



## LEGAL ISSUES

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### Preparing for and Minimizing Risks of an Active Shooter

In May of this year, an armed man with a history of domestic violence approached the Pine Kirk Care Center, a nursing facility in Kirkersville, OH, where his ex-girlfriend was employed as a nurse. After taking two men hostage outside of the facility then fatally shooting the local police chief, he entered the nursing facility — where he killed a nurse aide, his ex-girlfriend, and then himself with multiple shotgun blasts. At the time of the shooting, there were 23 residents present although none of them were injured in the attack (“Police Chief, 2 Nursing Home Employees Killed; Shooter Dead,” *US News World Rep*, May 12, 2017; <https://goo.gl/61QSuG>).

This sudden, violent assault on a nursing home not only had a devastating effect on the local families and staff, but also shocked the health care community and long-term care providers across the country. Today, U.S. health care employees must be prepared for active shooter scenarios. Should such an event arise, they must ensure they are in the best position possible to minimize the risks for employees, residents, and visitors.

#### Violence in a Health Care Setting

The Occupational Safety and Health Act of 1970 requires employers to provide employees with a workplace that is “free from recognized hazards that are causing or are likely to cause death or serious physical harm” to employees. Employers must provide a workplace free from not only harm that could result from an employee’s duties and the workplace itself, but must also provide a workplace free from harm or violence that could be caused by individuals, whether that be a current or past employee, or an outsider entering the workplace. Yet, according to the Occupational Safety and Health Administration (OSHA), each year almost 2 million U.S. workers report being the victims of workplace violence. In 2014, 403 of the 4,679 fatal workplace injuries were homicides (OSHA, “Workplace Violence,” [www.osha.gov/SLTC/workplaceviolence/](http://www.osha.gov/SLTC/workplaceviolence/)).

As the deaths at Pine Kirk Care Center remind us, health care facilities of all types are not immune to this violence. Although active shooter situations in health care settings are infrequent, they are not unheard of: at least four occurred between 2000–2013, and two between 2014–2015 (International Association of Emergency Medical Services Chiefs [IAEMSC], *Active Shooter Planning and Response*, 3rd ed., Jan. 24, 2017; <https://goo.gl/QBqYKD>).

Active shooter incidents in a health care environment involve additional

risks. Health care facilities are 24-hour-a-day environments filled not only with facility staff and vulnerable patients and residents, but also family and guests of patients and residents. A facility can and must take deliberate action to minimize the risk of an active shooter event and ensure that the staff is adequately prepared to protect their own lives as well as those of patients, residents, and guests.

Staff training can potentially reduce the casualties and deaths from an active shooter. Because of the complex nature of health facilities — including the type of patients or residents being cared for at the facility, the number of individuals at the facility, and the location on a health care campus — it is crucial to develop and implement a detailed, site-specific action plan that includes a well-trained staff.

#### Assessment Requirements

As part of the updated Medicare and Medicaid Requirements of Participation, effective in November 2017, nursing facilities are required to conduct a facility assessment. Now found at Data Tag F-838 in Appendix PP of the State Operations Manual, the facility assessment requirement includes extensive information that must be collected and analyzed by facility leadership.

One component of the requirements includes facility and community-based risk assessment using an all-hazards approach — and an active shooter protocol should be considered when data are prepared for the facility assessment.

With the community-based risk assessment, your particular community risk factors and resources should be evaluated. Certain resources, such as local law enforcement or Homeland Security, can provide additional information and training to the facility as it prepares to develop action plans and provide education on important topics.

#### Practical Steps to Prepare

The first step to handling an active shooter situation in a health care facility, according to the Healthcare & Public Health Sector Coordinating Council of the IAEMSC’s *Active Shooter Planning and Response* guide, is to train the health care facility’s staff to recognize and watch for warning signs of potentially violent situations. This training might prevent the escalation of a tense situation into an active shooter event.

