

HEALTH CARE ALERT | NIXON PEABODY LLP

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Active shooters — Preparing before your health care facility is a target

By Sarah E. Swank

Active shooters are a current reality. The U.S. Department of Homeland Security defines an active shooter as an individual engaged in attempting to kill people in a confined space or population. Active shooters typically use guns and do not use a pattern to pick their victims. Active shooters are unpredictable and can show up anywhere and at any time. FBI studies found an increase in active shooter incidents occurred in health care facilities since 2000. Health care organizations need to be prepared. Preparedness and training can save lives.

Below are the six steps for health care organizations to prepare for an active shooter.

Make a plan

Health care facilities need to make an active shooter plan. Health care facilities are different than other settings. For example, a hospital can have:

- Vulnerable patients often confined to bed or even undergoing surgery
- Hazardous materials
- Locked units
- MRIs that can interfere with law enforcement's firearms

Health care workers could face the decision to come to the aid of certain patients, while leaving other patients to save lives. These difficult discussions are better had prior to a tragic mass casualty. Health care facilities can form an inter-disciplinary special active shooter committee or use a current committee to help with active shooter preparedness, including risk assessment, policy development, training, and coordination with community incident command centers and law enforcement.

Train

During a mass shooting, the employees and staff will need to make a plan that maximizes the protection of life. Each person will have to make their own decision in the moment on how to accomplish this goal. The natural reaction to be in denial at the beginning of an active shooter

situation may be overcome with training and preparedness. In an active shooter situation, health care workers face an ethical decision—to stay and help patients and those who are injured or to save themselves. Health care organizations can integrate local law enforcement and community members into the active shooter preparedness and training.

In the end, training could save lives.

Partner with local law enforcement

Health care organizations can enter into partnerships and routine joint community meetings with local law enforcement to develop committees and taskforces, maintain a presence at high-risk emergency rooms and facilities, and to conduct preparedness drills. Organizations can form a threat assessment team (TAT) composed of administrators, human resources, counselors, employees, medical and mental health professionals, and public safety and law enforcement personnel. As part of this partnership, law enforcement can be invited to the facility to walk through and familiarize themselves with hazardous areas such as MRIs or radioactive materials, exits, units with vulnerable patients, and potential locations for sheltering for safety during a mass shooting. In turn, those who work at health care facilities will learn how law enforcement responds to an active shooter.

Know the warning signs

Employees may prevent escalation of potentially violent situations in active shooter situations by understanding the warning signs. Homeland Security finds that the potential signs of violence, including harassing and abusive behavior, leading up to a shooting often goes unreported. If a TAT was established it can serve as the committee that ensures that warning signs observed by multiple people are not considered isolated incidents and to identify behavior that is a serious concern. TATs should be mindful of unfair stereotyping and compliance with civil rights, privacy, and other federal and state laws. When working through these options, hospitals should be mindful of Emergency Medical Treatment & Labor Act of 1986 (EMTALA). De-escalation of workplace violence could mitigate the likelihood of an active shooter.

During the event

During an event, individuals often react with disbelief. In certain cases, there will a period of time before law enforcement arrives when an active shooter is on the premises. When law enforcement does arrive, do not be surprised to see them armed with rifles, shotguns, or handguns. They may use tear gas or pepper spray to contain the situation. Law enforcement may shout commands at individuals or need to push individuals to the ground to ensure their safety. It is recommended to listen to law enforcement and to try to exit in the direction they come from, unless otherwise instructed. Training should include how to run and escape, if possible, and if escape is not possible, hide. Fighting is always a last resort. These options may be different for health care workers caring for patients. The ethical considerations for caring for patients and needing to save lives in the facility, especially for vulnerable patients, should be discussed prior to an active shooter entering the premises.

Preparing for the aftermath

Prepare now for the aftermath and recovery after a tragic mass shooting. Immediately after an active shooter situation, law enforcement will likely still be present at the facility assisting with the injured and beginning an investigation, including interviewing witnesses. Organizations should

prepare to cooperate with law enforcement investigations, civil and criminal legal proceedings, and meet any reporting requirements. Certain state laws require that violence against health care workers be reported, while other state laws require reporting of gunshot victims.

The U.S. Department of Health and Human Services (HHS) recommends developing a psychological first aid (PFA) program in the event of an active shooter. PFA is defined as evidence-based model aid provided by mental health and disaster workers in the aftermath of a disaster or terrorist attack. The intent of a PFA is to reduce the initial stress of a traumatic event and to provide initial and long-term coping skills for adults, children, and families. In addition, a health care facility can set up ongoing support for its employees and community.

Preparedness saves lives

In an active shooter situation, seconds matter. These precious seconds could be lost if health care workers attempt to think through these complex issues and make decisions in the midst of an active shooter situation. Although training is not mandated by law in most states, health care organizations should develop training, develop policies, and create awareness of the increase in violence and the potential for an active shooter situation at their facility and in their communities. Being prepared can save lives.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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Come join us on Monday, February 10th at the <u>AHLA Physicians and Hospitals Law Institute</u>. <u>Sarah Swank</u> (Counsel, Nixon Peabody LLP) and Montrece McNeill Ransom (Senior Public Health Analyst, CDC) will present on "When violence comes calling: Approaches to today's common (and unfortunate) violence".