



## Uplifting an Industry?

State-Based Safe Patient Handling Laws Have Yielded Improvements But Are Not Adequately Protecting Health Care Workers

## **Acknowledgments**

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## I. Introduction

**M**usculoskeletal disorders (MSDs), which often are caused by manual patient handling activities, are the leading cause of injuries for health care workers, especially nursing aides, orderlies and assistants (nursing assistants).<sup>1</sup> The rate of work-related MSDs requiring days away from work for nursing aides was nearly six times higher than for average workers in 2013.<sup>2</sup> MSDs accounted for 53 percent of total cases of reported injury that occurred to nursing assistants in 2013.<sup>3</sup>

These injuries carry an enormous price tag. Costs associated with back injuries in the health care industry are estimated to be more than \$7 billion annually.<sup>4</sup> As the first report in this series, “A Profession in Peril,” showed, they also can wreck careers and leave victims suffering from lifelong pain with severely restricted mobility.<sup>5</sup>

Officials at the Occupational Safety and Health Administration (OSHA), which is charged with ensuring safe workplaces, are well aware of the risks facing health care workers. The agency has documented problems in advisory publications and has taken some actions, such as establishing a program focusing on reducing MSDs in nursing homes.<sup>6</sup>

But OSHA has devoted relatively little effort toward creating regulations to address safety risks at health care facilities, in part because the agency is hamstrung by congressional directives. OSHA has tried in the past to protect workers from the dangers of ergonomic

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<sup>1</sup> *Health Care*, U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, <http://1.usa.gov/9i0XAH> (viewed on April 9, 2015). The U.S. Bureau of Labor Statistics defines musculoskeletal disorders (MSDs) to include cases where the nature of the injury or illness is pinched nerve; herniated disc; meniscus tear; sprains, strains, tears; hernia (traumatic and nontraumatic); pain, swelling, and numbness; carpal or tarsal tunnel syndrome; Raynaud's syndrome or phenomenon; musculoskeletal system and connective tissue diseases and disorders, when the event or exposure leading to the injury or illness is overexertion and bodily reaction, unspecified; overexertion involving outside sources; repetitive motion involving microtasks; other and multiple exertions or bodily reactions; and rubbed, abraded, or jarred by vibration. <http://1.usa.gov/1E2i7c3>.

<sup>2</sup> Press release, U.S. Department of Labor, Bureau of Labor Statistics, *Table 18. Number, incidence rate, and median days away from work for nonfatal occupational injuries and illnesses involving days away from work and musculoskeletal disorders by selected worker occupation and ownership*, 30 (December 16, 2014), <http://1.usa.gov/1Bys0k9>. The rate for nursing assistants was 208.4 per 10,000 workers compared to an average rate for all workers across the United States in 2013 of just 35.8 per 10,000 workers.

<sup>3</sup> Press release, U.S. Department of Labor, Bureau of Labor Statistics, *Nonfatal Occupational Injuries and Illnesses Requiring Days Away From Work, 2013* (December 16, 2014), <http://1.usa.gov/1LlwcDX>.

<sup>4</sup> James W. Collins, Testimony to Subcommittee on Employment and Workplace Safety, United States Senate Committee on Health, Education, Labor and Pensions, *Safe Patient Handling Lifting Standards for a Safer American Workforce*, 111th Congress (May 11, 2010), <http://1.usa.gov/14uNILL>.

<sup>5</sup> TAYLOR LINCOLN, PUBLIC CITIZEN, THE HEALTH CARE INDUSTRY'S CASTOFFS (June 9, 2015), <http://bit.ly/1B8sfTh>.

<sup>6</sup> See, e.g., *Safe Patient Handling, A Self Assessment*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (undated) <http://1.usa.gov/1Sw30hK> and Press Release, Occupational Safety And Health Administration, *U.S. Labor Department's OSHA Announces New National Emphasis Program for Nursing and Residential Care Facilities* (April 5, 2012), <http://1.usa.gov/1QGEXzo>.

stressors and MSDs. In November 2000, OSHA issued a regulation that required employers to implement safe ergonomics programs to combat work-related MSDs.<sup>7</sup> But the rule never took effect. In 2001, the House and Senate passed a joint resolution repealing it.<sup>8</sup>

In the absence of any legislation requiring a specific standard, the agency is required to rely on its catch-all “general duty” clause to ensure safe workplaces. This clause requires employers to provide conditions that are “free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employee.”<sup>9</sup>

But very few cases of any kind are brought pursuant to this clause. As Public Citizen reported in 2013, OSHA’s national emphasis program on risks faced by employees of nursing homes and residential care facilities had resulted in just seven citations for unsafe ergonomic conditions in 2011 and 2012.<sup>10</sup>

In June 2013, Rep. John Conyers (D-Mich.) and 16 other members of Congress introduced H.R. 2480, which would have directed 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.<sup>11</sup> The legislation did not receive a hearing. Versions of the bill were previously released in 2006 and 2009.<sup>12</sup>

However, in the past decade, 11 states have passed laws purporting to ensure safe workplaces for health care providers. [See Figure 1 and Appendix]

**Figure 1: Passage of State Safe Patient Handling Laws, Year by Year**

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Ohio	Wash. Texas	Md. Minn. R.I.	N.J.	--	Ill.	Mo.	Calif.	--	N.Y.	--

Although these state laws attempt to rectify the problem of MSDs in the health care industry, generally they are far too weak to ensure that health care workers are adequately protected against suffering serious injuries on the job. The results these laws have generated in terms of reported injuries requiring days away from work are generally modest, and none has approached substantial elimination of serious injuries.

<sup>7</sup> 29 CFR Part 1910, *Ergonomics Program; Final Rule*, 65 FEDERAL REGISTER 68261 (Nov. 14, 2000), <http://1.usa.gov/1ITrvRA>.

<sup>8</sup> *Bush Signs Repeal of Ergonomic Rules Into Law*, CNN (March 20, 2001), <http://bit.ly/1ZzzOB>.

<sup>9</sup> The Occupational Safety and Health Act, 29 U.S.C. § 654, 5(a)1 (1970).

<sup>10</sup> KEITH WRIGHTSON AND TAYLOR LINCOLN, PUBLIC CITIZEN, HEALTH CARE WORKERS UNPROTECTED (July 17, 2013), <http://bit.ly/1FZSk5t>.

<sup>11</sup> Nurse and Health Care Worker Protection Act of 2013, H.R. 2480, 113th Cong. (2013-2014).

<sup>12</sup> See Nurse and Patient Safety & Protection Act of 2006, H.R. 6182, 109th Cong. (2006), <http://1.usa.gov/1IZBnII> and Nurse and Health Care Worker Protection Act of 2009, H.R. 2381, 111th Cong. (2009), <http://1.usa.gov/1GCIMyQ>.

At the same time, the more prescriptive and ambitious laws, such as those passed by Texas and Missouri, have achieved some of the best results in terms of reducing reported injuries. This provides cause for optimism that legislation is capable of meaningfully reducing MSD injuries suffered by caregivers.

## II. Examination of Existing Legislation

State safe patient handling laws are fairly consistent in their structures and approaches, largely relying on institutions to police themselves, but vary in their prescriptiveness and features. The following is an overview of some of these laws' main components.

**Creation of facility policies:** The linchpin of most of state safe patient handling laws is a requirement for providers to develop a written patient handling policy. Many also call for each health care facility to create safe patient handling committees consisting of members of management and staff to examine the entity's needs and to deliver periodic reports.

The laws vary in the degree to which they require the policy making committees to achieve specific objectives. Ohio is an outlier. Its law calls for loans to be made available to facilities to purchase equipment but includes no specific aspirations.

**Mandates to limit lifting requirements:** For the most part, the state laws' requirements are vague, although a few impose (or nearly impose) mandates to eliminate heavy lifting. These limits on heavy lifting are perhaps the most important ingredient in a safe patient handling law since they protect caregivers from being required to engage an activity that the federal government's National Institute for Occupational Safety and Health (NIOSH) and other experts deem unsafe.<sup>13</sup>

Missouri's law calls for creation of a safe patient handling policy at hospitals to "achieve elimination of manual lifting, transferring, and repositioning of all or most of a patient's weight, except in emergency, life-threatening, or otherwise exceptional circumstances."<sup>14</sup> Illinois' statute calls for "[r]estriction, to the extent feasible with existing equipment and aids, of manual patient handling or movement of all or most of a patient's weight except for emergency, life-threatening, or otherwise exceptional circumstances."<sup>15</sup>

Similarly, Texas calls for institutions to create a policy establishing a process for "restriction, to the extent feasible with existing equipment and aids, of manual patient handling or movement of all or most of a patient's weight." Rhode Island requires safe patient handling committees to establish a policy "that will achieve the maximum

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<sup>13</sup> See, e.g., Thomas R. Waters, Vern Putz-Anderson and Arun Garg, APPLICATIONS MANUAL FOR THE REVISED NIOSH LIFTING EQUATION (1994); Thomas R. Waters, *When Is It Safe to Manually Lift a Patient? The Revised NIOSH Lifting Equation Provides Support for Recommended Weight Limits*, 107 AMERICAN JOURNAL OF NURSING 53 (August 2007); and Daniel Zwerdling, *Even 'Proper' Technique Exposes Nurses' Spines To Dangerous Forces*, NATIONAL PUBLIC RADIO (Feb. 11, 2015), <http://n.pr/1SbwFg2>.

