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In the Year Two Thousand and Seven.

AN ACT RELATING TO SAFE PATIENT HANDLING IN CERTAIN HEALTH FACILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 111 of the General Laws is hereby amended by inserting after section 91C the following section:-

Section 91D. As used in this section, the following words, shall, unless the context clearly requires otherwise, have the following meanings:-

"Acute-care hospital", any hospital licensed pursuant to sections 51 and 52 and the teaching hospital of the university of Massachusetts medical school, which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department.

"Department", the department of public health.

"Health care facility", any acute care hospital as defined in section (a), any licensed private, public or state-owned and operated general acute care rehabilitation hospital or unit, any licensed private, public or state-owned and operated general acute care psychiatric hospital or unit, any nursing home as defined in section 71 and any long term care facility as defined in section 71.

"Health care worker", any health facility personnel or lift team member who lifts, transfers or repositions patients or equipment.

"Hospital", any institution, however named, whether conducted for charity or for profit, which is advertised, announced, established or maintained for the purpose of caring for persons admitted thereto for

diagnosis, medical, surgical or restorative treatment which is rendered within said institution.

"Lift team", health care facility employees specially trained to handle patient lifts, transfers and repositioning using lifting equipment when appropriate and precluded from performing other duties.

"Lifting and transferring process", a system whereby patients and situations are identified based on the potential risk of injury to the patient and/or health care worker from lifting, transferring or moving that patient.

"Long term care facility", any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for four or more persons admitted thereto for nursing or convalescent care, as defined in section 71.

"Needs assessment", an evaluation of lift and transfer needs, resources and capabilities with recommendations on procedures to be followed and resources available to lift and transfer patients safely.

"NIOSH RWL", 35 pound or current maximum recommended weight lift limit, a standard calculated by NIOSH, as explained at <http://www.cdc.gov/niosh/94-110.html>

"Nursing home", any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for four or more persons admitted thereto for nursing or convalescent care, as defined in section 71.

"Patient", an individual who receives health services at a hospital, health care facility, or long term care facility.

"Patient care ergonomic evaluation", evaluation performed in all direct patient care areas including but not limited to acute care, critical care, rehabilitation, radiology, operating room, urgent care, therapy departments, long term care, outpatient service, etc. following guidance from the OSHA Nursing Home Guidelines, VA Patient Care Ergonomic Guidelines, or other accepted guidance document to identify ergonomic control measures for decreasing risk of injury from patient handling and moving activities.

"Qualified personnel", person(s) accountable and responsible for the ongoing education and knowledge of patient needs assessment, engineering equipment and patient ergonomics.

"Resident", an individual who resides in a long term care facility.

"Safe patient handling policy", a written statement describing the replacement of manual lifting and transferring of patients and equipment with powered transfer devices, lifting devices, and/or lift teams, consistent with a needs assessment and mandating the

replacement of manual lifting and transferring of patients with techniques using current patient handling equipment/technology to lift patients unless specifically contraindicated for a patient's condition or medical status. Such technology/equipment includes, but is not limited to mechanical lifting devices (floor-based & ceiling-mounted), lateral transfer aids, friction reducing devices, fast electric beds, motorized beds, etc , consistent with clinical unit/area patient care ergonomic evaluation recommendations. Such policy also mandates the use of individual patient handling assessments for each patient/resident requiring assistance.

By February 1, 2008 each health care facility shall establish a safe patient handling committee ("committee") through the creation of a

new committee or by assigning the functions of a safe patient handling committee to an existing committee. The purpose of the Committee is to design and recommend the process for implementing a safe patient handling program and to oversee the implementation of the program. At least half the members of the safe patient handling committee shall be frontline non-managerial employees who provide direct care to patients and shall include but not be limited to nurses, laundry, maintenance and infection control employees.

By December 1, 2008, the governing body of a hospital or the quality assurance committee of a nursing home shall adopt and ensure implementation of a Safe Patient Handling Program to identify, assess, and develop strategies to control risk of injury to patients and health care workers associated with the lifting, transferring, repositioning, or movement of a patient or equipment, such that manual lifting or transfer of patients is minimized in all cases and eliminated when feasible and manual patient handling or movement of all or most of a patient's weight is restricted to emergency, life-threatening, or otherwise exception circumstances. As part of this program each facility must:

