

113TH CONGRESS
1ST SESSION

H. R. 2480

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2013

Mr. CONYERS (for himself and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Nurse and Health Care Worker Protection Act of 2013”.

1 (b) FINDINGS.—Congress finds the following:

2 (1) In 2011, registered nurses ranked fifth
3 among all occupations for the number of cases of
4 musculoskeletal disorders resulting in days away
5 from work, with 11,880 total cases. In 2011, nurs-
6 ing assistants reported 25,010 cases—the highest of
7 all occupations. The leading cause of these health
8 care employees' injuries is patient lifting, transfer-
9 ring, and repositioning injuries, which constitute a
10 significant risk to the health and welfare of those
11 employees.

12 (2) The physical demands of the nursing pro-
13 fession lead many nurses to leave the profession.
14 Fifty-two percent of nurses complain of chronic back
15 pain and 38 percent suffer from pain severe enough
16 to require leave from work. Many nurses and other
17 health care workers suffering back injury do not re-
18 turn to work. These consequences constitute a mate-
19 rial impairment of health for these employees.

20 (3) Patients are not at optimum levels of safety
21 while being lifted, transferred, or repositioned manu-
22 ally. Mechanical and other appropriate lift programs
23 can substantially reduce skin tears and pressure ul-
24 cers suffered by patients and the frequency of pa-

1 tients being dropped, thus allowing patients a safer
2 means to progress through their care.

3 (4) The development of assistive patient han-
4 dling technology, equipment, and devices has essen-
5 tially rendered the act of strict manual patient han-
6 dling outdated and typically unnecessary as a func-
7 tion of nursing care.

8 (5) A growing number of health care facilities
9 that have incorporated patient handling technology
10 and practices have reported positive results. Injuries
11 among nursing staff and health care workers have
12 dramatically declined at health care facilities imple-
13 menting safe patient handling technology, equip-
14 ment, devices, and practices. As a result, the number
15 of lost work days due to injury and staff turnover
16 has declined. Studies have also shown that assistive
17 patient handling technology successfully reduces
18 workers' compensation costs for musculoskeletal dis-
19 orders.

20 (6) A number of States have implemented safe
21 patient handling, mobility and injury prevention
22 standards. The success of these programs at the fa-
23 cility and State level demonstrates the feasibility of
24 such standards.

1 and injury prevention standard shall be promulgated not
2 later than 2 years after the date of enactment of this Act.

3 (b) REQUIREMENTS.—The safe patient handling, mo-
4 bility, and injury prevention standard shall require the use
5 of engineering and safety controls to perform handling of
6 patients and the elimination of injuries from manual han-
7 dling of patients by direct-care registered nurses and all
8 other health care workers, through the development of a
9 comprehensive program, to include the use of mechanical
10 technology and devices to the greatest degree feasible.
11 Where the use of mechanical technology and devices is not
12 feasible, the standards shall require the use of alternative
13 controls and measures, including trained, designated lift
14 teams, to minimize the risk of injury to nurses and health
15 care workers resulting from the manual handling of pa-
16 tients. The standard shall apply to all health care employ-
17 ers, shall generally align with interprofessional national
18 safe patient handling, mobility, and injury prevention
19 standards, and shall include the following:

20 (1) PROGRAM DEVELOPMENT.—A requirement
21 that each health care employer shall develop and im-
22 plement a safe patient handling, mobility, and injury
23 prevention program within 6 months of the date of
24 promulgation of the final standard, which program
25 shall include hazard identification, risk assessments,

1 and control measures in relation to patient care du-
2 ties and patient handling.

3 (2) TECHNOLOGY AND EQUIPMENT PURCHASE
4 AND MANAGEMENT.—A requirement that, within 2
5 years of the date of promulgation of the final stand-
6 ard, each health care employer shall purchase, use,
7 maintain, and make accessible to health care work-
8 ers, such safe patient handling equipment, tech-
9 nology, and accessories as the Secretary determines
10 appropriate.