<sup>14</sup> Safe Patient Handling and Movement in Hospitals Missouri Code of State Regulations, title 19, § 30-20.097 (2011).

<sup>15</sup> 210 Illinois Compiled Statutes 85/6.25 (2013).

reasonable reduction of manual lifting, transferring, and repositioning of all or most of a patient's weight."<sup>16</sup>

Minnesota calls for "the acquisition of an adequate supply of appropriate safe patient handling equipment," but does not define parameters for what constitutes an "adequate supply."<sup>17</sup>

Maryland's law merely calls for creation of a committee to "consider, based on the patient population of that hospital, the appropriateness and effectiveness of ... developing or enhancing patient handling hazard assessment processes."<sup>18</sup>

Washington State's law appears prescriptive but provides little reason for confidence that heavy lifting would be eliminated. It requires hospitals to provide one patient lift device per floor of acute care units, one lift per 10 beds, or "equipment for use by lift teams."<sup>19</sup> One lift device per floor would be woefully inadequate to relieve caregivers of lifting requirements, and the "equipment for use by lift teams" is insufficiently defined.

The option to use "lift teams" instead of equipment, which is permitted for in several states' laws, is problematic in itself. While the members of lift teams are almost certainly more equipped to transfer patients than most nurses, their engagement in constant lifting activities likely would pose a risk to their health. Secondly, lift teams may not be available when a nurse needs them. Third, lift teams may not be available to assist with routine turning and repositioning of patients. This activity is the cause of many, if not most, injuries, experts say.

**New construction:** Several state laws speak to incorporating safe patient handling features in new health care facility construction and in renovations. Not only could that delay progress on addressing MSDs related to moving and lifting patients, the language of these laws can be too vague to provide much assurance that they will solve the problem in newly constructed or renovated facilities. For instance, Washington state's law calls for providers merely to "consider the feasibility of incorporating patient handling equipment" when developing plans for new construction or remodeling.<sup>20</sup>

**External reporting:** Only two states appear to require any sort of external reporting on their safe patient handling policies and activities; most instead merely require internal reporting. A typical internal reporting requirement, such as in California's law, is to submit "an annual report to the hospital's governing body or quality assurance committee," but the effectiveness of these types of requirements rely on stringent oversight by hospitals'

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<sup>16</sup> Safe Patient Handling And Movement Practices Texas Health and Safety Code § 256 (2013).

<sup>17</sup> Safe Patient Handling Program Minnesota Statutes §§ 182.6553-6554 (2013).

<sup>18</sup> Part X. Safe Patient Lifting General Health Code § 19-377 (2013)

<sup>19</sup> Safe Patient Handling Washington Revised Code § 70.41.390 (2013)

<sup>20</sup> Safe Patient Handling Washington Revised Code § 70.41.390 (2013)

internal governance committees.<sup>21</sup> New Jersey and Rhode Island are exceptions, and mandate external reporting.

New Jersey requires institutions to “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.” Further, the law requires providers to “post the safe patient handling policy in a location easily visible to staff, patients, and visitors.”<sup>22</sup>

Rhode Island’s policy calls for providers to “submit an annual report to the safe patient handling committee of the facility, which shall be made available to the public upon request, on activities related to the identification, assessment, development, and evaluation of strategies to control risk of injury to patients, nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a patient.”<sup>23</sup>

**Evaluation:** Laws calling for the creation of plans typically speak to evaluating the success of the plans but vest great discretion in how such evaluation should be conducted. Maryland, for instance, calls for committees merely to “consider ... the appropriateness and effectiveness of ... developing an evaluation process to determine the effectiveness of the policy.” New York appears to have the most prescriptive evaluation requirement. Its law calls for providers to “set up and utilize a process for incident investigation and post-investigation review which may include a plan of correction and implementation of controls.”<sup>24</sup>

**Enforcement:** Most of the state laws are silent on enforcement. By Public Citizen’s count, only two state laws (Minnesota and New Jersey) include any enforcement language. Some safe patient handling laws may be enforceable through other components of states’ laws.

**Right to refuse to lift:** At least six states include language permitting employees to refuse to engage in lifting activities or prescribe recourse for those who are forced to do so. Most of these laws also include language prohibiting retaliation against caregivers who refuse to perform a patient handling task. It should be noted that the American Nurses Association’s recommendations call for employers to maintain return-to-work programs to ensure that injured employees can return to work under job descriptions match their physical capabilities.<sup>25</sup> None of the state laws Public Citizen examined call for provision of such “return to work” programs.

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<sup>21</sup> Hospital Patient and Health Care Worker Injury Protection Act, California Labor Code § 6403.5 (2012)

<sup>22</sup> Safe Patient Handling Act New Jersey Statutes § 26:2H-14(8)-(14) (2013).

<sup>23</sup> Safe Patient Handling Act of 2006 General Laws of Rhode Island § 23-17-59 (2013).

<sup>24</sup> N.Y. Pub. Health Law § 2997.

<sup>25</sup> SAFE PATIENT HANDLING AND MOBILITY INTERPROFESSIONAL NATIONAL STANDARD ACROSS THE CARE CONTINUUM, AMERICAN NURSING ASSOCIATION (2013).

## Results of Safe Patient Handling Laws

Public Citizen obtained data from the U.S. Bureau of Labor Statistics (BLS) on injuries requiring days away from work among health care and social assistance workers from 2003 to 2013 for the 11 states that have enacted safe patient handling laws. Below we summarize the data we obtained for eight of the states. Not included were: Ohio due to the absence of clear directives in its law; Rhode Island because that state does not report data to the BLS; and New York because its law has not yet taken effect.

For our analysis, we compared data from the year prior to implementation of the state law with 2013, which is the most recent year for which state patient handling injury data are available.

The data showed modest to significant improvement, but did not indicate that any state has substantially eliminated MSD injuries to health care and social assistance workers. Further complicating matters, injury reporting itself frequently increases simply as a matter of data tracking requirements being put in place such as those required by the new state laws we analyzed. It is difficult to determine how to compare new injury numbers to previous years, for which incidents may have been grossly underreported. However, the results from some states do show cause for optimism that these laws are having a positive impact on reducing caregiver injuries due to patient handling.

Texas experienced a 29 percent decrease in reported MSDs between 2005 and 2013;<sup>26</sup> Minnesota experienced more than an 18 percent decrease in reported MSD injuries between 2007 and 2013. Missouri saw a 17 percent reduction between 2011 and 2013. On the other end of the spectrum, three states (California, Maryland and Washington) saw increases of 1 to 7 percent. [Figure 2]

**Figure 2: Number of Health Care and Social Assistance Workers With at Least One Day Away From Work Due to Musculoskeletal Disorders**

	Year Law Went Into Effect	Baseline Year	Baseline Injury Number	2013 Injury Number	Pct. Change
California	2012	2011	7,770	7,850	1.0%
Illinois	2010	2009	2,930	2,730	-6.8%
Maryland	2007	2006	1,350	1,440	6.7%
Minnesota	2007	2006	2,360	1,930	-18.2%
Missouri	2011	2010	1,230	1,020	-17.1%
New Jersey	2008	2007	2,590	2,360	-8.9%
Texas	2006	2005	3,830	2,710	-29.2%
Washington	2006	2006	2,790	2,830	1.4%

Source: U.S. Bureau of Labor Statistics

These data may illustrate the benefit of stronger laws over weaker ones. Texas and Missouri (along with Rhode Island, for which data are not available) come the closest to mandating that institutions ban manual heavy lifting. Minnesota essentially requires the acquisition of

<sup>26</sup> Public Citizen's Analysis.



safe patient handling equipment. These were the three states to see the most improvement. Missouri's reduction is notable because its law did not take effect until 2011.

The laws of California, Maryland and Washington, the three states to see increases in injuries, are comparatively vague.

## VII. Conclusion

Neither Congress, OSHA, nor the states are doing an adequate job of protecting the health care professionals we rely on to take care of us when we are ill, injured or at the end of our lives. State safe patient handling laws are generally too weak and vague, which is why their results have been underwhelming. Nonetheless these states' efforts eclipse those of the 39 states plus the District of Columbia that have no statutes on the books to protect health care workers from musculoskeletal disorders.

A model law would aspire to largely eliminate the incidence of serious MSDs among health care workers by requiring prompt initiation of policies to eliminate heavy manual lifting in health care facilities. It also would require that new construction and renovations (and especially those funded by the public) incorporate state-of-the-art ergonomic designs to reduce injuries from patient handling.

Such a law would require institutions to keep accurate counts of MSDs sustained on the job and analyze the root causes of each. This requirement would both impose accountability on institutions and provide useful data to be used in fine tuning programs to achieve the ultimate goal of virtually eradicating MSDs from patient handling.

Finally, a model law would require institutions to provide annual reports to regulatory agencies on the quantity MSDs experienced by their employees. To the extent legally feasible without compromising confidentiality laws, such reports should be publicly available.

