best Practices

- Know how to write to protect yourself; example: AMA, non-compliance
- Know how to write and avoid finger pointing at nurses or other health care providers

Questions?