



Guns and Urgent Care: How to Respond to Evolving Open-Carry and Concealed-Carry Laws

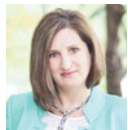
■ K Royal, CIPP/US, CIPP/E

Urgent message: *In the midst of the controversy in the United States surrounding the right to bear arms and concealed-carry laws, the medical field has also been wrestling with the issue. Some patients, facility personnel, and facility visitors will carry weapons. Thus, it is important that urgent care managers be prepared by identifying which issues regarding weapons they should focus on and what they and their personnel may be able to do when an encounter involves a weapon.*

Guns in Health-Care Facilities

In early 2016, a law in Texas went into effect permitting people to openly carry handguns. Even though the new law includes exceptions, there is also a loophole that would permit visitors to state psychiatric facilities to bring in handguns. However, employees and patients at the same locations are prohibited from carrying handguns. The new law bans state agencies from posting a sign prohibiting weapons in facilities, although they can post signs asking visitors to please leave weapons in their vehicles or to carry them concealed. Previously, state law had prohibited handguns from being brought into public and private hospitals. The new law prohibits government entities from banning handguns, which may affect clinics and outpatient centers located on property owned or operated by public hospitals. Yet private businesses still have the option of posting signs banning handguns.

In 2016, a 26-year-old student in Houston, Texas, who was seeking help for a psychiatric condition was shot in the chest by an off-duty police officer who worked as a security guard.



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The patient was acting erratically, which led staff members to call security.¹ Similar incidents have recently occurred in Ohio, Virginia, Utah, Pennsylvania, and Indiana, although some were incidents involving Taser electroshock weapons, not handguns.

Federal Gun Laws

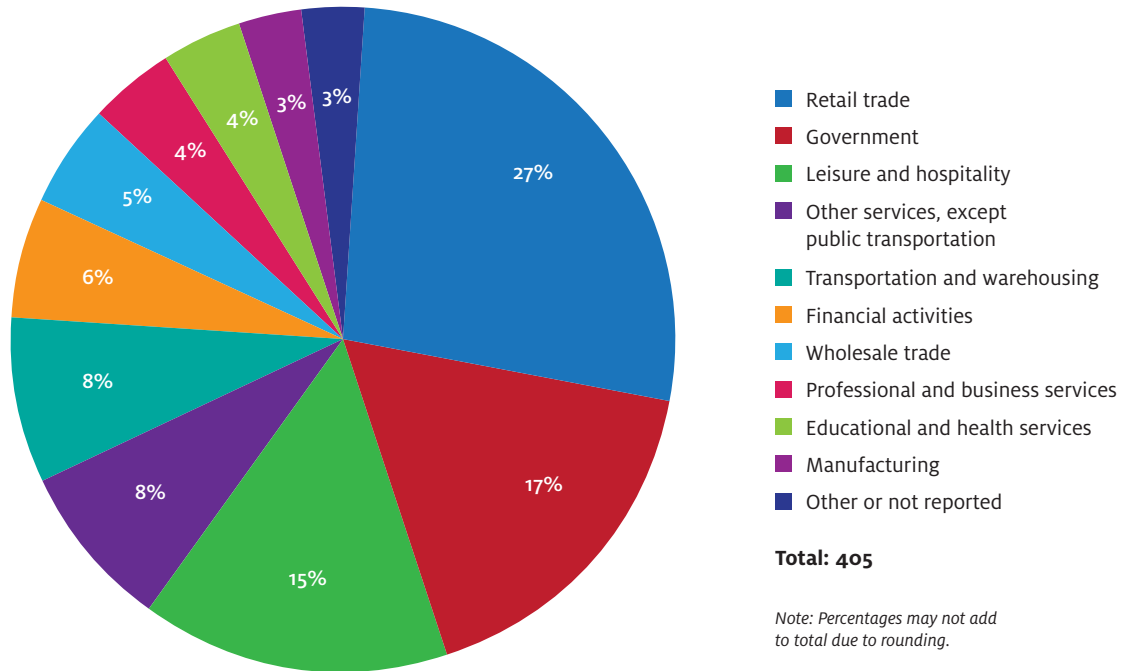
Many U.S. federal laws address guns, such as the National Firearms Act of 1934 and the Omnibus Crime Control and Safe Streets Act of 1968. In general, federal law prohibits guns in school zones, post offices, federal courthouses, federal cemeteries, and aircraft. However, in this article, the focus is on handguns specifically because they present more of an ongoing issue with patients, visitors, and employees in health-care facilities. The federal laws that speak most to the issues related to handguns in health-care facilities do so only in an indirect manner—addressing background checks, interstate commerce, and the like. Additionally, where state laws differ from federal laws, state authorities can elect not to enforce the federal laws; see *Printz v. United States*, 521 U.S. 898 (1997). Thus, we rely most on state laws for direction.