## Appendix: Analysis of State Safe Patient Handling Laws

### California

#### Hospital Patient and Health Care Worker Injury Protection Act California Labor Code § 6403.5 (2012)

##### Who does this law apply to?

California's "Hospital Patient and Health Care Worker Injury Protection Act" applies to general acute care hospitals.<sup>27</sup> This includes several types of hospital care and some specialty hospitals.<sup>28</sup>

##### Who does this law not apply to?

The act does not apply to hospitals within California's Department of Corrections or its Department of Developmental Services.<sup>29</sup> And it excludes skilled nursing, long-term, outpatient, and primary care facilities.<sup>30</sup>

##### When must health care providers comply?

This law took effect in January 2012.<sup>31</sup>

##### Which lift methods are required?

Safe-patient handling (SPH) trained lift teams or other staff must use lift devices consistent with the registered nurse's judgment.<sup>32</sup> Only under exceptional circumstances may workers lift unassisted.<sup>33</sup>

##### Will California help fund the transition?

California will not reimburse SPH costs.<sup>34</sup>

##### Who will manage each facility's program?

This law does not require a committee.<sup>35</sup> So facility managers may adopt the SPH plan.<sup>36</sup> The registered nurse is its front-line coordinator.<sup>37</sup>

<sup>27</sup> Hospital Patient and Health Care Worker Injury Protection Act, CAL. LAB. CODE § 6403.5 (2012).

<sup>28</sup> See CAL. CODE REGS. tit. 22, § 70005(a) (2012) (licenses "general acute care hospital" as 24-hour inpatient care with nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services); CAL. CODE REGS. tit. 22, § 70006 (2012) (defines "acute psychiatric care bed classification" as 24-hour acute care bed for psychiatric, developmentally disabled, or drug-abuse patient).

<sup>29</sup> CAL. LAB. CODE § 6403.5(h) (2012).

<sup>30</sup> Cf. CAL. LAB. CODE § 6403.5(h) (2012).

<sup>31</sup> Hospital Patient and Health Care Worker Injury Protection Act, 2011 Cal. Legis. Serv. Ch. 554 (A.B. 1136) (West).

<sup>32</sup> See CAL. LAB. CODE § 6403.5(b)-(c) (2012).

<sup>33</sup> Cf. CAL. LAB. CODE § 6403.5(a) (2012); CAL. CODE REGS. tit. 8, § 3203 (2012).

<sup>34</sup> Hospital Patient and Health Care Worker Injury Protection Act, 2011 Cal. Legis. Serv. Ch. 554 (A.B. 1136 § 4) (West).

<sup>35</sup> Cf. CAL. LAB. CODE § 6403.5 (2012).

<sup>36</sup> See CAL. LAB. CODE § 6403.5(a) (2012).

<sup>37</sup> CAL. LAB. CODE § 6403.5(c) (2012).

**Do programs require Unit Peer Leaders?**

Yes. The registered nurse coordinates SPH care, observing and directing those tasks.<sup>38</sup>

**How must facilities assess risk?**

This law adds to California's "Injury and Illness Prevention Program."<sup>39</sup> Facilities must have procedures to identify and evaluate workplace hazards, and inspect periodically for unsafe work practices.<sup>40</sup> When required, the Registered Nurse will survey each patient's SPH needs.<sup>41</sup>

**Does California require written plans?**

Yes.<sup>42</sup>

**Must facilities purchase safe-patient-handling equipment?**

No.

**How will the law effect facility construction or remodeling?**

This law does not say.<sup>43</sup>

**What training is necessary?**

Each facility must provide trained lift teams and other SPH support staff.<sup>44</sup> Current employees, new employees, and those given new assignments must have SPH training.<sup>45</sup> They learn the proper use of lifting devices and equipment, its use to handle patients safely, and the "five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation."<sup>46</sup>

**How must facilities evaluate their programs?**

Employers ensure their workers comply with safe and healthy work practices.<sup>47</sup> They must encourage workers to disclose worksite hazards.<sup>48</sup> This includes meetings, training programs, postings, written communications, or anonymous communication systems.<sup>49</sup> And it includes procedures to investigate occupational injury or illness.<sup>50</sup>

**Does this law give employees the right to refuse improper lifts?**

Yes. Workers who refuse to lift, reposition, or transfer patients due to concerns about patient or worker safety will not be subject to discipline.<sup>51</sup>

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<sup>38</sup> CAL. LAB. CODE § 6403.5(c) (2012).

<sup>39</sup> CAL. LAB. CODE § 6403.5(a) (2012).

<sup>40</sup> CAL. LAB. CODE § 6403.5(a) (2012); CAL. CODE REGS. tit. 8, § 3203 (2012).

<sup>41</sup> CAL. LAB. CODE § 6403.5(c) (2012).

<sup>42</sup> CAL. LAB. CODE § 6403.5(a) (2012); CAL. CODE REGS. tit. 8, § 3203(a) (2012) (requiring a written safety plan).

<sup>43</sup> CAL. LAB. CODE § 6403.5 (2012).

<sup>44</sup> CAL. LAB. CODE § 6403.5(b) (2012).

<sup>45</sup> CAL. LAB. CODE § 6403.5(a) (2012); CAL. CODE REGS. tit. 8, § 3203(a)(7) (2012).

<sup>46</sup> CAL. LAB. CODE § 6403.5(b) (2012).

<sup>47</sup> CAL. LAB. CODE § 6403.5(a) (2012); CAL. CODE REGS. tit. 8, § 3203(a)(2) (2012).

<sup>48</sup> CAL. CODE REGS. tit. 8, § 3203(a)(3) (2012).

<sup>49</sup> CAL. CODE REGS. tit. 8, § 3203(a)(3) (2012).

<sup>50</sup> CAL. CODE REGS. tit. 8, § 3203(a)(5) (2012).

<sup>51</sup> CAL. LAB. CODE § 6403.5(g) (2012).

**Will California levy noncompliance fines?**

As part of California's Occupational Health and Safety Act, fines can apply.<sup>52</sup>

**Illinois****Safe patient handling policy****210 Illinois Compiled Statutes 85/6.25 (2013)****Who does this law apply to?**

The Illinois "Safe patient handling policy" applies to general, specialty, and psychiatric hospitals.<sup>53, 54</sup> It applies in all childbirth places.<sup>55</sup> And under this law's "hospital" definition, it covers some long-term and outpatient psychiatric care.<sup>56</sup>

**Who does this law not apply to?**

This law does not apply to facilities controlled by the state or its agencies.<sup>57</sup> And when an Illinois college or university is funded mainly by taxpayers, its medical-care facilities are not required to comply.<sup>58</sup> It does not apply to most skilled nursing or long-term care facilities.<sup>59</sup> Nor does it cover substance abuse intervention, research, or residential treatment.<sup>60</sup> It will not cover outpatient facilities of private practices that specialize in substance-abuse care.<sup>61</sup> And it will not cover non-psychiatric ambulatory or primary care facilities.<sup>62</sup>

**When must health care providers comply?**

This law took effect in January 2010.<sup>63</sup> In January 2012, Illinois added definitions of lifting equipment, and lifting team,<sup>64</sup> plus a training requirement, patient and worker rights, and further administrative duties.<sup>65</sup>

<sup>52</sup> *E.g.*, CAL. LAB. CODE § 6423 (2012).

<sup>53</sup> *See* Safe Patient Handling Policy Act, 210 ILL. COMP. STAT. 85/6.25(b) (2013) (stating that "a hospital" must adopt policy); 210 ILL. COMP. STAT. 85/3(A), (A)(b) (2013) (defining "hospital" as (1) an institution (2) devoted primarily to (3) operating facilities for (4) care of (5) two or more (6) unrelated persons for (7) overnight stay or longer to (8) obtain medical, including nursing, care of (9) illness, disease, injury, infirmity, or deformity).

<sup>54</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 110 ILL. COMP. STAT. 330/9 (2013) (stating that University of Illinois Hospitals must comply).

<sup>55</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 210 ILL. COMP. STAT. 85/3(A)(b) (2013).

<sup>56</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 210 ILL. COMP. STAT. 85/3(A)(a) (2013) (extending "hospital" definition "without regard to length of stay" to (1) any facility (2) that delivers mainly psychiatric care for (3) two or more (4) unrelated persons having (5) "emotional or nervous diseases").

<sup>57</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 210 ILL. COMP. STAT. 85/3(A)(b)(2) (2013).

<sup>58</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 210 ILL. COMP. STAT. 85/3(A)(b)(4) (2013).

<sup>59</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013); 210 ILL. COMP. STAT. 85/3(A)(b)(1), (5) (2013).

<sup>60</sup> 210 ILL. COMP. STAT. 301/15-5(d) (2013).

<sup>61</sup> 210 ILL. COMP. STAT. 301/15-5(d) (2013).

<sup>62</sup> 210 ILL. COMP. STAT. 85/6.25(A) (2013).

<sup>63</sup> Safe Patient Handling Policy Act, 2009 Ill. Legis. Serv. P.A. 96-389 (H.B. 2285) (West).

<sup>64</sup> Safe Patient Handling Policy Act, 2011 Ill. Legis. Serv. P.A. 97-122 (H.B. 1684) (West).

<sup>65</sup> Safe Patient Handling Policy Act, 2011 Ill. Legis. Serv. P.A. 97-122 (H.B. 1684) (West).

**Which lift methods are required?**

Facilities must have a trained and available lift team.<sup>66</sup> Excluding emergencies, life-threatening, or otherwise exceptional circumstances, facilities must restrict manual patient-handling with existing equipment and aids “to the extent feasible.”<sup>67</sup>

They do not have to acquire safe patient handling equipment.<sup>68</sup> And absent building construction or remodeling, facilities may comply with their current equipment.<sup>69</sup>

**Will Illinois help fund the transition?**

This law does not state any funding requirements.