11 (3) HEALTH CARE WORKER PARTICIPATION.—A
12 requirement that each health care employer shall ob-
13 tain input from health care workers, to include di-
14 rect care registered nurses, health care workers,
15 their representatives, and their collective bargaining
16 agents, in developing and implementing the safe pa-
17 tient handling, mobility, and injury prevention pro-
18 gram, including the purchase of technology and
19 equipment and necessary accessories.

20 (4) DATA TRACKING AND REVIEW.—A require-
21 ment that each health care employer shall establish
22 a review program to analyze data relevant to the im-
23 plementation of the employers' safe patient handling,
24 mobility, and injury prevention program, and shall
25 account for circumstances where safe patient han-

1 dling technology and equipment, or trained, des-
2 ignated lift teams, were not utilized in accordance
3 with the health care employers safe patient handling,
4 mobility, and injury prevention standard. Each
5 health care employer shall upon request, make avail-
6 able their findings and data used in such review, to
7 health care workers, their representatives, their col-
8 lective bargaining agents, and the Secretary or other
9 Federal agency.

10 (5) INCORPORATION OF TECHNOLOGY INTO FA-
11 CILITIES.—A requirement that each health care em-
12 ployer shall consider the feasibility of incorporating
13 safe patient handling technology as part of process
14 of new facility design and construction, or facility re-
15 modeling.

16 (6) EDUCATION AND TRAINING.—A require-
17 ment that each health care employer shall train
18 health care workers on safe patient handling, mobil-
19 ity, and injury prevention policies, technology, equip-
20 ment, and devices, initially, and on a continuing an-
21 nual basis, and as necessary. Such training shall
22 prepare health care workers, including designated
23 lift teams, to identify, assess, and control musculo-
24 skeletal hazards of a general nature, and those spe-
25 cific to particular patient care areas, and shall be

1 conducted by an individual with knowledge in the
2 subject matter, and delivered, at least in part, in an
3 interactive simulated point-of-care training and
4 hands-on format that reflects the specific demands
5 of a health care workers' duties.

6 (7) NOTICE OF SAFE PATIENT HANDLING AND
7 RIGHTS UNDER THIS ACT.—A requirement that each
8 health care employer shall post a uniform notice in
9 a form specified by the Secretary that—

10 (A) explains the safe patient handling, mo-
11 bility, and injury prevention standard;

12 (B) includes information regarding safe
13 patient handling, mobility, and injury preven-
14 tion policies and training;

15 (C) explains procedures to report patient
16 handling-related injuries; and

17 (D) explains health care workers' rights
18 under this Act.

19 (8) ANNUAL EVALUATION.—A requirement that
20 each health care employer shall conduct an annual
21 written evaluation of the implementation of the safe
22 patient handling, mobility, and injury prevention
23 program, including handling procedures, selection of
24 technology, equipment, and engineering controls, as-
25 sessment of injuries, and new safe patient handling,

1 mobility, and injury prevention technology and de-
2 vices that have been developed. The evaluation shall
3 be conducted with the involvement of nurses, other
4 health care workers, their representatives, and their
5 collective bargaining agents, and their input shall be
6 documented in the evaluation. Health care employers
7 shall take corrective action as recommended in the
8 written evaluation.

9 (9) RIGHT TO REFUSE UNSAFE ASSIGNMENT.—
10 A requirement that each health care employer shall
11 provide procedures under which a health care worker
12 or employee may refuse to perform the employee's
13 duties if the employee has a reasonable apprehension
14 that performing such duties would violate the safe
15 patient handling, mobility, and injury prevention
16 standard, and would result in injury or impairment
17 of health to the health care worker, other health
18 care workers, or patients. Where practicable, the
19 health care worker must have communicated the
20 health or safety concern to the health care employer
21 and have not been able to obtain a correction of the
22 violation.

23 (c) INSPECTIONS.—The Secretary of Labor shall con-
24 duct unscheduled inspections under section 8 of the Occu-
25 pational Safety and Health Act of 1970 (29 U.S.C. 657)

1 to ensure implementation of and compliance with the safe
2 patient handling, mobility, and injury prevention stand-
3 ard.

