

HOUSE No. 2052

By Ms. Callahan of Sutton, petition of Jennifer M. Callahan and others relative to safe patient handling in certain health facilities. Public Health.

The Commonwealth of Massachusetts

PETITION OF:

Jennifer M. Callahan	Pam Richardson
Frank M. Hynes	Robert J. Nyman
Edward M. Augustus, Jr.	Barbara A. L'Italien
John P. Fresolo	Geraldo Alicea
Cleon H. Turner	Paul Kujawski
Robert K. Coughlin	Willie Mae Allen
Michael F. Rush	James R. Miceli
James E. Timilty	Theodore C. Speliotis
John J. Binienda	Kay Khan
Christine E. Canavan	Denise Provost
William C. Galvin	Robert S. Hargraves
Vincent A. Pedone	Louis L. Kafka
Stephen R. Canessa	Thomas P. Kennedy
Peter V. Kocot	Steven J. D'Amico
David Paul Linsky	Carl M. Sciortino, Jr.
William N. Brownsberger	Mary S. Rogeness
Sarah K. Peake	Walter F. Timilty

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:

- 1 Chapter 111 of the General Laws is hereby amended by inserting
- 2 after section 91C the following section:—
- 3 Section 91D. As used in this section, the following words, shall,
- 4 unless the context clearly requires otherwise, have the following
- 5 meanings:—
- 6 “Acute-care hospital”, any hospital licensed pursuant to sections
- 7 51 and 52 and the teaching hospital of the university of Massachu-
- 8 setts medical school, which contains a majority of medical-surgical,

9 pediatric, obstetric, and maternity beds, as defined by the depart-
10 ment.

11 “Department”, the department of public health.

12 “Health care facility”, any acute care hospital as defined in
13 section (a), any licensed private, public or state-owned and operated
14 general acute care rehabilitation hospital or unit, any licensed pri-
15 vate, public or state-owned and operated general acute care psychi-
16 atric hospital or unit, any nursing home as defined in section 71 and
17 any long term care facility as defined in section 71.

18 “Health care worker”, any health facility personnel or lift team
19 member who lifts, transfers or repositions patients or equipment.

20 “Hospital”, any institution, however named, whether conducted
21 for charity or for profit, which is advertised, announced, established
22 or maintained for the purpose of caring for persons admitted thereto
23 for diagnosis, medical, surgical or restorative treatment which is ren-
24 dered within said institution.

25 “Lift team”, health care facility employees specially trained to
26 handle patient lifts, transfers and repositioning using lifting equip-
27 ment when appropriate and precluded from performing other duties.

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

32 “Long term care facility”, any institution, however named,
33 whether conducted for charity or profit, which is advertised,
34 announced or maintained for the express or implied purpose of
35 caring for four or more persons admitted thereto for nursing or con-
36 valescent care, as defined in section 71.

37 “Needs assessment”, an evaluation of lift and transfer needs,
38 resources and capabilities with recommendations on procedures to
39 be followed and resources available to lift and transfer patients
40 safely.

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

44 “Nursing home”, any institution, however named, whether con-
45 ducted for charity or profit, which is advertised, announced or main-
46 tained for the express or implied purpose of caring for four or more

47 persons admitted thereto for nursing or convalescent care, as defined
48 in section 71.

49 “Patient”, an individual who receives health services at a hospital,
50 health care facility, or long term care facility.

51 “Patient care ergonomic evaluation”, evaluation performed in all
52 direct patient care areas including but not limited to acute care, crit-
53 ical care, rehabilitation, radiology, operating room, urgent care,
54 therapy departments, long term care, outpatient service, etc.
55 following guidance from the OSHA Nursing Home Guidelines, VA
56 Patient Care Ergonomic Guidelines, or other accepted guidance doc-
57 ument to identify ergonomic control measures for decreasing risk of
58 injury from patient handling and moving activities.

59 “Qualified personnel”, person(s) accountable and responsible for
60 the ongoing education and knowledge of patient needs assessment,
61 engineering equipment and patient ergonomics.

62 “Resident”, an individual who resides in a long term care facility.

63 “Safe patient handling policy”, a written statement describing the
64 replacement of manual lifting and transferring of patients and equip-
65 ment with powered transfer devices, lifting devices, and/or lift
66 teams, consistent with a needs assessment and mandating the
67 replacement of manual lifting and transferring of patients with tech-
68 niques using current patient handling equipment/technology to lift
69 patients unless specifically contraindicated for a patient’s condition
70 or medical status. Such technology/equipment includes, but is not
71 limited to mechanical lifting devices (floor-based & ceiling-
72 mounted), lateral transfer aids, friction reducing devices, fast electric
73 beds, motorized beds, etc , consistent with clinical unit/area patient
74 care ergonomic evaluation recommendations. Such policy also man-
75 dates the use of individual patient handling assessments for each
76 patient/resident requiring assistance.

