

ASSEMBLY BILL

No. 30

Introduced by Assembly Member Hayashi

December 6, 2010

An act to amend Sections 1257.7 and 1257.8 of the Health and Safety Code, and to amend Section 6030 of the Penal Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as introduced, Hayashi. Health facilities: security plans.

Under existing law, the State Department of Public Health licenses and regulates hospitals, as defined. Violation of these provisions is a crime. Existing law requires hospitals, not less than annually, to conduct a security and safety assessment and, using the assessment, develop a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. Existing law provides that the plan may include, but is not limited to, prescribed considerations.

This bill would, instead, require the plan to include these considerations, as well as other considerations prescribed by the bill. It would also require the hospital to adopt specified security policies as part of the plan. The bill would also require the hospital to evaluate and treat an employee who is involved in a violent incident and to provide specified followup care. The bill would prohibit a hospital from prohibiting an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance from local emergency services or law enforcement when a violent incident occurs.

Under existing law, an act of assault that results in injury or involves the use of a firearm or other dangerous weapon against on-duty hospital

personnel is required to be reported to law enforcement within 72 hours of the occurrence of the incident.

This bill would, instead, require reporting to law enforcement within 24 hours.

This bill would also require a hospital to report incidents of assault or battery to the department, as specified. The bill would require the department to make an onsite inspection or investigation when it receives a report from a hospital that indicates an ongoing, urgent, or emergent threat of imminent danger of death or serious bodily harm to patient, personnel, or visitors.

The bill would require the department to report to the Legislature, as prescribed, beginning on January 1, 2014, and annually thereafter until January 1, 2018, certain information regarding incidents of violence at hospitals.

Under existing law, all hospital employees who are regularly assigned to the emergency department are required to receive, on a continuing basis as provided by the security plan, specified training.

This bill would require training to be provided annually, and would include in the required training hospital employees regularly assigned to a psychiatric unit.

This bill would allow the imposition of an administrative penalty for violation of the provisions relating to the safety plan. Because this bill expands the definition of a crime, it would impose a state-mandated local program.

Under existing law, the Corrections Standards Authority is required to establish minimum standards for state and local correctional facilities.

This bill would require the standards to include a safety and security plan to protect health care personnel who provide care to persons confined in state and local correctional facilities, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1257.7 of the Health and Safety Code is
2 amended to read:

3 1257.7. (a) ~~After July 1, 2010, all~~ All hospitals licensed
4 pursuant to subdivisions (a), (b), and (f) of Section 1250 shall
5 conduct, not less than annually, a security and safety assessment
6 and, using the assessment, develop, and annually update based on
7 the assessment, a security plan with measures to protect personnel,
8 patients, and visitors from aggressive or violent behavior. The
9 security and safety assessment shall examine trends of aggressive
10 or violent behavior at the facility. These hospitals shall track
11 incidents of aggressive or violent behavior, *as well as the hospital's*
12 *response to those incidents*, as part of the quality assessment and
13 improvement program and for the purposes of developing a security
14 plan to deter and manage further aggressive or violent acts of a
15 similar nature. The plan ~~may~~ shall include, but shall not be limited
16 to, security considerations relating to all of the following:

17 (1) Physical layout.

18 (2) Staffing, *including staffing patterns and patient classification*
19 *systems that contribute to the risk of violence or are insufficient*
20 *to address the risk of violence.*

21 (3) ~~Security~~ *The adequacy of facility security systems, protocols,*
22 *and policies, including, but not limited to, security personnel*
23 *availability.*

24 (4) *Potential security risks associated with specific units or*
25 *areas within the facility where there is a greater likelihood that a*
26 *patient or other person may exhibit violent behavior.*

27 (5) *Uncontrolled public access to any part of the facility.*

28 (6) *Potential security risks related to working late-night or early*
29 *morning hours.*

30 (7) *Employee security in areas surrounding the facility,*
31 *including, but not limited to, employee parking areas.*

32 (8) *The use of a trained response team that can assist employees*
33 *in violent situations.*

34 ~~(4)~~

35 (9) Policy and training related to appropriate responses to violent
36 acts.

37 ~~(5)~~

1 (10) Efforts to cooperate with local law enforcement regarding
2 violent acts in the facility.

