Formatted Text PBH Article 29-D Title 1-A

Safe Patient Handling

2997-g. Legislative intent.

1. The legislature hereby finds and declares that it is in the public interest for health care facilities to implement safe patient handling policies. There are many benefits that can be derived from safe patient handling programs. Patients benefit through improved quality of care and quality of life by reducing the risk of injury. Caregivers also benefit from the reduced risk of career ending and debilitating injuries leading to increased morale, improved job satisfaction, and longevity in the profession. Health care facilities may realize a return on their investment through reduced workers' compensation medical and indemnity costs, reduced lost workdays, and improved recruitment and retention of caregivers. All of this could lead to fiscal improvement in health care in New York State.

2997-h. Definitions.

For the purposes of this title:

1. "Health care facility" shall mean general hospitals, residential health care facilities, diagnostic and treatment centers, and clinics licensed pursuant to article twenty-eight of this chapter, facilities which provide health care services and are licensed or operated pursuant to article eight of the education law, article nineteen-G of the executive law or the correction law, and hospitals and schools defined in section 1.03 of the mental hygiene law.

2. “Nurse” shall mean a registered professional nurse or a licensed practical nurse as defined by article one hundred thirty-nine of the education law.
3. “Direct care worker” shall mean any employee of a health care facility who is responsible for patient handling or patient assessment as a regular or incidental part of his or her employment, including any licensed or unlicensed health care worker.
4. “Employee representative” shall mean the recognized or certified collective bargaining agent for nurses or direct care workers of a health care facility.
5. “Safe patient handling” shall mean the use of engineering controls, lifting and transfer aids, or assistive devices by staff to perform the acts of lifting, transferring and repositioning health care patients and residents.
6. “Musculoskeletal disorders” shall mean conditions that involve the nerves, tendons, muscles and supporting structures of the body.

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- **2997-i. Safe patient handling workgroup**.

1. The commissioner shall establish a safe patient handling workgroup (referred to in this section as the "workgroup") within the department. The workgroup shall consist of, at the minimum, the commissioner or his or her designee; the commissioner of labor or his or her designee; representatives of health care provider organizations; representatives from employee organizations representing nurses and representatives from employee organizations representing direct care workers; representatives of nurse executives; representatives who are certified ergonomist evaluation specialists; and representatives who have expertise in fields of discipline related to health care or occupational safety.
2. Workgroup members shall receive no compensation for their services as members of the workgroup, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.
3. The workgroup shall be established no later than January first, two thousand fifteen.
4. The workgroup shall: (a) Review existing safe patient handling programs or policies, including demonstration programs previously authorized by chapter seven hundred thirty-eight of the laws of two thousand five and national data and results; (b) Consult with any organization, educational institution, other government entity or agency or person that the workgroup determines may be able to provide information and expertise on the development and implementation of safe patient handling programs; (c) Identify or develop training materials for consideration by health care facilities; and (d) Submit a report to the commissioner by July first, two thousand fifteen identifying safe patient handling program best practices, providing examples of sample policies, and identifying resources and tools useful for providers to meet the goals of safe patient handling policies.
5. All state departments, commissions, agencies, and public authorities shall provide the workgroup with any reasonably requested assistance or advice in a timely manner.

- **2997-j. Dissemination of best practices, examples of sample safe patient handling policies and other resources and tools.**

1. The commissioner shall disseminate best practices, examples of sample safe patient handling policies, and other resources and tools to health care facilities, taking into consideration the recommendations of the safe patient handling workgroup. Such best practices, examples of sample safe patient handling policies, and other resources and tools shall be made available to all facilities covered by this title on or before January first, two thousand sixteen.

- **2997-k. Safe patient handling committees; programs.**

1. On or before January first, two thousand sixteen, each health care facility shall establish a safe patient handling committee (referred to in this section as a "committee" except where the context clearly requires otherwise) either by creating a new committee or assigning the functions of a safe patient handling committee to an existing committee, including but not limited to a safety committee or quality assurance committee, or subcommittee thereof. The purpose of a committee is to design and recommend the process for implementing a safe patient handling program for the health care facility. The committee shall include individuals with expertise or experience that is relevant to safe patient handling, including risk management, nursing, purchasing, or occupational safety and health, and in facilities where there are employee representatives, at least one shall be appointed on behalf of nurses and at least one shall be appointed on behalf of direct care workers. One half of the members of the committee shall be frontline non-managerial employees who provide direct care to patients. At least one non-managerial nurse and one non-managerial direct care worker shall be on the safe patient handling committee. In health care facilities where a resident council is established, and where feasible, at least one member of the safe patient handling committee shall be a representative from the resident council. The committee shall have two co-chairs with one from management and one frontline non-managerial nurse or direct care worker.
2. On or before January first, two thousand seventeen, each health care facility, in consultation with the committee, shall establish a safe patient handling program. As part of this program, a health care facility shall: (a) implement a safe patient handling policy, considering the elements of the sample safe patient handling policies and best practices disseminated by the commissioner, as well as the type of facility and its services, patient populations and care plans, types of caregivers, and physical environment, for all shifts and units of the health care facility. Implementation of the safe patient handling policy may be phased-in; (b) conduct a patient handling hazard assessment. This assessment should consider such variables as patient-handling tasks, types of nursing units, patient populations and the physical environment of patient care areas; (c) develop a process to identify the appropriate use of the safe patient handling policy based on the patient's physical and medical condition and the availability of safe patient handling equipment. The policy shall include a means to address circumstances under which it would be contraindicated based on a patient's physical, medical, weight-bearing, cognitive and/or rehabilitative status to use lifting or transfer aids or assistive devices for particular patients; (d) provide initial and on-going yearly training and education on safe patient handling

for current employees and new hires, and establish procedures to ensure that retraining for those found to be deficient is provided as needed; (e) set up and utilize a process for incident investigation and post-investigation review which may include a plan of correction and implementation of controls; (f) conduct an annual performance evaluation of the program to determine its effectiveness, with the results of the evaluation reported to the committee. The evaluation shall determine the extent to which implementation of the program has resulted in a reduction in the risk of injury to patients, musculoskeletal disorder claims and days of lost work attributable to musculoskeletal disorders by employees caused by patient handling, and include recommendations to increase the program's effectiveness; (g) when developing architectural plans for constructing or remodeling a health care facility or a unit of a health care facility in which patient handling and movement occurs, consider the feasibility of incorporating patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date; and (h) develop a process by which employees may refuse to perform or be involved in patient handling or movement that the employee reasonably believes in good faith will expose a patient or health care facility employee to an unacceptable risk of injury. Such process shall require that the nurse or direct care worker make a good faith effort to ensure patient safety and bring the matter to the attention of the facility in a timely manner. A health care facility employee who reasonably and in good faith follows the process developed by the health care facility in accordance with this subdivision shall not be the subject of disciplinary action by the health care facility for the refusal to perform or be involved in the patient handling or movement.

- **2997-l. Activities.**

1. The activities enumerated in section twenty-nine hundred ninety-seven-k of this title shall be undertaken consistent with section twenty-eight hundred five-j of this chapter by a covered health care provider and shall be deemed activities of such program as described in such section and any and all information attributable to such activities shall be subject to provisions of section twenty-eight hundred five-m of this chapter and section sixty-five hundred twenty-seven of the education law.