4 **SEC. 3. APPLICATION OF SAFE PATIENT HANDLING, MOBIL-**
5 **ITY, AND INJURY PREVENTION STANDARD TO**
6 **FACILITIES RECEIVING MEDICARE AND MED-**
7 **ICAID FUNDS.**

8 (a) **IN GENERAL.**—Section 1866 of the Social Secu-
9 rity Act (42 U.S.C. 1395cc) is amended—

10 (1) in subsection (a)(1)(V), by inserting “and
11 safe patient handling, mobility, and injury preven-
12 tion standard (as initially promulgated under section
13 2 of the Nurse and Health Care Worker Protection
14 Act of 2009)” before the period at the end; and

15 (2) in subsection (b)(4)—

16 (A) in subparagraph (A), inserting “and
17 the safe patient handling, mobility, and injury
18 prevention standard” after “Bloodborne Patho-
19 gens standard”; and

20 (B) in subparagraph (B), inserting “or the
21 safe patient handling, mobility, and injury pre-
22 vention standard” after “Bloodborne Pathogens
23 standard”.

24 (b) **EFFECTIVE DATE.**—The amendments made by
25 subsection (a) shall apply to health care facilities 1 year

1 after date of issuance of the final safe patient handling,
2 mobility, and injury prevention standard required under
3 section 2.

4 **SEC. 4. NONPREEMPTION.**

5 (a) EFFECT ON OTHER LAWS.—Nothing in this Act
6 shall be construed to—

7 (1) preempt any law, rule, or regulation of a
8 State or political subdivision of a State, unless such
9 law, rule, or regulation is in conflict with this Act
10 or a regulation or order issued under this Act; or

11 (2) impair or diminish in any way the authority
12 of any State to enact and enforce any law which pro-
13 vides equivalent or greater protections for employees
14 engaging in conduct protected under this Act.

15 (b) RIGHTS RETAINED BY HEALTH CARE WORK-
16 ERS.—Nothing in this Act shall be construed to diminish
17 the rights, privileges, or remedies of any health care work-
18 er or employee under any Federal or State law, or under
19 any collective bargaining agreement.

20 **SEC. 5. DEFINITIONS.**

21 For purposes of this Act:

22 (1) DIRECT-CARE REGISTERED NURSE.—The
23 term “direct-care registered nurse” means an indi-
24 vidual who has been granted a license by at least
25 one State to practice as a registered nurse and who

1 provides bedside care or outpatient services for one
2 or more patients or residents.

3 (2) EMPLOYEE.—The term “employee” means
4 any individual employed by a health care employer,
5 to include health care workers, as well as employees
6 who do not qualify as health care workers, including
7 independent contractors.

8 (3) EMPLOYMENT.—The term “employment”
9 includes the provision of services under a contract or
10 other arrangement.

11 (4) HANDLING.—The term “handling” includes
12 actions such as lifting, transferring, repositioning,
13 mobilizing, moving, or any other action involving the
14 physical movement, manipulation, or support of a
15 patient by a health care worker, or any direct pa-
16 tient care action which presents a risk of musculo-
17 skeletal injury.

18 (5) HEALTH CARE EMPLOYER.—The term
19 “health care employer” means an outpatient health
20 care facility, hospital, nursing home, home health
21 care agency, social assistance facility or program,
22 hospice, federally qualified health center, nurse man-
23 aged health center, rural health clinic, or any similar
24 health care facility that employs direct-care reg-
25 istered nurses or other health care workers.

1 (6) HEALTH CARE WORKER.—The term “health
2 care worker” means an individual who has been as-
3 signed by a health care employer to engage in pa-
4 tient handling, including direct-care registered
5 nurses, independent contractors, or individuals who
6 perform the duties of health care workers.

7 (7) LIFT TEAM.—The term “lift team” means
8 health care workers with specialized training and
9 knowledge of safe patient handling, mobility, and in-
10 jury prevention practices and technology.

○