**Who will manage each facility's program?**

This law says only that a “hospital must adopt and ensure implementation of a policy.”<sup>70</sup> A facility's manager receives a yearly SPH report.<sup>71</sup> And the nurse-staffing committee participates in reporting.<sup>72</sup>

**Do programs require Unit Peer Leaders?**

No.

**How must facilities assess risk?**

Facilities look to injury risk by patient type and hospital environment.<sup>73</sup> At the patient level, workers assess and document a patient’s mobility status on admission and as it changes.<sup>74</sup>

**Does Illinois law require written plans?**

This law does not explicitly say.

**Must facilities purchase safe-patient-handling equipment?**

A facility using “existing equipment” obeys this law.<sup>75</sup>

**How will the law effect facility construction or remodeling?**

In planning for construction or remodeling, facilities must think about SPH equipment and design.<sup>76</sup>

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<sup>66</sup> 210 ILL. COMP. STAT. 85/6.25(b)(9)(A) (2013). See 210 ILL. COMP. STAT. 85/6.25(a) (2013).

<sup>67</sup> See 210 ILL. COMP. STAT. 85/6.25(b)(4) (2013) (Justice Rehnquist explained similar language in *AFL-CIO v. Am. Petrol. Inst.*, 448 U.S. 607 (1980) (concurring), “the feasibility requirement ... is a legislative mirage, appearing to some Members and not to others, and assuming any form desired by the beholder.”).

<sup>68</sup> 210 ILL. COMP. STAT. 85/6.25(b)(4) (2013).

<sup>69</sup> 210 ILL. COMP. STAT. 85/6.25(b)(4), (8) (2013).

<sup>70</sup> 210 ILL. COMP. STAT. 85/6.25(b) (2013).

<sup>71</sup> 210 ILL. COMP. STAT. 85/6.25(b)(7) (2013).

<sup>72</sup> 210 ILL. COMP. STAT. 85/6.25(b)(5) (2013).

<sup>73</sup> 210 ILL. COMP. STAT. 85/6.25(b), (b)(1) (2013).

<sup>74</sup> 210 ILL. COMP. STAT. 85/6.25(b)(9)(D) (2013).

<sup>75</sup> 210 ILL. COMP. STAT. 85/6.25(b)(4) (2013).

<sup>76</sup> 210 ILL. COMP. STAT. 85/6.25(b)(8) (2013).

**What training is necessary?**

Employers must train workers in identifying, assessing, and controlling injury risks to workers and patients.<sup>77</sup> They must also train lift teams.<sup>78</sup> Workers are trained in SPH techniques, direct patient handling, and equipment use.<sup>79</sup> Employers choose when to train them.<sup>80</sup>

**How must facilities evaluate their programs?**

They must look at ways to reduce SPH risk, focusing on issues like equipment and environment.<sup>81</sup> They must also prepare yearly SPH reports for the nurse staffing committee and the governing body.<sup>82</sup>

**Does this law give employees the right to refuse improper lifts?**

A nurse can, in good faith, refuse a patient-handling task that "unacceptably" risks injury to worker or patient.<sup>83</sup>

**Will Illinois levy noncompliance fines?**

No.

**Maryland**  
**Part X. Safe Patient Lifting**  
**Maryland General Health Code § 19-377 (2013)**

**Who does this law apply to?**

Maryland's "Part X. Safe Patient Lifting" [SPL] law applies to institutions defined as hospitals.<sup>84</sup> It applies to some specialty hospitals, skilled nursing facilities, and long-term care facilities.<sup>85</sup>

**Who does this law not apply to?**

This law will not apply to ambulatory or primary care facilities.<sup>86</sup>

**When must health healthcare providers comply?**

This law took effect in October 2007.<sup>87</sup> Each facility must establish a safe patient-lifting committee by December 2007, and adopt a safe patient-lifting policy by July 2008.<sup>88</sup>

<sup>77</sup> 210 ILL. COMP. STAT. 85/6.25(b)(2) (2013).

<sup>78</sup> 210 ILL. COMP. STAT. 85/6.25(b)(9)(A) (2013).

<sup>79</sup> 210 ILL. COMP. STAT. 85/6.25(b)(2) (2013).

<sup>80</sup> 210 ILL. COMP. STAT. 85/6.25(b)(2013).

<sup>81</sup> 210 ILL. COMP. STAT. 85/6.25(b)(3) (2013).

<sup>82</sup> 210 ILL. COMP. STAT. 85/6.25(b)(5),(7) (2013).

<sup>83</sup> 210 ILL. COMP. STAT. 85/6.25(b)(6) (2013).

<sup>84</sup> Safe Patient Lifting Act, MD. CODE ANN., HEALTH-GEN. § 19-377(b) (2013); MD. CODE ANN., HEALTH-GEN. § 19-301(f) (2013) (defining "hospital" as facility of (1) at least five staff physicians, (2) diagnostic and treatment services, (3) overnight care, for (4) two or more people.)

<sup>85</sup> MD. CODE ANN., HEALTH-GEN. § 19-377(b) (2013); MD. CODE ANN., HEALTH-GEN. § 19-301(f) (2013).

<sup>86</sup> See MD. CODE ANN., HEALTH-GEN. § 19-377(b) (2013); MD. CODE ANN., HEALTH-GEN. § 19-301(f) (2013).

<sup>87</sup> Safe Patient Lifting Act, 2007 Maryland Laws Ch. 57 (H.B. 1137).

<sup>88</sup> MD. CODE ANN., HEALTH-GEN. § 19-377(b), (c)(1) (2013).

**Which lift methods are required?**

Maryland defines SPL as the use of mechanical lifting devices by hospital employees instead of manual lifting to lift, transfer, and reposition patients.<sup>89</sup> Each facility chooses its lifting devices and whether or not to appoint lift teams.<sup>90</sup> Its SPL committee considers the proper way to do that.<sup>91</sup>

**Will Maryland help fund the transition?**

No.

**Who will manage each facility's program?**

An SPL committee develops patient-lifting policy for the facility.<sup>92</sup> It may decide who best manages that policy.<sup>93</sup> It consists of equal membership of management and employees.<sup>94</sup>

**Do programs require Unit Peer Leaders?**

No.

**How must facilities assess risk?**

Given its patient population, the committee surveys SPL risk by its equipment, lift teams, and needed training.<sup>95</sup> This law does not attend to risks presented by each patient's physical or cognitive status.

**Does Maryland require written plans?**

This law does not explicitly require a written policy.

**Must facilities purchase safe-patient-handling equipment?**

No.

**How will this law effect facility construction or remodeling?**

In developing plans for construction or remodeling, facilities must consider SPL equipment and design.<sup>96</sup>

**What training is necessary?**

Facilities must consider SPL training for all patient-care workers.<sup>97</sup>

**How must facilities evaluate their programs?**

Facilities must consider the effectiveness of their SPL protocols, equipment, lift teams, training, and evaluation process.<sup>98</sup>

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<sup>89</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(a) (2013).

<sup>90</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d)(2)-(3) (2013).

<sup>91</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d) (2013).

<sup>92</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(c)(1) (2013).

<sup>93</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d)(6) (2013) (outlining only duty to develop SPL policy).

<sup>94</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(b) (2013).

<sup>95</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d)(1) (2013).

<sup>96</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d)(5) (2013).

<sup>97</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d)(4) (2013).

<sup>98</sup> MD. CODE. ANN., HEALTH-GEN. § 19-377(d) (2013).

**Does this law give employees the right to refuse improper lifts?**

No.

**Will Maryland levy noncompliance fines?**

Yes. Maryland may restrict, suspend, or revoke a facility license for noncompliance.

**Minnesota  
Safe Patient Handling Program  
Minnesota Statutes §§ 182.6553-6554 (2013)**

**Who does this law apply to?**

Minnesota's "Safe Patient Handling Program" applies to all hospitals, outpatient surgical centers, and skilled nursing facilities.<sup>99</sup> It covers outpatient care and even primary care facilities.<sup>100</sup>

**Who does this law not apply to?**

It will not cover some long-term care facilities.<sup>101</sup>

**When must health care providers comply?**

Minnesota enacted this law in May 2007.<sup>102</sup> Each hospital, nursing facility, and outpatient surgical center must develop a written policy by July 2008, and achieve it by January 2011.<sup>103</sup> In August 2009, Minnesota expanded its coverage to outpatient clinics and primary care facilities, to require they develop a written plan by July 2010, and achieve it by January 2012.<sup>104</sup>

**Which lift methods are required?**

This law defines SPH as "a process ... that uses safe patient handling equipment rather than people to transfer, move, and reposition patients. . . ."<sup>105</sup> Minnesota requires facilities to make informed purchases of SPH equipment.<sup>106</sup> It does not require lift teams.<sup>107</sup> And under exceptional circumstances, workers may lift manually.<sup>108</sup>

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<sup>99</sup> See Safe Patient Handling Act, MINN. STAT. ANN. § 182.6553(1)(a) (2013), MINN. STAT. ANN. § 182.6552(2) (2013) (defining "healthcare facility"), MINN. STAT. ANN. § 144.50(2)-(3) (2013) (defining "hospital"), MINN. STAT. ANN. § 144A.01(5) (2013) (defining "nursing home").