State Gun Laws

As with many issues, the states vary significantly in how they approach handguns. The overwhelming majority of states include a state constitutional provision similar to the federal right to bear arms, and the ones that do not have a constitutional right have codified substantially similar provisions. Gun owners are subject both to the laws of their state of residence and to the state in which they are present. Some states do provide reciprocity, but some do not, so in some states, if an individual is permitted to carry guns openly or carry them concealed in their home state, they may or may not be permitted to do so

¹Rosenthal S. When the hospital fires the bullet. *New York Times*. 2016 February 12. Available from: <http://www.nytimes.com/2016/02/14/us/hospital-guns-mental-health.html>

Figure 1. Workplace deaths caused by shootings in 2010.



(Data from U.S. Bureau of Labor Statistics. "Workplace homicides from shootings." Washington DC: U.S. Department of Labor. Available from: <http://www.bls.gov/iif/oshwc/cfoi/osar0016.htm>. [Accessed 2016 March 24]).

in a state they visit. However, some states have "peaceable journey" allowances, meaning that a person may carry a gun as they travel through the state.

In the majority of states, even if there is a law permitting concealed carry and/or open carry, private businesses are generally permitted to post a sign to prohibit any weapons on the premises. These signs have strict language and formatting requirements. For example, in Minnesota (Minnesota Session Laws 2003, chapter 28), the law requires that signs banning guns on premises be 187 square inches in area (such as an 11x17-inch sign), with a bright background that contrasts with a black Arial typeface at least 1.5 inches in height. The sign must identify the owner or operator, whose name must be followed by the words "Bans Guns in These Premises." Landlords are not permitted to prohibit weapons on behalf of their tenants. Also, regarding laws permitting private businesses to prohibit weapons, there are usually standard exceptions, such as for on-duty law-enforcement officers. Additionally, some states permit local governments to pass gun laws that are more restrictive than the state law.

Other State Laws

Aside from gun laws, there are other state laws that affect the issue of guns in health-care facilities. These include "stand your

ground" laws that permit individuals to use deadly force in specific threatening situations, "bring your gun to work" laws, and laws regarding violence against health-care workers.

- **"Stand your ground" laws:** These laws permit individuals to defend themselves in life-threatening situations. They are also called "no duty to retreat" laws and castle laws, reflecting both an individual's right to fight rather than flee and the right to defend their home. These laws could make a situation in a health-care facility complicated if guns are banned there. However, if a person's life is in danger and they defend themselves with the prohibited gun, things get extraordinarily complicated because such an act provides support for the argument that the person's disregard of the ban was justified.
- **"Bring your gun to work" laws:** Workplace violence is not uncommon and manifests as threats, verbal abuse, bullying, and physical assaults with a variety of objects, including staplers, knives, and guns. The U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries reported that between 1992 and 2012, there were nearly 15,000 fatalities in the workplace. In 2014, 207 workplace homicides were committed with a gun. Preventing employees from carrying guns into work may prevent spontaneous heat-of-the-moment injuries and deaths, but it

will not stop a premeditated murder unless there are entry-point screenings. However, some states prevent employers from banning employee guns. Twenty-two states have “bring your gun to work” laws that are based on the idea that employees with guns can or will prevent other employees from committing an act of violence and can or will provide defense in the case of a nonemployee who presents a threat. These laws offer challenges to employers regarding the provision of safety lockers and extra security, and there are other challenges for multistate employers.

■ **Laws on violence against health-care workers:** Even though **Figure 1** shows health care as an industry with one of the lowest rates of workplace fatalities, the Bureau of Labor Statistics reports that the health-care industry accounts for nearly 70% of nonfatal injuries in the workplace. A 2014 survey² shows that 80% of nurses report having been attacked at work, with nearly 50% of those attacks involving patients or patients’ family members who were intoxicated or had taken drugs of abuse. **Figure 2** shows the status of laws providing protection for health-care workers.

“Health-care facilities are ripe environments for unpredictable emotions and unstable situations. . . . Your priority is to maintain a safe, secure environment for your employees, patients, and visitors.”

What Should Health-Care Facilities Do?

First, know the laws that apply to you, both state and federal. Determine whether you have employees working in neighboring states for whom you might need to recognize their state laws. Know whether you can post a sign prohibiting weapons, and make sure it complies with the legal requirements. If you are not permitted to post a sign, there is generally nothing that prohibits posting a sign asking individuals to please leave weapons secured in their vehicles.

²Speroni KG, Fitch T, Dawson E, et al. Incidence and cost of nurse workplace violence perpetrated by hospital patients or patient visitors. *J Emerg Nurs.* 2014;40:218–228.



