

## CHAPTER 225

AN ACT concerning health care worker and patient safety and supplementing Title 26 of the Revised Statutes.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.26:2H-14.8 Short title.

1. This Act shall be known and may be cited as the “Safe Patient Handling Act.”

C.26:2H-14.9 Findings, declarations relative to health care worker, patient safety.

2. The Legislature finds and declares that:
  - a. In New Jersey, nurses, nurse aides, orderlies and attendants, combined, have the highest number of nonfatal occupational injuries and illnesses involving days away from work of other occupations;
  - b. Chronic back pain and other job-related musculoskeletal disorders contribute significantly to the decision by nurses and other health care workers to leave their professions, which exacerbates the shortage of health care providers in this State;
  - c. Studies show that manual patient handling and movement negatively affect patient safety, quality of care and patient comfort, dignity and satisfaction;
  - d. The American Hospital Association has stated that work-related musculoskeletal disorders account for the largest proportion of workers’ compensation costs in hospitals and long-term care facilities;
  - e. Studies demonstrate that assistive patient handling technology reduces workers’ compensation and medical treatment costs for musculoskeletal disorders among health care workers, and that employers can recoup their initial investment in equipment and training within three years;
  - f. Therefore, it is appropriate public policy to minimize unassisted patient handling as set forth in this act.

C.26:2H-14.10 Definitions relative to health care worker, patient safety.

3. As used in this act:

“Assisted patient handling” means patient handling using: mechanical patient handling equipment including, but not limited to, electric beds, portable base and ceiling track-mounted full body sling lifts, stand assist lifts, and mechanized lateral transfer aids; and patient handling aids including, but not limited to, gait belts with handles, sliding boards and surface friction-reducing devices.

“Covered health care facility” means a general or special hospital or nursing home licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), a State developmental center and a State or county psychiatric hospital.

“Health care worker” means an individual who is employed by a covered health care facility whose job duties entail patient handling.

“Patient” means a patient or resident at a covered health care facility.

“Patient handling” means the lifting, transferring, repositioning, transporting or moving of a patient in a covered health care facility.

“Unassisted patient handling” means patient handling using a health care worker's body strength without the use of mechanical patient handling equipment or patient handling aids.

C.26:2H-14.11 Establishment of safe patient handling program; requirements.

4. Within 36 months of the effective date of this act, each covered health care facility shall establish a safe patient handling program to reduce the risk of injury to both patients and health care workers at the facility.

a. The facility shall:

- (1) maintain a detailed written description of the program and its components;
- (2) provide a copy of the written description of the program to the Department of Health and Senior Services or Department of Human Services, as applicable, and make the description available to health care workers at the facility and to any collective bargaining agent representing health care workers at the facility;
- (3) establish a safe patient handling policy, as provided in subsection b. of this section;
- (4) include in the safe patient handling policy a statement concerning the right of a patient to refuse the use of assisted patient handling, as provided in subsection e. of this section;
- (5) post the safe patient handling policy in a location easily visible to staff, patients, and visitors; and
- (6) designate a representative of management at the facility who shall be responsible for overseeing all aspects of the safe patient handling program.

b. A safe patient handling program shall include:

- (1) a safe patient handling policy on all units and for all shifts that minimizes unassisted patient handling, taking into account the patient's physical and cognitive condition, and that is consistent with patient safety and well-being;
- (2) an assessment of the safe patient handling assistive devices needed to carry out the facility's safe patient handling policy;
- (3) recommendations for a three-year capital plan to purchase safe patient handling equipment and patient handling aids necessary to carry out the safe patient handling policy, which plan takes into account the financial constraints of the facility;
- (4) protocols and procedures for assessing and updating the appropriate patient handling requirements of each patient of the facility;
- (5) a plan for achieving prompt access to and availability of mechanical patient handling equipment and patient handling aids;
- (6) a provision requiring that all such equipment and aids be stored and maintained in compliance with their manufacturers' recommendations;
- (7) a training program for health care workers that:
  - (a) covers the identification, assessment, and control of patient handling risks; the safe, appropriate, and effective use of patient handling equipment and aids, and proven safe patient handling techniques;
  - (b) requires trainees to demonstrate proficiency in the techniques and practices presented;
  - (c) is provided during paid work time; and
  - (d) is conducted upon commencement of the facility's safe patient handling program and at least annually thereafter, with appropriate interim training for individuals beginning work between annual training sessions; and
- (8) educational materials for patients and their families to help orient them to the facility's safe patient handling program.

c. A facility shall conduct an annual evaluation of the program, and make revisions to the program based on data analysis.

d. A facility shall conduct the initial training as required in this section within 36 months of the effective date of this act.

e. Nothing in this act shall be construed to limit the right of a patient to refuse the use of assisted patient handling.

C.26:2H-14.12 Safe patient handling committee.

5. a. Within 12 months of the effective date of this act:

(1) each covered health care facility shall establish a safe patient handling committee, which shall be responsible for all aspects of the development, implementation and periodic evaluation and revision of the facility's safe patient handling program, including the evaluation and selection of patient handling equipment and aids and other appropriate engineering controls;

(2) in the case of a health care system that owns or operates more than one covered health care facility or Department of Human Services facilities, the safe patient handling committee may be operated at the system or department level, provided that committee membership includes at least one health care worker from each facility, and a safe patient handling program is developed for each facility, taking into account the characteristics of the patients at the facility.

b. At least 50% of the members of the committee shall be health care workers who are representative of the different disciplines of health care workers employed at the facility or facilities, in the case of a health care system. In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the management of the facility or system shall consult with the collective bargaining agents regarding the selection of the health care worker committee members.

The remaining members of the committee shall have experience, expertise, or responsibility relevant to the operation of a safe patient handling program.

c. The committee shall meet as needed, but no less than quarterly.

C.26:2H-14.13 Certain retaliatory actions against health care worker prohibited.

6. A covered health care facility shall not take any retaliatory action against any health care worker because that worker refuses to perform a patient handling task due to a reasonable concern about worker or patient safety, or the lack of appropriate and available patient handling equipment or aids. In the event the health care worker refuses to perform a patient handling task pursuant to this section, the worker shall promptly notify his supervisor of the refusal and the reason therefor.

As used in this section, "retaliatory action" shall have the same meaning as provided in section 2 of P.L.1986, c.105 (C.34:19-2).

C.26:2H-14.14 Violations, penalties.

7. A covered health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this act shall be subject to such penalties as the Department of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

C.26:2H-14.15 Rules, regulations.

8. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 12 months of the date of enactment of this act, to carry out the purposes of this act.

9. This act shall take effect immediately.

P.L. 2007, CHAPTER 225

4

S.1758 (1R)

Approved January 3, 2008.