<sup>100</sup> MINN. STAT. ANN. § 182.6554(1)(a) (2013)(requiring SPH in clinical settings); MINN. STAT. ANN. § 182.6552(5) (2013) (defining "clinical settings that move patients" as outpatient care settings).

<sup>101</sup> MINN. STAT. ANN. § 182.6553(1)(a) (2013).

<sup>102</sup> Safe Patient Handling Act, 2007 Minn. Sess. Law Serv. Ch. 135 (H.F. 122) (West).

<sup>103</sup> Safe Patient Handling Act, 2007 Minn. Sess. Law Serv. Ch. 135 (H.F. 122) (West).

<sup>104</sup> Safe Patient Handling Act, 2009 Minn. Sess. Law Serv. Ch. 159 (H.F. 1760) (West).

<sup>105</sup> MINN. STAT. ANN. § 182.6552(3) (2013).

<sup>106</sup> MINN. STAT. ANN. § 182.6553(1)(b)(2), (4)(2) (2013).

<sup>107</sup> MINN. STAT. ANN. § 182.6553 (2013).

<sup>108</sup> MINN. STAT. ANN. § 182.6553(1)(a) (2013) (noting that plan goal is to minimize manual patient lifting).



**Will Minnesota help fund the transition?**

Minnesota offered each facility matching grants for SPH training and equipment up to \$40,000.<sup>109</sup> By 2008, Minnesota disbursed all \$500,000 of those grants.<sup>110</sup> Funding for later grants was vetoed.<sup>111</sup>

**Who will manage each facility's program?**

Hospitals, nursing facilities, and outpatient surgical centers must establish SPH committees.<sup>112</sup> These consist of at least half non-managerial nurses and other direct patient care workers.<sup>113</sup> For their time, all committee members receive payment.<sup>114</sup>

**Do programs require Unit peer-leaders?**

No.

**How must facilities assess risk?**

The committee surveys its patient care settings, populations, and handling tasks.<sup>115</sup> And it recommends a method to track, report, and analyze injury trends.<sup>116</sup>

**Does Minnesota require written plans?**

Every licensed health care facility must adopt a written SPH policy by July 2008 to achieve by January 2011.<sup>117</sup> And every clinical setting that moves patients must develop a written SPH plan by July 2010 to achieve by January 2012.<sup>118</sup>

**Must facilities purchase safe-patient-handling equipment?**

Minnesota sets facility standards at "an adequate supply of appropriate safe patient handling equipment."<sup>119</sup>

**How will this law effect facility construction or remodeling?**

Modification and construction of facilities must be consistent with program goals.<sup>120</sup> As part of that process, the committee will incorporate SPH design.<sup>121</sup>

**What training is necessary?**

Facilities must train patient care workers on SPH equipment use.<sup>122</sup> Also, Minnesota's Health Commissioner will provide free training materials.<sup>123</sup>

<sup>109</sup> MINN. STAT. ANN. § 182.6553(7) (2013).

<sup>110</sup> MINNESOTA DEP'T OF LABOR AND INDUS., COMPACT 2 (February 2008), <http://bit.ly/1pv12lb>.

<sup>111</sup> *Veto Details*, MINNESOTA LEGISLATIVE REFERENCE LIBRARY, [bit.ly/1m03e2s](http://bit.ly/1m03e2s) (viewed on August 14, 2014).

<sup>112</sup> MINN. STAT. ANN. § 182.6553(2)(a) (2013). *Cf.* MINN. STAT. ANN. § 182.6554 (2013) (outpatient clinics and primary care facilities need not form committees).

<sup>113</sup> MINN. STAT. ANN. § 182.6553(2)(b)(1) (2013).

<sup>114</sup> MINN. STAT. ANN. § 182.6553(2)(d) (2013).

<sup>115</sup> MINN. STAT. ANN. § 182.6553(4)(1)(i-iii) (2013).

<sup>116</sup> MINN. STAT. ANN. § 182.6553(4)(1)(iv) (2013).

<sup>117</sup> MINN. STAT. ANN. § 182.6553(1)(a) (2013).

<sup>118</sup> MINN. STAT. ANN. § 182.6554(1)(a) (2013).

<sup>119</sup> MINN. STAT. ANN. § 182.6553(1)(b)(2) (2013).

<sup>120</sup> MINN. STAT. ANN. § 182.6553(1)(b)(4) (2013), MINN. STAT. ANN. § 182.6554(1)(b)(4) (2013).

<sup>121</sup> MINN. STAT. ANN. § 182.6553(4)(5) (2013).

<sup>122</sup> MINN. STAT. ANN. § 182.6553(1)(b)(3) (2013).

**How must facilities evaluate their programs?**

Each SPH plan must address its periodic evaluation.<sup>124</sup> In those evaluations, committees make recommendations on: injury reporting and analysis;<sup>125</sup> equipment purchase, use, and maintenance;<sup>126</sup> worker training;<sup>127</sup> and facility construction or remodeling design.<sup>128</sup> This happens yearly.<sup>129</sup>

**Does this law give employees the right to refuse improper lifts?**

No.

**Will Minnesota levy noncompliance fines?**

Yes. Minnesota will enforce violations under its state OSH law.<sup>130</sup>

## Missouri

### Safe Patient Handling and Movement in Hospitals

#### Missouri Code of State Regulations, title 19, § 30-20.097 (2011)

**Who does this law apply to?**

Missouri's "Safe Patient Handling and Movement in Hospitals" rule applies to hospitals.<sup>131</sup>

**Who does this law not apply to?**

It does not apply to skilled nursing, long-term, ambulatory, or primary care facilities.<sup>132</sup>

**When must health care providers comply?**

Missouri's Department of Health and Senior Services enacted this rule in April 2011, and it took effect on November 2011.<sup>133</sup>

**Which lift methods are required?**

Each hospital must achieve elimination of manual lifting, transferring, and repositioning of all or most of a patients weight.<sup>134</sup> Hospitals do not have to dedicate lift teams.<sup>135</sup> And under exceptional circumstances, workers may lift manually.<sup>136</sup>

<sup>123</sup> MINN. STAT. ANN. § 182.6553(5) (2013), MINN. STAT. ANN. § 182.6554(3) (2013).

<sup>124</sup> MINN. STAT. ANN. § 182.6553(1)(b)(5) (2013), MINN. STAT. ANN. § 182.6554(1)(b)(5) (2013).

<sup>125</sup> MINN. STAT. ANN. § 182.6553(1)(iv) (2013).

<sup>126</sup> MINN. STAT. ANN. § 182.6553(2) (2013).

<sup>127</sup> MINN. STAT. ANN. § 182.6553(3) (2013).

<sup>128</sup> MINN. STAT. ANN. § 182.6553(5) (2013).

<sup>129</sup> MINN. STAT. ANN. § 182.6553(4) (2013).

<sup>130</sup> *E.g.*, MINN. STAT. ANN. § 182.666 (2013).

<sup>131</sup> MO. CODE REGS. tit. 19, § 30-20.097 (2011) (stating purpose that rule applies to hospitals.); MO. REV. STAT. § 197.020(2) (2013) (defining "hospital" as (1) place (2) devoted to (3) medical or nursing care for (4) not less than 24 consecutive hours of (5) three or more (6) unrelated persons).

<sup>132</sup> *See* MO. CODE REGS. tit. 19, § 30-20.097 (2011); MO. REV. STAT. § 197.020(2) (2013) (defining "hospital" as inapplicable to convalescent, nursing, shelter, or boarding homes).

<sup>133</sup> *See* MO. CODE REGS. tit. 19, § 30-20.097 (2011).

<sup>134</sup> MO. CODE REGS. tit. 19, § 30-20.097(2)(A) (2011).

<sup>135</sup> *Cf.* MO. CODE REGS. tit. 19, § 30-20.097 (2011).

<sup>136</sup> *See* MO. CODE REGS. tit. 19, § 30-20.097(2)(A) (2011).

**Will Missouri help fund the transition?**

No.

**Who will manage each facility's program?**

Hospitals must establish a committee for SPH program activation and monitoring.<sup>137</sup> Its membership must be multidisciplinary and consist of at least half frontline non-managerial employees who participate in patient care.<sup>138</sup>

**Does programs require Unit peer-leaders?**

No.

**How must facilities assess risk?**

The committee surveys its patient care settings, populations, and handling tasks.<sup>139</sup> It must create an SPH assessment process for "patient's needs."<sup>140</sup>

**Does Missouri require written plans?**

This law does not explicitly require a written plan.

**Must facilities purchase safe-patient-handling equipment?**

Although its goal is to achieve elimination of manual patient lifting, transferring, and repositioning,<sup>141</sup> this law does not specify any type or amount of SPH equipment.

**How will this law effect facility construction or remodeling?**

This law does not say.

**What training is necessary?**

Facilities must train patient-care workers on SPH policies and equipment.<sup>142</sup> Workers must demonstrate competence.<sup>143</sup> Training occurs yearly and as the program changes.<sup>144</sup>

**How must facilities evaluate their programs?**

Each hospital must evaluate its SPH program yearly.<sup>145</sup> It must measure program outcomes such as employee or patient injuries, lost work days, or workers compensation claims.<sup>146</sup> A hospital must evidence its program's performance.<sup>147</sup>

**Does this law give employees the right to refuse improper lifts?**

No.

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<sup>137</sup> Mo. CODE REGS. tit. 19, § 30-20.097(1) (2011).

