Accidents Will Happen

Hospitals and other types of workplaces will see their share of accidents. Whether the company gets sued as a result may depend on how well security officers and other employees are trained to respond to, document, and learn from those incidents.

A SECURITY OFFICER AT A LARGE HOSPITAL in the Southwest was on patrol one afternoon when he saw that a woman had slipped on a puddle of water near a fountain in the main lobby. The officer did almost everything right. He responded immediately, calling for a wheelchair and medical help. Then, he said “I feel terrible that you slipped, you are the fourth person today.” Luckily the woman didn’t sue. But had she brought a lawsuit, this statement alone would have suggested a pattern of negligence that did not exist. The four incidents were not related. Because the hospital served all populations, from the elderly to those with drug problems, officers were often called to respond to slip-and-fall incidents.

By William H. Nesbitt, CPP / Photo-Illustration by William Duke
The case illustrates how security officers, if not properly trained, can say or do something that gets the company into legal trouble. This is especially true when officers are responding to incidents on company property, such as slip-and-fall accidents.

To ensure that officers provide good customer service while also protecting the interests of the organization, management must make sure that they are specifically trained on litigation issues. (This article is not about basic training on policies and procedures, which officers should also receive.) Security officers must also be taught proper documentation techniques so that if the company is sued, the security program will be above reproach. The following advice is specific to a healthcare operation but much of the guidance can be applied equally to any organization.

Training
The training program should take the unique nature of the setting into account. In a high-security environment, such as a nuclear facility or government building, for example, rules are strict and security officers are not allowed to make exceptions. Hospitals have different cultures and priorities, so security personnel must make judgment calls and be prepared to apply rules on a case-by-case basis. For example, security must decide how to handle suspicious persons based on whether they might be ill or dangerous or both.

The security officer module should include situational training as well as a litigation awareness component. But first, the program developer must know whether trainees will be proprietary or contract officers.

Type of officer. The turnover rate for contract officers tends to be much higher than for a proprietary force. High turnover rates make it nearly impossible for officers to cultivate the decision-making skills necessary to work effectively in a healthcare environment. Thus, if a healthcare facility has contract officers, it may want to train officers to call in a supervisor for assistance more often than a proprietary officer would.

Situational training. Instructors will first give trainees some background on the issues in a classroom setting, but it is the hands-on situational-training component that will most engage trainees and have the greatest impact. Situational training gives officers a chance to learn from doing. It entails role playing of likely scenarios. This training will also require the development of physical skills, such as those required to apply restraints.

With regard to litigation mitigation, scenarios should include the types of incidents that could occur at the facility and that could result in litigation. Because security officers are often first responders, the training should address the communication skills needed when attending to accident victims. For a hospital, that training would include learning to be helpful without assigning blame and learning how to show the empathy required to calm angry family members.

This training should be combined as much as possible with site-specific information. The officers employed by the hospital in the opening to this story, for example, should receive scenario training on any potential hazards posed by architectural structures like the fountain.

Training should also address any incidents more likely to occur in specific parts of the hospital.

Situational training is not only effective on the job, it is also useful if an officer is asked to testify in court about his or her training. That’s because attorneys often ask officers to demonstrate their training to the court. If training is only on paper, as many training programs are, the officer finds it difficult to reenact. The attorney can then claim that this is evidence of inadequate training. With scenario training, the officer can act out a scenario from the training program.

Litigation avoidance. In addition to being trained on specific scenarios, officers should learn how their daily activi-
Training for Nonsecurity Staff

With regard to security, healthcare workers should be trained to be aware of their surroundings. The training can also help employees by providing security tips that can be applied not only at work but also at home.

Awareness. Training hospital staff to be wary of patients and family members is the wrong approach. Instead, employee training should focus on specific ways staff can elicit information while still maintaining a calm, nurturing atmosphere.

For example, healthcare employees are often trained to be on the lookout for suspicious people. However, they are rarely told exactly what a suspicious person looks like. When employees are trained to be aware and to challenge suspicious people, they need basic instruction on how to read body language and detect communication patterns that might indicate deception.

This training must take into consideration the context of the environment. In some hospital settings, such as psychiatric facilities, for example, these behaviors may not be out of the ordinary.

To get beyond such generalities, employees should be taught a series of questions to help them determine whether to call security. For example, instead of the standard “May I help you,” employees should ask the person for the name of the patient they are looking for or what department they need to find. When asked these specific questions, a suspicious person will hesitate or fail to come up with an answer.

If the suspicious person does not provide a satisfactory answer, employees should be taught to contact security. A person who is truly lost or confused will be happy for the help that security can provide. If the person resists, then security officers should bring their specialized skills to the situation.

Nonsecurity personnel should also be taught how to be good witnesses. From the very first interaction with a suspicious person, employees should be trained to think of how they would describe that person physically. They should also be aware of what direction the individual is moving in as well as any other less tangible factors such as scents or sounds.