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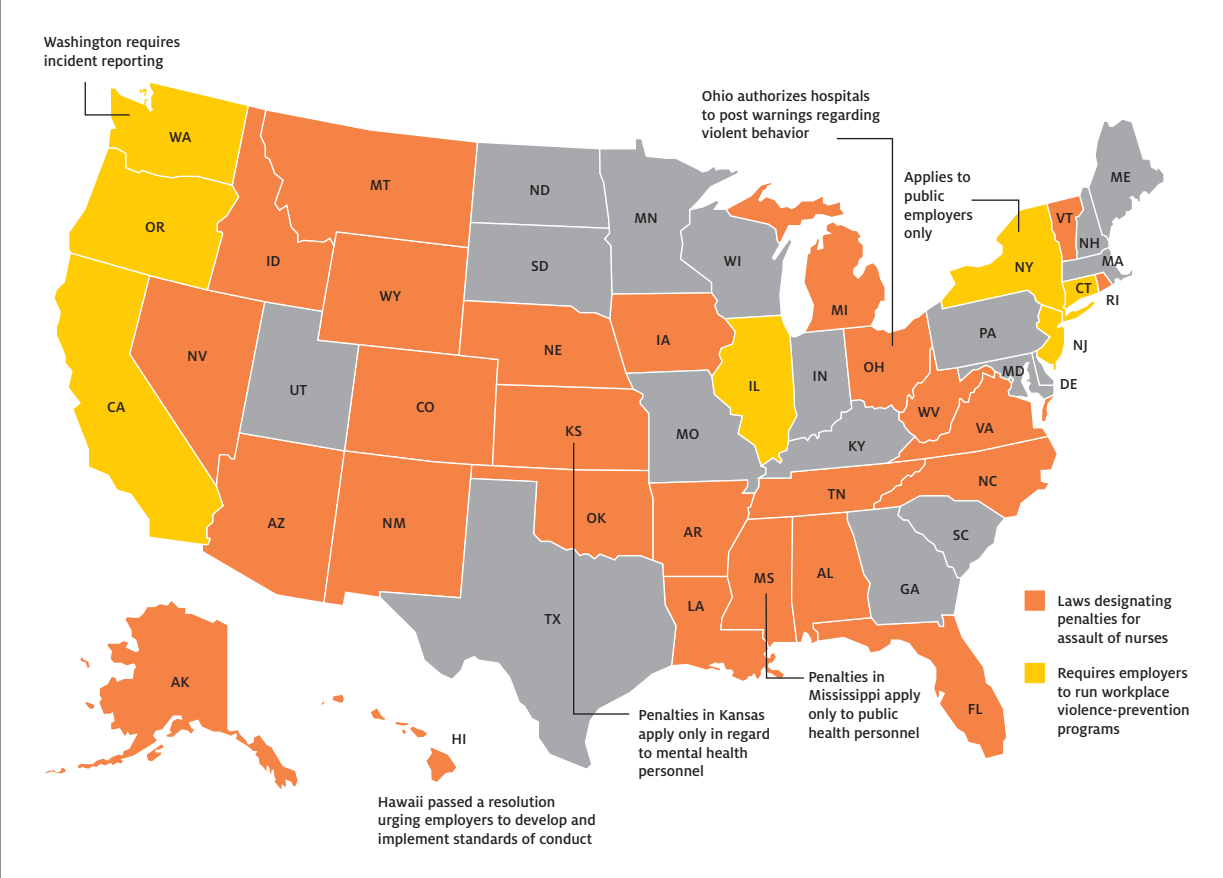
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Figure 2. Status of state laws in the United States providing protection for health-care workers.



(Data from the American Nurses Association.)

Have workplace violence training procedures in place to address an active attack (perpetrator enters with intent to do violence), a heat-of-the-moment attack (patient or visitor gets angry and acts on it), identification of individuals with guns, and how to deal with noncompliant individuals. For example, if your state permits private businesses, such as your facility, to prohibit bringing in concealed weapons, yet you see someone with a concealed weapon, what do you do? Do you ask the person about it privately? The person may be a police officer on duty, even without a uniform. Do you have a location in your facility where someone can secure their weapon? If the person refuses, this is not likely someone with whom you want to have a confrontation. Have an emergency response protocol in place so that everyone knows what to do if they identify an individual who poses a risk. There should be a process for who in the facility is notified, directions on what actions by the person presenting the risk will initiate actions on the part of staff members, and a buddy system that will help ensure safety.

Health-care facilities are ripe environments for unpredictable

emotions and unstable situations. Handguns often make such situations more difficult. Your priority is to maintain a safe, secure environment for your employees, patients, and visitors. Whether or not your employees are permitted to carry their own weapons to work, you must implement procedures and processes that account for all reasonably foreseeable situations, ranging from the least confrontational to the most. Local law enforcement agencies are generally happy to visit and assist you in creating a response plan. Over-response to situations involving weapons can be as dangerous as no response.

Having policies and procedures for dealing with weapons in your urgent care center is part of your total enterprise risk-management program, along with disaster recovery and business continuity. Identify the risks, prepare a plan to mitigate the risks, test your plan, refine your plan, and review it at least twice annually. Take into account both the legal environment in which you operate (which laws apply to you) and the physical environment. Are you in a high-risk crime area? What is your patient population? Identify the worst-possible outcome and take all reasonable steps to prevent it. ■