

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1136

Introduced by Assembly Member Swanson

February 18, 2011

An act to add Section 6403.5 to the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Swanson. Employment safety: health facilities. Existing law regulates the operation of health facilities.

Existing law, the California Occupational Safety and Health Act of 1973, establishes certain safety and other responsibilities of employers and employees, including the requirement that employers provide safety devices—~~or~~ *and* safeguards reasonably necessary to render the employment safe.

This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel.

This bill would require an employer to ~~have~~ *develop and maintain* a safe patient handling policy, *as defined*, for patient care units, to develop ~~an~~ *a patient protection and health care worker back and musculoskeletal* injury prevention plan, and to provide trained lift teams, *as defined*, or staff trained in safe lifting techniques in each general acute care hospital. The *safe patient handling* policy would require the replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, or lift teams, as specified. ~~Each~~ *By January 1,*

~~2013, each hospital would be responsible for developing its own needs assessment policy to determine whether a patient lift, reposition, or transfer requires the use of a lift team or powered lifting device, as part of the injury and prevention program that it is required by existing regulations to establish, implement, and maintain, be required to develop a written safe patient handling policy and purchase enough safe handling equipment to eliminate the need to conduct manual patient handling and transfers.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and cited as the Hospital
- 2 Patient and Health Care Worker Injury Protection Act.
- 3 SEC. 2. The Legislature finds and declares the following:
- 4 (a) In 2008, there were 36,130 occupational musculoskeletal
- 5 disorder (MSD) cases in private industry where the source of injury
- 6 or illness was a health care patient or resident of a health care
- 7 facility. This accounted for 11 percent of the 317,440 total cases
- 8 of MSDs that resulted in a least one lost day from work in 2008.
- 9 Almost all (98 percent) of the cases involving patient handling
- 10 occurred within the health care and social assistance industry,
- 11 composing 55 percent of the 64,300 total MSD cases in that
- 12 industry.
- 13 (b) For MSD cases involving patient handling, almost all (99
- 14 percent) were the result of overexertion. A sprain, strain, or tear
- 15 was the type of injury that was incurred in 84 percent of the MSD
- 16 cases involving patient handling.
- 17 (c) Nursing aides, orderlies and attendants incurred occupational
- 18 injuries or illnesses in 52 percent of the MSD cases involving
- 19 health care patients. Registered nurses accounted for 16 percent
- 20 and home health aides for another 6 percent. Other occupations
- 21 with MSD cases involving health care patients included licensed
- 22 practical and licensed vocational nurses; emergency medical
- 23 technicians and paramedics; personal and home care aides; health
- 24 care support workers; radiologic technologists and technicians;
- 25 and medical and health services managers.
- 26 (d) Over 12 percent of the nursing workforce leaves the bedside
- 27 due to back injuries each year. California’s nursing workforce is

1 aging at the same time patient acuity and obesity is rising. It is
2 imperative that we protect our registered nurses and other health
3 care workers from injury, and provide patients with safe and
4 appropriate care. At a cost of between sixty thousand dollars
5 (\$60,000) and one-hundred forty thousand dollars (\$140,000) to
6 train and orient each new nurse, preventing turnover from injuries
7 will save hospitals money.

8 SEC. 3. Section 6403.5 is added to the Labor Code, to read:

9 6403.5. (a) An employer shall maintain a safe patient handling
10 policy at all times for all patient care units *once the policy is*
11 *developed pursuant to paragraph (1) of subdivision (f)*, and shall
12 provide trained lift teams or other support staff trained in safe
13 lifting techniques in each general acute care hospital. The employer
14 shall provide training to health care workers on all of the following:

- 15 (1) The appropriate use of lifting devices and equipment.
- 16 (2) The five areas of body exposure: vertical, lateral, bariatric,
17 repositioning, and ambulation.
- 18 (3) The use of lifting devices to handle patients safely.

19 (b) As the coordinator of care, the registered nurse shall be
20 responsible for the observation and direction of patient lifts and
21 mobilization, and shall participate as needed in patient handling
22 in accord with the nurse’s job description.

23 (c) *For purposes of this section, “lift team” means hospital*
24 *employees specifically trained to handle patient lifts,*
25 *repositionings, and transfers using patient transfer, repositioning,*
26 *or lifting devices as appropriate for the specific patient.*

27 (e)

28 (d) For the purposes of this ~~chapter~~ *section*, “ safe patient
29 handling policy” means a policy that requires replacement of
30 manual lifting and transferring of patients with powered patient
31 transfer devices, lifting devices, or lift teams, consistent with the
32 employer’s safety policies and the professional judgment and
33 clinical assessment of the registered nurse.

34 (d)

35 (e) As part of the injury and illness prevention programs required
36 by Section 3203 of Title 8 of the California Code of Regulations,
37 or any successor law or regulation, employers shall adopt a patient
38 protection and health care worker back and musculoskeletal injury
39 prevention plan. The plan shall include a safe patient handling
40 policy component reflected in professional occupational safety

1 guidelines for the protection of patients and health care workers
2 in health care facilities.

3 (e)

4 (f) Included in the injury and illness prevention programs, each
5 general acute care hospital shall ~~develop its own individual lift,~~
6 ~~repositioning, and transfer needs assessment to determine if a~~
7 ~~patient requires the use of a lift team and specialized equipment~~
8 ~~for patient lifts, repositioning, and transfers.~~

9 (f) ~~Patients identified as being at risk of injury due to a lift,~~
10 ~~repositionings, or transfer, as well as patient lifts, repositionings,~~
11 ~~or transfers identified, using the individual hospital's own needs~~
12 ~~assessment, as having potential for placing health care workers at~~
13 ~~risk of being injured while lifting, repositioning, or transferring a~~
14 ~~patient, shall require a lift team or specialized equipment to lift,~~
15 ~~reposition, or transfer the patient.~~

16 (g) ~~For patients not at risk for injury due to a lift, repositioning,~~
17 ~~or transfer, and patient lifts, repositionings, or transfers identified,~~
18 ~~using the individual hospital's own needs assessment, as having~~
19 ~~little or no potential for placing health care workers at risk of being~~
20 ~~injured, a lift team or specialized equipment to lift, reposition, or~~
21 ~~transfer the patient shall not be required.~~

22 *do all of the following:*

23 (1) *By January 1, 2013, develop a written safe patient handling*
24 *policy.*

25 (2) *By January 1, 2013, purchase enough safe patient handling*
26 *equipment to eliminate the need to conduct manual patient*
27 *handling and transfers.*

28 (3) *If a manual lift has to be used, document when and why it*
29 *had to be used.*

30 (h)

31 (g) Lift team members may perform other duties as assigned
32 during their shift.

33 (i)

34 (h) A health care worker who refuses to lift, reposition, or
35 transfer a patient due to concerns about patient and worker safety
36 and the lack of trained lift team personnel or equipment shall not,
37 based upon the refusal, be the subject of disciplinary action by the
38 hospital or any of its managers or employees.

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