<sup>138</sup> Mo. CODE REGS. tit. 19, § 30-20.097(1) (2011).

<sup>139</sup> Mo. CODE REGS. tit. 19, § 30-20.097(2)(B) (2011).

<sup>140</sup> See Mo. CODE REGS. tit. 19, § 30-20.097(2)(C) (2011).

<sup>141</sup> See Mo. CODE REGS. tit. 19, § 30-20.097(2)(A) (2011).

<sup>142</sup> Mo. CODE REGS. tit. 19, § 30-20.097(3) (2011).

<sup>143</sup> Mo. CODE REGS. tit. 19, § 30-20.097(3) (2011).

<sup>144</sup> Mo. CODE REGS. tit. 19, § 30-20.097(3) (2011).

<sup>145</sup> Mo. CODE REGS. tit. 19, § 30-20.097(2)(E) (2011).

<sup>146</sup> Mo. CODE REGS. tit. 19, § 30-20.097(2)(E) (2011).

<sup>147</sup> Mo. CODE REGS. tit. 19, § 30-20.097(2)(F) (2011).

**Will Missouri levy noncompliance fines?**

No.

**New Jersey  
Safe Patient Handling Act  
New Jersey Statutes § 26:2H-14(8)-(14) (2013)**

**Who does this law apply to?**

New Jersey's "Safe Patient Handling Act" applies to facilities licensed as general and special hospitals, nursing homes, state or county psychiatric hospitals, and state developmental-disability centers.<sup>148</sup> A "nursing home" includes skilled or long-term nursing care.<sup>149</sup>

**Who does this law not apply to?**

This law will not cover private psychiatric hospitals.<sup>150</sup> Nor does it cover facilities providing outpatient or primary care.<sup>151</sup>

**When must health care providers comply?**

This law took effect in January 2008.<sup>152</sup> Each facility must establish an SPH committee by January 2009.<sup>153</sup> And each must have a safe patient handling program by January 2011, detailed in writing.<sup>154</sup>

**Which lift methods are required?**

Covered facilities must minimize manual patient-handling through SPH equipment use.<sup>155</sup> New Jersey does not require trained lift teams.<sup>156</sup> Instead, workers consider each patient's physical and cognitive condition.<sup>157</sup> SPH equipment must be available and easily accessible.<sup>158</sup> And facilities must maintain and store that equipment according to manufacturer recommendations.<sup>159</sup>

**Will New Jersey help fund the transition?**

No. But each facility's plan for buying SPH equipment may track its budget constraints.<sup>160</sup>

**Who will manage each facility's program?**

Covered health care facilities must establish SPH committees.<sup>161</sup> Each committee develops, implements, evaluates, and revises its SPH program.<sup>162</sup> They select and evaluate SPH equipment

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<sup>148</sup> Safe Patient Handling Act, N.J. STAT. ANN. § 26:2H-14.10 (2013).

<sup>149</sup> N.J. STAT. ANN. § 26: 2H-29 (2013).

<sup>150</sup> N.J. STAT. ANN. § 26:2H-14.10 (2013).

<sup>151</sup> N.J. STAT. ANN. § 26:2H-14.10 (2013).

<sup>152</sup> Safe Patient Handling Act, 2007 N.J. Sess. Law Serv. Ch. 225 (S. 1758) (West).

<sup>153</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

<sup>154</sup> N.J. STAT. ANN. § 26:2H-14.11(a)(1) (2013)..

<sup>155</sup> N.J. STAT. ANN. § 26:2H-14.11(b) (2013).

<sup>156</sup> *Cf.* N.J. STAT. ANN. § 26:2H-14.11 (2013).

<sup>157</sup> N.J. STAT. ANN. § 26:2H-14.11(b) (2013).

<sup>158</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(5) (2013).

<sup>159</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(6) (2013).

<sup>160</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(3) (2013).

<sup>161</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

<sup>162</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

and engineering controls.<sup>163</sup> At least 50% of the committee must consist of facility representatives of different disciplines.<sup>164</sup> The remaining members must have relevant SPH experience, expertise, or responsibility.<sup>165</sup> Meetings occur at least quarterly.<sup>166</sup> For health care systems with multiple facilities, a committee may operate system-wide<sup>167</sup>, with at least one employee representing each facility.<sup>168</sup>

#### **Do programs require Unit peer-leaders?**

No.

#### **How must facilities assess risk?**

Each committee will assess all patient care units for all shifts, aiming policy to minimize unassisted patient handling.<sup>169</sup> Workers consider each patient's physical and cognitive condition.<sup>170</sup> And the SPH needs of each patient get updated.<sup>171</sup>

#### **Does New Jersey require written plans?**

Yes. Facilities must "maintain a detailed written description of the program and its components. . . ." <sup>172</sup> Each provides the DHSS a copy, <sup>173</sup> and posts another copy visible to staff, visitors, and patients.<sup>174</sup>

#### **Must facilities purchase safe-patient-handling equipment?**

The committee recommends a three-year SPH equipment purchase plan.<sup>175</sup> But each facility's plan for buying that equipment may track its budget constraints.<sup>176</sup>

#### **How will the law effect facility construction or remodeling?**

Committees select and evaluate SPH engineering controls.<sup>177</sup>

#### **What training is necessary?**

Employers must train employees to identify, assess, and control patient handling risks.<sup>178</sup> Employees must train on the use of SPH equipment and SPH techniques,<sup>179</sup> and show proficiency.<sup>180</sup> Their paid training occurs on workdays.<sup>181</sup> After initial training, it occurs at least yearly.<sup>182</sup>

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<sup>163</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

<sup>164</sup> N.J. STAT. ANN. § 26:2H-14.12(b) (2013).

<sup>165</sup> N.J. STAT. ANN. § 26:2H-14.12(b) (2013).

<sup>166</sup> N.J. STAT. ANN. § 26:2H-14.12(c) (2013).

<sup>167</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(2) (2013).

<sup>168</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(2) (2013).

<sup>169</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(1) (2013).

<sup>170</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(1) (2013).

<sup>171</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(4) (2013).

<sup>172</sup> N.J. REV. STAT. § 26:2H-14.11(a)(1) (2013).

<sup>173</sup> N.J. STAT. ANN. § 26:2H-14.11(a)(2) (2013).

<sup>174</sup> N.J. STAT. ANN. § 26:2H-14.11(a)(5) (2013).

<sup>175</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(3) (2013).

<sup>176</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(3) (2013).

<sup>177</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

<sup>178</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(7)(a) (2013).

<sup>179</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(7)(a) (2013).

<sup>180</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(7)(a)-(b) (2013).

**How must facilities evaluate their programs?**

Committees evaluate their SPH plans.<sup>183</sup> Data is evaluated yearly and they revise their plan.<sup>184</sup>

**Does this law give employees the right to refuse improper lifts?**

Yes. For health care worker and patient safety, a worker may refuse to handle a patient when lacking proper SPH equipment or when having a reasonable safety concern.<sup>185</sup> The worker must promptly notify their supervisor of the refusal and give its reason.<sup>186</sup> The facility must not take retaliatory action.<sup>187</sup>

**Will New Jersey levy noncompliance fines?**

Yes. Violations of this Act are subject to DHSS penalty.<sup>188</sup>

**New York  
Safe Patient Handling Act  
New York Public Health Law § 2997(g)-(l) (2014)**

**Who does this law apply to?**

New York's "safe patient handling act" applies to general, specialty, and psychiatric hospitals.<sup>189</sup> Schools for developmental disabilities are covered.<sup>190</sup> And so are skilled nursing facilities.<sup>191</sup> The Act covers facilities providing long-term care,<sup>192</sup> and ambulatory care clinics.<sup>193</sup> Primary-care facilities also must comply.<sup>194</sup>

**Who does this law not apply to?**

Few, if any, escape New York's definition of "health care facility."<sup>195</sup>

<sup>181</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(7)(c) (2013).

<sup>182</sup> N.J. STAT. ANN. § 26:2H-14.11(b)(7)(d) (2013).

<sup>183</sup> N.J. STAT. ANN. § 26:2H-14.12(a)(1) (2013).

<sup>184</sup> N.J. STAT. ANN. § 26:2H-14.12(c) (2013).

<sup>185</sup> N.J. STAT. ANN. 26:2H-14.13 (2013).

<sup>186</sup> N.J. STAT. ANN. 26:2H-14.13 (2013).

<sup>187</sup> N.J. STAT. ANN. 26:2H-14.13 (2013).

<sup>188</sup> N.J. STAT. ANN. § 26:2H-13 (2013) (stating fines, license suspension, or revocation); N.J. STAT. ANN. § 26:2H-14 (2013) (stating fines for unlicensed health care facilities).

<sup>189</sup> See Safe Patient Handling Act, N.Y. PUB. HEALTH LAW § 2997-h(1) (2014) (defining "health care facility"); N.Y. PUB. HEALTH LAW § 2801(10) (2013) (defining "general hospital"); N.Y. MENTAL HYG. LAW § 103.1(10) (2013) (defining "hospital" in limits of mental hygiene law).

<sup>190</sup> N.Y. MENTAL HYG. LAW § 103.1(11) (2013) (defining "school").

<sup>191</sup> N.Y. PUB. HEALTH LAW § 2997-h(1) (2014); N.Y. PUB. HEALTH LAW § 2801(3) (2014) (defining "nursing home").