77 By February 1, 2008 each health care facility shall establish a safe
78 patient handling committee (“committee”) through the creation of a
79 new committee or by assigning the functions of a safe patient han-
80 dling committee to an existing committee. The purpose of the Com-
81 mittee is to design and recommend the process for implementing a
82 safe patient handling program and to oversee the implementation of
83 the program. At least half the members of the safe patient handling
84 committee shall be frontline non-managerial employees who provide

85 direct care to patients and shall include but not be limited to nurses,
86 laundry, maintenance and infection control employees.

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

98 (b) Conduct a comprehensive analysis of the risk of injury to both
99 patients and health care workers posed by the patient handling needs
100 of the patient populations served by the hospital or nursing home
101 and the physical environment in which patient and equipment han-
102 dling and movement occurs, through:

103 (a) Evaluation of alternative ways to reduce risks associated with
104 patient and equipment handling, including evaluation of equipment
105 and patient care and patient support environments;

106 (c) Conduct of individual patient care ergonomic evaluations in
107 all patient care areas, following guidance from the OSHA Nursing
108 Home Guidelines, VA Patient Care Ergonomic Guidelines, or other
109 accepted guidance document, to identify ergonomic control mea-
110 sures for decreasing risk of injury from patient handling and moving
111 activities;

112 (d) Development and implementation of safe patient handling
113 policies based on the needs of all shifts and units of the facility.

114 (e) Identify and list the type and quantity of patient handling
115 equipment and other equipment required on each clinical unit/area
116 and ensure that the purchase and acquisition of all such equipment is
117 incorporated into the Safe Patient Handling Program. Patient han-
118 dling measures and patient handling equipment/technology shall
119 include but not be limited to mechanical lifting devices (floor-based
120 & ceiling-mounted), lateral transfer aids, friction reducing devices,
121 fast electric beds, and motorized beds.

122 (f) Provide patient handling equipment and/or technology as stip-
123 ulated in section (2) which is appropriate for each clinical area and

124 patient/resident population, to reduce the risk of injury to direct
125 patient care providers and patients/residents.

126 (g) Provide specialized training in safe patient handling by quali-
127 fied personnel to all health facility personnel and lift team members
128 who lift, transfer or reposition patients, including but not limited to
129 demonstration of proficiency in safe techniques for lifting or trans-
130 ferring patients and the appropriate use of lifting or transferring
131 devices and equipment. Health care facilities must train staff on
132 policies, equipment and devices at least annually.

133 (h) Develop procedures for health care workers to refuse to per-
134 form or be involved in patient and equipment handling or movement
135 that the worker believes in good faith will expose a patient or a nurse
136 to an unacceptable risk of injury without subjecting such worker to
137 disciplinary action.

138 (i) Provide for lift team members, where lift teams are employed,
139 to utilize lifting devices and equipment throughout the health care
140 facility to lift patients unless specifically contraindicated for a
141 patient's condition or medical status.

142 (j) Prepare an annual performance evaluation report and submit to
143 the governing body or the quality assurance committee on activities
144 related to the identification, assessment, and development of strate-
145 gies to control risk of injury to patients and health care workers
146 associated with the lifting, transferring, repositioning, or movement
147 of a patient with statistics on the numbers and types of injury to the
148 facilities health care workers and patients;

149 (k) Track, publish and disseminate upon request annual injury
150 data including: the financial cost of all safe patient and equipment
151 handling injuries suffered by employees and patients; the nature and
152 cause of injury; date, shift, and unit statistics; cost to the institution
153 and to employees and patients; and outcomes; to the extent per-
154 mitted by privacy regulations.

155 (l) Identify the type and quantity of patient handling equipment
156 and other equipment required and ensure that the purchase of other
157 acquisition of all such equipment is incorporated into the Safe
158 Patient Handling Program.

159 By January 30, 2010, health care facilities shall complete the
160 acquisition of safe patient handling equipment determined to be
161 required by their safe patient handling committee. Such equipment
162 will include, though not be limited to: (a) at least one readily avail-

163 able lift per unit on each unit where patients will weigh 35 pounds or
164 the current maximum recommended weight lift limit for patients
165 (NIOSH RWL), unless the facility's safe patient handling committee
166 determines that more lifts are required on the unit; (b) one lift for
167 every ten beds; and/ or (c) equipment for use by lift teams.

168 The development of architectural plans for constructing or remod-
169 eling a health care facility or a unit of a health care facility must
170 incorporate patient handling equipment and the construction design
171 needed to accommodate such equipment.

172 In computing the facilities' reduced workers' compensation pre-
173 mium, a health care facility may take a credit for the cost of pur-
174 chasing mechanical lifting devices and other equipment that are
175 primarily used for patient handling by health care providers consis-
176 tent with a safe patient handling program as provided herein.

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

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

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

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

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

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

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