3 ~~It~~

4 (b) In developing ~~this~~ the plan, specified in subdivision (a), the
5 hospital shall consider guidelines or standards on violence in health
6 care facilities issued by the department, the Division of
7 Occupational Safety and Health, and the federal Occupational
8 Safety and Health Administration. As part of the security plan, a
9 hospital shall adopt security policies, including, but not limited to,
10 ~~personnel~~ all of the following:

11 (1) Personnel training policies designed to protect personnel,
12 patients, and visitors from aggressive or violent behavior. ~~It~~
13 including education on how to recognize the potential for violence,
14 how and when to seek assistance to prevent or respond to violence,
15 and how to report incidents of violence to the appropriate law
16 enforcement officials.

17 (2) A system for responding to incidents and situations involving
18 violence or the risk of violence, including, but not limited to,
19 procedures for rapid response by which an employee is provided
20 with immediate assistance if the threat of violence against that
21 employee appears to be imminent, or if a violent act has occurred
22 or is occurring.

23 (3) A system for investigating violent incidents and situations
24 involving violence or the risk of violence. When investigating these
25 incidents, the employer shall interview any employee who was
26 involved in the incident or situation.

27 (4) A system for reporting, monitoring, and record keeping of
28 violent incidents and situations involving the risk of violence.

29 (5) A system for reporting incidents of violence to the department
30 pursuant to subdivision (i).

31 (6) Modifications to job design, staffing, security, equipment,
32 or facilities as determined necessary to prevent or address violence
33 against hospital employees.

34 (c) In developing the plan and the assessment, the hospital shall
35 consult with affected employees, including the recognized
36 collective bargaining agent or agents, if any, and members of the
37 hospital medical staff organized pursuant to Section 2282 of the
38 Business and Professions Code. This consultation may occur
39 through hospital committees.

40 (b)

1 (d) The individual or members of a hospital committee
2 responsible for developing the security plan shall be familiar with
3 all of the following:

- 4 (1) The role of security in hospital operations.
- 5 (2) Hospital organization.
- 6 (3) Protective measures, including alarms and access control.
- 7 (4) The handling of disturbed patients, visitors, and employees.
- 8 (5) Identification of aggressive and violent predicting factors.
- 9 (6) Hospital safety and emergency preparedness.
- 10 (7) The rudiments of documenting and reporting crimes,
11 including, by way of example, not disturbing a crime scene.

12 ~~(e)~~
13 (e) The hospital shall have sufficient personnel to provide
14 security pursuant to the security plan developed pursuant to
15 subdivision (a). Persons regularly assigned to provide security in
16 a hospital setting shall be trained regarding the role of security in
17 hospital operations, including the identification of aggressive and
18 violent predicting factors and management of violent disturbances.

19 ~~(f)~~
20 (f) Any act of assault, as defined in Section 240 of the Penal
21 Code, or battery, as defined in Section 242 of the Penal Code, that
22 results in injury or involves the use of a firearm or other dangerous
23 weapon, against any on-duty hospital personnel shall be reported
24 to the local law enforcement agency within ~~72~~ 24 hours of the
25 incident. Any other act of assault, as defined in Section 240 of the
26 Penal Code, or battery, as defined in Section 242 of the Penal
27 Code, against any on-duty hospital personnel may be reported to
28 the local law enforcement agency within 72 hours of the incident.
29 No health facility or employee of a health facility who reports a
30 known or suspected instance of assault or battery pursuant to this
31 section shall be civilly or criminally liable for any report required
32 by this section. No health facility or employee of a health facility
33 who reports a known or suspected instance of assault or battery
34 that is authorized, but not required, by this section, shall be civilly
35 or criminally liable for the report authorized by this section unless
36 it can be proven that a false report was made and the health facility
37 or its employee knew that the report was false or was made with
38 reckless disregard of the truth or falsity of the report, and any
39 health facility or employee of a health facility who makes a report
40 known to be false or with reckless disregard of the truth or falsity

1 of the report shall be liable for any damages caused. Any individual
2 knowingly interfering with or obstructing the lawful reporting
3 process shall be guilty of a misdemeanor. “Dangerous weapon,”
4 as used in this section, means any weapon the possession or
5 concealed carrying of which is prohibited by any provision listed
6 in Section 16590 of the Penal Code.