<sup>192</sup> N.Y. PUB. HEALTH LAW § 2997-h(1) (2014); N.Y. PUB. HEALTH LAW § 2801(3), (4)(b) (2014) (defining "residential health care facility" to cover "health related service" of lodging, board, and physical care).

<sup>193</sup> N.Y. PUB. HEALTH LAW § 2997-h(1) (2014); N.Y. PUB. HEALTH LAW § 2801(1) (2014) (stating that hospital licensing covers facilities supervised by physicians); N.Y. EDUC. LAW §§ 6550-8709 (2014) (stating that education licensing covers facilities supervised by professionals, including non-physicians).

<sup>194</sup> N.Y. PUB. HEALTH LAW § 2997-h(1) (2014); N.Y. EDUC. LAW §§ 6550-8709 (2014).

<sup>195</sup> N.Y. PUB. HEALTH LAW § 2997-h(1) (2014).

**When must health care providers comply?**

This law took effect on April 2014.<sup>196</sup> Each facility must establish a safe patient handling committee by January 2016,<sup>197</sup> and a program by January 2017.<sup>198</sup>

**Which lift methods are required?**

This law defines SPH as “the use of engineering controls, lifting and transfer aids, or assistive devices. . . .”<sup>199</sup> New York facilities look to a workgroup and a commissioner to help define their SPH standards and practices.<sup>200</sup> Its Workgroup reports on SPH practices to the New York's Health Commissioner by January 2016.<sup>201</sup> Addressing the patient-handling needs of each facility<sup>202</sup> and each patient,<sup>203</sup> the Commissioner recommends statewide SPH policy and practices.<sup>204</sup>

**Will New York help fund the transition?**

No.

**Who will manage each facility's program?**

All covered facilities must establish an SPH committee by January 2016.<sup>205</sup> Each committee designs and recommends an SPH plan.<sup>206</sup> Its members must have SPH-relevant expertise or experience in risk management, nursing, purchasing, occupational safety and health, or other competence.<sup>207</sup> And at least half of them must be front-line non-managerial employees.<sup>208</sup>

**Do programs require Unit peer-leaders?**

No.

**How must facilities assess risk?**

Each committee will consider the Commissioner's policies and practices,<sup>209</sup> and survey its patient care settings, populations, and handling tasks.<sup>210</sup> It will also develop a process to assess each patient's physical and cognitive SPH needs.<sup>211</sup>

**Does New York require written plans?**

The law does not explicitly require a written plan now or in the future.<sup>212</sup> New York facilities must wait until January 2016 for the Commissioner's SPH best-practices and policies.<sup>213</sup>

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<sup>196</sup> Safe Patient Handling Act, 2014 N.Y. Sess. Laws ch. 60 (S. 6914) (McKinney's).

<sup>197</sup> N.Y. PUB. HEALTH LAW § 2997-k(1) (2014).

<sup>198</sup> N.Y. PUB. HEALTH LAW § 2997-k(2) (2014).

<sup>199</sup> N.Y. PUB. HEALTH LAW § 2997-h(5) (2014).

<sup>200</sup> N.Y. PUB. HEALTH LAW § 2997-j (2014).

<sup>201</sup> N.Y. PUB. HEALTH LAW § 2997-j (2014).

<sup>202</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(a)-(b) (2014).

<sup>203</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(c) (2014).

<sup>204</sup> N.Y. PUB. HEALTH LAW § 2997-j (2014).

<sup>205</sup> N.Y. PUB. HEALTH LAW § 2997-k(1) (2014).

<sup>206</sup> N.Y. PUB. HEALTH LAW § 2997-k(1) (2014).

<sup>207</sup> N.Y. PUB. HEALTH LAW § 2997-k(1) (2014).

<sup>208</sup> N.Y. PUB. HEALTH LAW § 2997-k(1) (2014).

<sup>209</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(a) (2014).

<sup>210</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(b) (2014).

<sup>211</sup> N.Y. PUB. HEALTH LAW § 2997-k(c) (2014).

<sup>212</sup> N.Y. PUB. HEALTH LAW § 2997-k (2014).

<sup>213</sup> N.Y. PUB. HEALTH LAW § 2997-j (2014).

**Must facilities purchase safe-patient-handling equipment?**

New York requires committees to implement their programs by SPH standards.<sup>214</sup> These standards arrive through the Commissioner's best practices, and each facility's patient care settings, populations, handling tasks, and equipment availability.<sup>215</sup>

**How will the law effect facility construction or remodeling?**

Facility design and construction must be consistent with program goals.<sup>216</sup>

**What training is necessary?**

The Commissioner will develop and circulate SPH training materials.<sup>217</sup> Facilities must provide employees initial and yearly SPH training.<sup>218</sup> Employees lacking SPH skills must be retrained.<sup>219</sup>

**How must facilities evaluate their programs?**

Each must report patient-handling injuries by occurrences, claims, and work days lost.<sup>220</sup> In addition, facilities must investigate adverse incidents and then review procedures.<sup>221</sup> Program evaluation occurs yearly.<sup>222</sup> And facilities must recommend improvements.<sup>223</sup>

**Does this law give employees the right to refuse improper lifts?**

In good faith, a worker can refuse a patient-handling task that unacceptably risks injury.<sup>224</sup> The worker must timely notify the facility.<sup>225</sup> The facility must not discipline the worker.<sup>226</sup>

**Will New York levy noncompliance fines?**

This law does not say.

**Ohio****Long-term care loan program****Ohio Revised Code § 4121.48 (2013)****Who does this law apply to?**

Ohio's "Long-term care loan program" applies to general, specialty, and psychiatric hospitals.<sup>227</sup> It covers skilled and long-term nursing care.<sup>228</sup>

<sup>214</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(a) (2014).

<sup>215</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(a)-(c) (2014).

<sup>216</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(g) (2014).

<sup>217</sup> N.Y. PUB. HEALTH LAW § 2997-i(4)(c) (2014); N.Y. PUB. HEALTH LAW § 2997-j (2014).

<sup>218</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(d) (2014).

<sup>219</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(d) (2014).

<sup>220</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(f) (2014).

<sup>221</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(e) (2014).

<sup>222</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(f) (2014).

<sup>223</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(f) (2014).

<sup>224</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(h) (2014).

<sup>225</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(h) (2014).

<sup>226</sup> N.Y. PUB. HEALTH LAW § 2997-k(2)(h) (2014).

<sup>227</sup> See Long Term Loan Program Act, OHIO REV. CODE ANN. § 4121.48(B), (D) (2013); OHIO REV. CODE ANN. § 3701.01(C) (2013) (defining "hospital"); OHIO REV. CODE ANN. § 3721.01 (2013) (defining "nursing home").



**Who does this law not apply to?**

It excludes non-hospital residential facilities for hospice<sup>229</sup>, developmental disabilities<sup>230</sup>, or substance abuse.<sup>231</sup> Further, this law fails to cover non-hospital ambulatory care or primary care facilities.<sup>232</sup>

**When must health care providers comply?**

This law took effect in June 2005.<sup>233</sup>

**Which lift methods are required?**

This law simply states a "no manual lifting" policy.<sup>234</sup>

**Will Ohio help fund the transition?**

Eligible facilities apply for interest-cost reimbursement on SPH improvement loans.<sup>235</sup> Applications are processed in the order of receipt.<sup>236</sup> And first-time applicants have priority.<sup>237</sup>

**Who will manage each facility's program?**

Not applicable.

**Do programs require Unit peer-leaders?**

Not applicable.

**How must facilities to assess risk?**

Not applicable.

**Does Ohio require written plans?**

Not applicable.

**Must facilities purchase safe-patient-handling equipment?**

Ohio requires facilities to use the loan for the purpose of purchasing, improving, or installing SPH equipment, or for providing employee SPH education and training.<sup>238</sup> Within 30 days of receiving its loan, the participating facility must begin that purchase, improvement, or installation.<sup>239</sup> And within 90 days of receiving its loan, it must complete that task.<sup>240</sup>

**How will the law effect facility construction or remodeling?**

<sup>228</sup> OHIO REV. CODE ANN. § 3721.01(A)(1)(a), (A)(6) (2013) (noting that home care must be for three or more unrelated persons)

<sup>229</sup> OHIO REV. CODE ANN. § 3721.01 (A)(1)(c)(vii)-(viii) (2013)

<sup>230</sup> OHIO REV. CODE ANN. § 3721.01(A)(1)(c)(vi) (2013).

<sup>231</sup> OHIO REV. CODE ANN. § 3721.01(A)(1)(c)(iv)-(v) (2013).

<sup>232</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013).

<sup>233</sup> Long Term Loan Program Act, 2005 Ohio Laws file 4 (Am. H.B. 67).

<sup>234</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013).

<sup>235</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013); OHIO REV. CODE ANN. § 4123.17.31(C) (2013).

<sup>236</sup> OHIO REV. CODE ANN. § 4123.17.31(C)(4)(a) (2013).

<sup>237</sup> OHIO REV. CODE ANN. § 4123.17.31(C)(4)(a) (2013).

<sup>238</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013).

<sup>239</sup> OHIO REV. CODE ANN. § 4123.17.31(C)(3) (2013).

<sup>240</sup> OHIO REV. CODE ANN. § 4123.17.31(C)(3) (2013).