Health care facilities must ensure that the security plan in place minimizes security risks, and that staff know the plan and their responsibilities under the plan. For example, in addition to being aware of the signs of workplace violence,

staff should display proper identification, be observant of visitors, feel comfortable reporting suspicious activity on the facility’s campus, and ensure that doors in the facility remain closed and locked. These actions will help ensure that a health care facility is secure and safe.

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Often there are signs that suggest that an individual may act in a violent manner. By training facility staff to be aware of warning signs, use available resources, and follow the developed security protocol when they feel that an individual may pose a harm to others, an active shooter situation may be stopped at the outset. Health care facility staff should be trained to understand when any individual with access to a health care facility — including staff, patients, residents, and guests — exhibits warning signs that the individual may pose a threat to the facility.

However, even with the best training it is impossible to detect every situation that may turn violent. As noted in the *Active Shooter Planning and Response* guide, because active shooter situations are rapidly evolving events, individuals must be poised to act while they wait for emergency personnel to arrive on the scene. It is crucial that health care facility staff are trained and prepared to retain their composure in a highly stressful, dangerous environment. A health care facility’s active shooter plan should include at least the following:

- A procedure for reporting an active shooter event to authorities.
- A procedure for reporting the situation among staff members and across campuses.
- A lockdown and/or evacuation plan for both facility guests and patients.
- Information about local emergency response agencies.

Because creating an exact response plan for an active shooter scenario is impossible, active shooter plans should provide the facility’s staff with various options for how to proceed so they can adapt to a changing situation and best achieve the plan’s goal — minimal casualties.

Staff members must understand their role in the plan and how they should proceed, including collaborating with team members, patients or residents, guests, and

emergency personnel. Such training may include practicing exercises and drills for active shooter situations so staff have more than a conceptual understanding of what to do. Because of the disturbing nature of this type of drill, facility management must minimize its potential exposure to the residents and their families.

Finally, it is important for health care facility management and staff to remember that their reaction is likely to set the tone for the responses of those around them in an emergency situation. If management and staff remain calm, the patients and guests are likely to do the same, allowing for staff to carry out their active shooter response plan in the safest and most effective manner.

For a more in-depth understanding of how best to respond to an active shooter scenario and begin planning or updating your active shooter response plan, here are helpful resources:

- Healthcare & Public Health Sector Coordinating Council, IAEMSC, *Active Shooter Planning and Response*, 3rd ed., Jan. 24, 2017; [www.fbi.gov/file-repository/active\\_shooter\\_planning\\_and\\_response\\_in\\_a\\_healthcare\\_setting.pdf](http://www.fbi.gov/file-repository/active_shooter_planning_and_response_in_a_healthcare_setting.pdf).
- U.S. Department of Homeland Security, *Active Shooter: How to Respond*, Oct. 2008; [www.dhs.gov/xlibrary/assets/active\\_shooter\\_booklet.pdf](http://www.dhs.gov/xlibrary/assets/active_shooter_booklet.pdf).
- U.S. Department of Homeland Security, “Active Shooter Event Quick Reference Guide,” 2017; [www.dhs.gov/sites/default/files/publications/active-shooter-pamphlet-2017-508.pdf](http://www.dhs.gov/sites/default/files/publications/active-shooter-pamphlet-2017-508.pdf).
- U.S. Department of Homeland Security, Active Shooter Preparedness Program, May 12, 2017; [www.dhs.gov/active-shooter-preparedness](http://www.dhs.gov/active-shooter-preparedness).
- Metropolitan Chicago Healthcare Council and Hillard Heintze, *Active Shooter Response Toolkit: Healthcare Staff Training*, 2015; [www.aha.org/content/16/2015mchcactiveshooteresource.pdf](http://www.aha.org/content/16/2015mchcactiveshooteresource.pdf). 

This column is not to be substituted for legal advice. Ms. Feldkamp practices in various aspects of health care, including long-term care survey and certification, certificate of need, health care acquisitions, physician and nurse practice, managed care and nursing related issues, and fraud and abuse. She is affiliated with Benesch Friedlander Coplan & Aronoff LLP of Columbus, OH. Special thanks to Victoria Stephenson of Benesch for her assistance with this column.