7 (g) *Each hospital shall provide evaluation and treatment for an*
8 *employee who is injured or is otherwise a victim of a violent*
9 *incident and shall, upon the request of the employee, provide access*
10 *to followup counseling to address trauma or distress experienced*
11 *by the employee, including, but not limited to, individual crisis*
12 *counseling, support group counseling, peer assistance, and*
13 *professional referrals.*

14 (h) *A hospital shall not prohibit an employee from, or take*
15 *punitive or retaliatory action against an employee for, seeking*
16 *assistance and intervention from local emergency services or law*
17 *enforcement when a violent incident occurs, or from filing a police*
18 *report or criminal charges against the individual who committed*
19 *the violence.*

20 (i) (1) *A hospital shall report to the department any incident*
21 *of assault, as defined in Section 240 of the Penal Code, or battery,*
22 *as defined in Section 242 of the Penal Code, against a hospital*
23 *employee or patient that is committed by a patient or a person*
24 *accompanying a patient. This report shall include the date and*
25 *time of the incident, whether the victim was a hospital employee*
26 *or a patient, the unit in which the incident occurred, a description*
27 *of the circumstances surrounding the incident, and the hospital’s*
28 *response to the incident.*

29 (2) (A) *Except as provided in subparagraph (B), a hospital*
30 *shall report an incident to which paragraph (1) applies to the*
31 *department within 72 hours.*

32 (B) *A hospital shall report to the department within 24 hours*
33 *any incident to which paragraph (1) applies that results in injury,*
34 *involves the use of a firearm or other dangerous weapon, or*
35 *presents an urgent or emergent threat to the welfare, health, or*
36 *safety of patients, personnel, or visitors.*

37 (j) *The department shall make an onsite inspection or*
38 *investigation within 48 hours, or two business days, whichever is*
39 *greater, of the receipt of a report from a hospital pursuant to*
40 *subdivision (i) that indicates an ongoing, urgent, or emergent*

1 *threat of imminent danger of death or serious bodily harm to*
2 *patients, personnel, or visitors.*

3 *(k) The department may assess an administrative penalty against*
4 *a hospital for violation of this section or Section 1257.8. Pursuant*
5 *to Section 1280.1, an additional administrative penalty may be*
6 *assessed for a violation of this section or Section 1257.8 that results*
7 *in immediate jeopardy to the health or safety of a patient.*

8 *(l) (1) Beginning on January 1, 2014, and annually thereafter,*
9 *the department shall report to the relevant fiscal and policy*
10 *committees of the Legislature information, in a manner that*
11 *protects patient and employee confidentiality, regarding incidents*
12 *of violence at hospitals, that includes, but is not limited to, the*
13 *total number of reports and what specific hospitals filed reports*
14 *pursuant to subdivision (i), the outcome of any inspection or*
15 *investigation initiated pursuant to subdivision (j), the amount of*
16 *any administrative penalty levied against a hospital pursuant to*
17 *subdivision (k), and recommendations on how to prevent incidents*
18 *of violence at hospitals.*

19 *(2) The requirement for submitting a report imposed pursuant*
20 *to this subdivision is inoperative on January 1, 2018, pursuant to*
21 *Section 10231.5 of the Government Code.*

22 *(3) A report to be submitted pursuant to this subdivision shall*
23 *be submitted in compliance with Section 9795 of the Government*
24 *Code.*

25 SEC. 2. Section 1257.8 of the Health and Safety Code is
26 amended to read:

27 1257.8. (a) All hospital employees regularly assigned to the
28 emergency department *or psychiatric unit shall at least annually*
29 *receive, by July 1, 1995, and thereafter, on a continuing basis as*
30 *provided for in the security plan developed pursuant to Section*
31 *1257.7, security education and training relating to the following*
32 *topics:*

- 33 (1) General safety measures.
- 34 (2) Personal safety measures.
- 35 (3) The assault cycle.
- 36 (4) Aggression and violence predicting factors.
- 37 (5) Obtaining patient history from a patient with violent
38 behavior.
- 39 (6) Characteristics of aggressive and violent patients and victims.

1 (7) Verbal and physical maneuvers to diffuse and avoid violent
2 behavior.

3 (8) Strategies to avoid physical harm.

4 (9) Restraining techniques.

5 (10) Appropriate use of medications as chemical restraints.

6 (11) Any resources available to employees for coping with
7 incidents of violence, including, by way of example, critical
8 incident stress debriefing or employee assistance programs.

9 (b) As provided in the security plan developed pursuant to
10 *subdivision (a) of Section 1257.7*, members of the medical staff
11 of each hospital and all other practitioners, including, but not
12 limited to, nurse practitioners, physician assistants, and other
13 personnel, who are regularly assigned to the emergency department
14 department, *psychiatric units*, or other departments identified in
15 the security plan shall receive the same training as that provided
16 to hospital employees or, at a minimum, training determined to be
17 sufficient pursuant to the security plan.