Personalize. Security awareness programs for employees are most successful when they take the concept of the Neighborhood Watch program and move it into the workplace. Security should use training as well as other outlets such as the employee newsletter, for example, to share tips that people can use in their personal lives. Issues such as how to stay safe when shopping at night, how to deal with a mugger, and how to protect kids who are home alone all raise an employee’s general security awareness. Employees will then apply those lessons at work.

An example of how simple security tips can help improve security at home and at work occurred at one hospital that experienced a rash of thefts. Once security apprehended the perpetrator, officers learned that the thief had wandered into the facility in search of purses or wallets that were left unattended. The thief said that if the employees had locked up their personal belongings, he would have left the facility in search of a building with easier targets. If the hospital had implemented a program to train staff to secure their belongings at home and at work, the incidents might never have happened.

ties can help the facility avoid lawsuits. This training should be focused on maintaining professionalism at all times and building a personal track record that will reflect well on the officer and the hospital should a case ever come to court.

This part of the training should include basic information about how litigation works, what types of actions could lead to a lawsuit, and what the officer will go through should a lawsuit go to trial. For example, in the training session, a sample incident report should be projected onto a screen for all to see. The trainer should note all the misspellings and poor grammar, stressing that this is a tactic that will be used by plaintiffs’ attorneys to discredit security as incompetent. With this in mind, officers should be directed to write all reports as if they will end up in court.

Additional role-playing exercises should include cross examinations, preferably with examples from real trials. Officers should understand what actually happens in a courtroom. Through this training, officers will come to appreciate how everything they have ever done could be put under a microscope. Once they realize this, they are more likely to be careful when responding to incidents.

Documentation

Plaintiffs’ attorneys often play the “should have” card in negligence cases. It is always easier to look back and say that a facility should have had four guards instead of two, for example. If a company is sued, the attorney will conduct an after-the-fact security assessment. This is why a hospital should already have a security assessment in place. The documentation provided by the security department should show that a security assessment was completed and that the facility took reasonable steps to prevent security incidents.

Security officers have an important role to play in terms of providing a record of how security was carried out on a day-to-day basis, which will go a long way toward substantiating company claims that there is a sound security program in place. Specifically, officers need to document everything through incident reports, corrective action reports, and daily activity reports.
Incident reports. Incident reports are essentially exception reports. They should be used to document anything not out of the ordinary. Security officers should be trained to view incident reports this way, and they should also be trained to include as much information as possible.

Because most security programs use incident reporting software, the basic information—the who, what, why, where, and when—is covered via drop-down menus. The narrative portion of the report should be used to tie all these bits of information together into a cohesive report.

The training should include basic information about how litigation works and what happens at trial.

When officers are taught to write incident reports, they should be urged to use a natural writing style. For example, using the third person or other stilted language makes the officer appear out of touch. Also, officers should be taught that the report may include their opinions as long as those opinions are clearly expressed as such and are backed up by evidence.

For example, a report might say: “I thought the victim was drunk because he staggered and slurred his words.” This statement is much more likely to hold up in court than a report that omits the observation entirely or merely says: “He was drunk.”

Officers should be trained to include in the report what may at the time seem unimportant. Some facts that seem irrelevant when an incident occurs can make a great deal of difference in a courtroom. For example, in one case, a woman was shot inside a facility. She sued the enterprise responsible for the facility, claiming negligent security. She alleged that the company allowed an unsafe environment in which she was randomly assaulted.

In the incident report, the security officer noted that the shooter called out the victim’s name. This turned the entire case around. The defense attorney was able to prove that the assailant was a former boyfriend of the victim and that he followed her into the building intending to shoot her—a situation that the company could not reasonably have been expected to prevent and one which couldn’t fairly be described as a random assault.

In responding to incidents in which someone is injured, officers should be aware that there is a difference between sympathizing and assigning guilt or admitting fault. Security should focus on taking care of the person rather than speculating on the cause of the incident. To ensure that nothing is misunderstood later, security officers should fully document and employee escorts, which prove that security is engaged and proactive. If kept current, a daily activity log can be a powerful tool in defending the organization against litigation.

In one case, a woman came onto a hospital campus one Saturday to see her doctor. She took the elevator to the second floor of a building on the campus. The floor was deserted. The woman had forgotten that the doctors on that floor did not generally see patients on Saturday. As she was returning to the elevator, she was sexually assaulted by an unknown third party who fled the scene and was never apprehended. The woman sued the healthcare facility.

The crime rate on the hospital campus was much lower than the surrounding area. There had never been a third-party assault on the property.

The daily activity reports kept by security over the prior three years showed frequent patrols and numerous escorts of employees to the parking area. It also showed that security was vigilant about fixing broken lights, repairing broken doors, and confronting vagrants. The hospital was able to use these records to prove that security was doing a good job.

During the deposition, defendants contended that the reason there had never been a sexual assault on the property was because security was doing everything right and making the hospital campus much safer than the surrounding area. Therefore, the hospital could not be responsible for the assault in question. The plaintiff dropped the case.

By designing security officer training programs focused on preventing litigation, training employees to react appropriately to incidents, and ensuring that all facets of the security program are well documented, a healthcare facility—or any company—can help make litigation rare and successfully defend against negligence lawsuits.

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