- (b) Conduct a comprehensive analysis of the risk of injury to both patients and health care workers posed by the patient handling needs of the patient populations served by the hospital or nursing home and the physical environment in which patient and equipment handling and movement occurs, through:
 - (a) Evaluation of alternative ways to reduce risks associated with patient and equipment handling, including evaluation of equipment and patient care and patient support environments;
 - (c) Conduct of individual patient care ergonomic evaluations in all patient care areas, following guidance from the OSHA Nursing Home Guidelines, VA Patient Care Ergonomic Guidelines, or other accepted guidance document, to identify ergonomic control measures for decreasing risk of injury from patient handling and moving activities;
 - (d) Development and implementation of safe patient handling policies based on the needs of all shifts and units of the facility.
 - (e) Identify and list the type and quantity of patient handling equipment and other equipment required on each clinical unit/area and ensure that the purchase and acquisition of all such equipment is incorporated into the Safe Patient Handling Program. Patient

- handling measures and patient handling equipment/technology shall include but not be limited to mechanical lifting devices (floor-based & ceiling-mounted), lateral transfer aids, friction reducing devices, fast electric beds, and motorized beds.
- (f) Provide patient handling equipment and/or technology as stipulated in section (2) which is appropriate for each clinical area and patient/resident population, to reduce the risk of injury to direct patient care providers and patients/residents.
 - (g) Provide specialized training in safe patient handling by qualified personnel to all health facility personnel and lift team members who lift, transfer or reposition patients, including but not limited to demonstration of proficiency in safe techniques for lifting or transferring patients and the appropriate use of lifting or transferring devices and equipment. Health care facilities must train staff on policies, equipment and devices at least annually.
 - (h) Develop procedures for health care workers to refuse to perform or be involved in patient and equipment handling or movement that the worker believes in good faith will expose a patient or a nurse to an unacceptable risk of injury without subjecting such worker to disciplinary action.
 - (i) Provide for lift team members, where lift teams are employed, to utilize lifting devices and equipment throughout the health care facility to lift patients unless specifically contraindicated for a patient's condition or medical status.
 - (j) Prepare an annual performance evaluation report and submit to the governing body or the quality assurance committee on activities related to the identification, assessment, and development of strategies to control risk of injury to patients and health care workers associated with the lifting, transferring, repositioning, or movement of a patient with statistics on the numbers and types of injury to the facilities health care workers and patients;
 - (k) Track, publish and disseminate upon request annual injury data including: the financial cost of all safe patient and equipment handling injuries suffered by employees and patients; the nature and cause of injury; date, shift, and unit statistics; cost to the institution and to employees and patients; and outcomes; to the extent permitted by privacy regulations.
 - (l) Identify the type and quantity of patient handling equipment and other equipment required and ensure that the purchase of other acquisition of all such equipment is incorporated into the Safe Patient Handling Program.

By January 30, 2010, health care facilities shall complete the acquisition of safe patient handling equipment determined to be required by their safe patient handling committee. Such equipment will include, though not be limited to: (a) at least one readily available lift per unit on each unit where patients will weigh 35 pounds or the current maximum recommended weight lift limit for patients (NIOSH RWL), unless the facility's safe patient handling committee determines that more lifts are required on the unit; (b) one lift for every ten beds; and/ or (c) equipment for use by lift teams.

The development of architectural plans for constructing or remodeling a health care facility or a unit of a health care facility must incorporate patient handling

equipment and the construction design needed to accommodate such equipment.

In computing the facilities' reduced workers' compensation premium, a health care facility may take a credit for the cost of purchasing mechanical lifting devices and other equipment that are primarily used for patient handling by health care providers consistent with a safe patient handling program as provided herein.

No application is necessary for the credit, however, a health care facility taking a credit under this section must maintain records, as required by the department, necessary to verify eligibility for the credit under this section.

A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds shall be granted for credits under this section.

The maximum credit that may be earned under this section for each health care facility is limited to \$1,000 for each acute care available inpatient bed.

Credits are available on a first on time basis. The department shall disallow any credits or position thereof that would cause the total amount of credits claimed statewide to exceed \$10,000,000. If the \$10,000,000 is reached, the department shall notify health care facilities that the annual statewide limitation is reached. The notice shall indicate the amount of premium due and shall provide that the premium be paid within 30 days from the date of the notice. The department shall not assess penalties and interest on the amount due if it is paid on the due date or any extension thereof.

Credit may not be claimed under this section for the acquisition of mechanical lifting devices and other equipment if the acquisition occurred before the effective date of this section.

Credit may not be claimed under this section for any acquisition of mechanical lifting devices and other equipment that occurs after December 30, 2010.

The department shall issue an annual report on the amount of credits claimed by health care facilities under this section, with the first report due on July 1, 2008.