18 (c) Temporary personnel shall be oriented as required pursuant
19 to the security plan. This section shall not be construed to preempt
20 state law or regulations generally affecting temporary personnel
21 in hospitals.

22 SEC. 3. Section 6030 of the Penal Code is amended to read:

23 6030. (a) The Corrections Standards Authority shall establish
24 minimum standards for state and local correctional facilities. The
25 standards for state correctional facilities shall be established by
26 January 1, 2007. The authority shall review those standards
27 biennially and make any appropriate revisions.

28 (b) The standards shall include, but not be limited to, the
29 following: health and sanitary conditions, fire and life safety,
30 security, rehabilitation programs, recreation, treatment of persons
31 confined in state and local correctional facilities, and personnel
32 training.

33 (c) The standards shall require that at least one person on duty
34 at the facility is knowledgeable in the area of fire and life safety
35 procedures.

36 (d) The standards shall also include requirements relating to the
37 acquisition, storage, labeling, packaging, and dispensing of drugs.

38 (e) *The standards shall include requirements for a safety and*
39 *security plan designed to prevent and protect, from aggression*
40 *and violence, health care personnel who provide care to persons*

1 *confined in state and local correctional facilities, including, but*
2 *not limited to, correctional treatment centers licensed pursuant to*
3 *subdivision (j) of Section 1250 of the Health and Safety Code. The*
4 *safety and security plan shall include, but not be limited to, security*
5 *considerations of all of the following:*

6 (1) *Physical layout, including, but not limited to, the physical*
7 *layout of intake areas.*

8 (2) *Security, placement, and storage of equipment, supplies, or*
9 *other items that may be used in a manner that would pose a risk*
10 *to the physical safety of health care personnel.*

11 (3) *Staffing, including, but not limited to, the adequacy of health*
12 *care personnel staffing during the processing and intake of*
13 *detainees.*

14 (4) *The adequacy of facility security systems, protocols, and*
15 *policies, including, but not limited to, the availability of security*
16 *personnel during the provision of health care services to detainees*
17 *by health care personnel.*

18 (5) *Training for health care personnel, including, but not limited*
19 *to, education on how to recognize the potential for violence, and*
20 *how and when to seek assistance to prevent or respond to violence.*

21 ~~(e)~~

22 (f) *The standards shall require that inmates who are received*
23 *by the facility while they are pregnant are provided all of the*
24 *following:*

25 (1) *A balanced, nutritious diet approved by a doctor.*

26 (2) *Prenatal and postpartum information and health care,*
27 *including, but not limited to, access to necessary vitamins as*
28 *recommended by a doctor.*

29 (3) *Information pertaining to childbirth education and infant*
30 *care.*

31 (4) *A dental cleaning while in a state facility.*

32 ~~(f)~~

33 (g) *The standards shall provide that at no time shall a woman*
34 *who is in labor be shackled by the wrists, ankles, or both including*
35 *during transport to a hospital, during delivery, and while in*
36 *recovery after giving birth, except as provided in Section 5007.7.*

37 ~~(g)~~

38 (h) *In establishing minimum standards, the authority shall seek*
39 *the advice of the following:*

40 (1) *For health and sanitary conditions:*

1 ~~The State Department of Health Services~~ *State Department of*
2 *Public Health*, physicians, psychiatrists, local public health
3 officials, and other interested persons.

4 (2) For fire and life safety:

5 The State Fire Marshal, local fire officials, and other interested
6 persons.

7 (3) For security, rehabilitation programs, recreation, and
8 treatment of persons confined in correctional facilities:

9 The Department of Corrections and Rehabilitation, state and
10 local juvenile justice commissions, state and local correctional
11 officials, experts in criminology and penology, and other interested
12 persons.

13 (4) For personnel training:

14 The Commission on Peace Officer Standards and Training,
15 psychiatrists, experts in criminology and penology, the Department
16 of Corrections and Rehabilitation, state and local correctional
17 officials, and other interested persons.

18 (5) For female inmates and pregnant inmates in local adult and
19 juvenile facilities:

20 The California State Sheriffs' Association and Chief Probation
21 Officers' Association of California, and other interested persons.

22 (6) *For safety and security plans for health care personnel:*

23 *The State Department of Public Health, the Division of*
24 *Occupational Safety and Health, registered nurses, other relevant*
25 *health care personnel, and other interested persons.*

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.