Facilities can use loan funds for SPH construction or remodeling.<sup>241</sup>

**What training is necessary?**

Loans taken for employee SPH education and training must be used for that purpose.<sup>242</sup>

**How must facilities evaluate their programs?**

The Bureau may inspect facilities to verify their proper spending of loan proceeds.<sup>243</sup>

**Does this law give employees the right to refuse improper lifts?**

Not applicable.

**Will Ohio levy noncompliance fines?**

Not applicable.

**Rhode Island  
Safe Patient Handling Act of 2006  
General Laws of Rhode Island § 23–17–59 (2013)**

**Where does this law apply?**

Rhode Island's "Safe Patient Handling Act of 2006" applies to general, specialty, and psychiatric hospitals.<sup>244</sup> It covers skilled and long-term nursing care.<sup>245</sup>

**Who does this law not apply to?**

It does not apply to ambulatory or primary care facilities.<sup>246</sup>

**When must health care providers comply?**

This law took effect in January 2007.<sup>247</sup> Facilities must develop a written SPH plan by July 2007, and fully implement it by July 2008.<sup>248</sup>

**Which lift methods are required?**

This law defines SPH as the proper use of "engineering controls, transfer aids, or assistive devices . . . instead of manual lifting. . . ." <sup>249</sup> <sup>250</sup> workers may lift patients manually<sup>251</sup>

<sup>241</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013).

<sup>242</sup> OHIO REV. CODE ANN. § 4121.48(B) (2013); OHIO REV. CODE ANN. § 4123.17.31(C)(3) (2013).

<sup>243</sup> OHIO REV. CODE ANN. § 4123.17.31(C)(3) (2013).

<sup>244</sup> See Safe Patient Handling Act of 2006, R.I. GEN. LAWS § 23–17–59(2)(b) (2013) (applying Act to "licensed healthcare facilities"); R.I. GEN. LAWS § 23–17–59(1)(c) (2013) ( "'Health care facility' means a hospital or a nursing facility.")(2013); 23-17-HOSP R.I. CODE R. § 1.27 (2012) (licensing definition for "hospital" as (1) place with (2) governing body, (3) organized medical staff, and (4) nursing service (5) primarily for inpatient (6) diagnosis and treatment of (7) injury, illness, disability, or pregnancy and at least (8) dietetic, infection control, laboratory, pharmaceutical, radiology (for non-psychiatric care), and medical records services ).

<sup>245</sup> 23-17-NF R.I. CODE R. § 1.31 (2013) (licensing definition for "nursing" facility as (1) place providing (2) 24-hour (3) in-resident (4) nursing for (5) two or more (6) unrelated patients who (7) require continuous care).

<sup>246</sup> Cf. R.I. GEN. LAWS § 23–17–59(2)(b) (2013).

<sup>247</sup> Safe Patient Handling Act of 2006, 2006 Rhode Island Laws ch. 06-463 (06-H 7386A).

<sup>248</sup> R.I. GEN. LAWS § 23–17–59(2)(b) (2013).

**Will Rhode Island help fund the transition?**

No.

**Who will manage each facility's program?**

Rhode Island requires facilities covered by this law to establish an SPH committee.<sup>252</sup> It develops, or assists in developing, the facility's SPH program.<sup>253</sup> A professional nurse or "appropriate licensed healthcare professional" will chair that committee.<sup>254</sup> At least half of its membership consists of hourly, non-managerial employees who provide direct patient care.<sup>255</sup> Each year, the committee will review the facility's patient-handling injuries by number and rate.<sup>256</sup> And it will review the facility's yearly SPH-operations report and recommendations.<sup>257</sup>

This law requires that a facility review its ongoing SPH program only yearly. It may help to designate a program champion to fully engage a program's potential.

**Do programs require Unit peer-leaders?**

Yes. A registered nurse, or appropriate licensed health care professional, must serve workers as an expert resource and teach SPH policies, equipment, and use.<sup>258</sup>

**How must facilities assess risk?**

The facility will assess risk by surveying its patient care settings, populations, and handling tasks.<sup>259</sup> It considers the availability of lift equipment and lift teams.<sup>260</sup> And it looks at the SPH risk of each patient's physical and mental condition, and their SPH choices.<sup>261</sup>

**Does Rhode Island require written plans?**

By July 2007, with its committee's help, each facility must develop a written SPH program.<sup>262</sup>

**Must facilities purchase safe-patient-handling equipment?**

By July 2008, Rhode Island requires each facility policy "achieve the maximum reasonable reduction of manual lifting. . . ."<sup>263</sup>

**How will this law effect facility construction or remodeling?**

No.

<sup>249</sup> R.I. GEN. LAWS § 23-17-59(a)(1) (2013).

<sup>250</sup> R.I. GEN. LAWS § 23-17-59(a)(4) (2013) (defining "lift team"); R.I. GEN. LAWS § 23-17-59(b)(2)(iii) (2013)(considering program lift options).

<sup>251</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iii) (2013).

<sup>252</sup> R.I. GEN. LAWS § 23-17-59(b)(1)(2013).

<sup>253</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(2013).

<sup>254</sup> R.I. GEN. LAWS § 23-17-59(b)(1)(2013).

<sup>255</sup> R.I. GEN. LAWS § 23-17-59(b)(1)(2013).

<sup>256</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(v)(2013).

<sup>257</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(vi)(2013).

<sup>258</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iv) (2013).

<sup>259</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(ii) (2013).

<sup>260</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iii) (2013).

<sup>261</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iii) (2013).

<sup>262</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(2013).

<sup>263</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(i) (2013).

**What training is necessary?**

Facilities must designate and train a leader to serve as an SPH training resource for all clinical staff.<sup>264</sup> This RN or "appropriate licensed health care professional" will train workers on SPH policies and equipment.<sup>265</sup> Training will occur initially, then at least yearly, and as the program changes.<sup>266</sup>

**How must facilities evaluate their programs?**

Each SPH program must evaluate its yearly performance by its injury results,<sup>267</sup> and its operations.<sup>268</sup> Programs must report yearly to the committee, measure their performance by MSD claims and lost work, and make recommendations.<sup>269</sup> They must also report yearly on assessing, developing, and evaluating risk-control strategies.<sup>270</sup> And on request, the latter report becomes publicly available.<sup>271</sup>

**Does this law give employees the right to refuse improper lifts?**

Employees must "report to the committee, as soon as possible, after being required to perform a patient handling activity that he/she believes in good faith exposed the patient and/or employee to an unacceptable risk of injury."<sup>272</sup> Each reported incident becomes part of the facility's yearly performance evaluation.<sup>273</sup>

Although this law protects whistleblowers from discipline,<sup>274</sup> it gives them no option to forgo lifts.

**Will Rhode Island levy noncompliance fines?**

The Act states no specific fine. Nonetheless, compliance will be enforced as a facility-licensing condition.<sup>275</sup>

**Texas****Safe Patient Handling And Movement Practices  
Texas Health and Safety Code § 256 (2013)****Who does this law apply to?**

The Texas "Safe Patient Handling And Movement Practices" law covers general and special hospitals.<sup>276</sup> And it applies to non-municipal mental hospitals<sup>277</sup> and private skilled-nursing facilities.<sup>278</sup>

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<sup>264</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iv) (2013).

<sup>265</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iv) (2013).

<sup>266</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(iv) (2013).

<sup>267</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(v) (2013).

<sup>268</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(vi) (2013).

<sup>269</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(v) (2013).

<sup>270</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(vi) (2013).

<sup>271</sup> R.I. GEN. LAWS § 23-17-59(b)(2)(vi) (2013).

<sup>272</sup> R.I. GEN. LAWS § 23-17-59(b)(4) (2013).

<sup>273</sup> R.I. GEN. LAWS § 23-17-59(b)(4) (2013).

<sup>274</sup> R.I. GEN. LAWS § 23-17-59(b)(4) (2013).

<sup>275</sup> R.I. GEN. LAWS § 23-17-59(b) (2013).

<sup>276</sup> Safe Patient Handling and Movement Practices Act, TEX. HEALTH & SAFETY CODE ANN. § 256.001-002 (2013).

**Who does this law not apply to?**

This law fails to cover long-term<sup>279</sup>, ambulatory, or primary care facilities.<sup>280</sup>

**When must health care providers comply?**

Texas enacted this law in June 2005 and it took effect in January 2006.<sup>281</sup>

**Which lift methods are required?**

Each facility must control the risk of injury to patients and nurses where patient handling occurs.<sup>282</sup> They must use SPH equipment to restrict manual patient-handling to the extent feasible.<sup>283</sup> Only under exceptional circumstances may workers lift unassisted.<sup>284</sup>

**Is public funding provided?**

No.

**Who will manage each facility's program?**

A hospital's governing body or nursing home's quality assurance committee adopts and manages its SPH policy.<sup>285</sup> The nurse staffing committee helps.<sup>286</sup> And its managers receive a yearly report identifying, assessing, and developing SPH risk-control strategies.<sup>287</sup>

**Do programs require Unit Peer-Leaders?**

No.

**How must facilities assess risk?**

The facility manager will assess risk by surveying SPH needs of its patient populations and its facility environments.<sup>288</sup>

**Does Texas require written plans?**

The law does not explicitly say.<sup>289</sup>

<sup>277</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.001(1) (2013); TEX. HEALTH & SAFETY CODE ANN. § 577.001 (2013).

<sup>278</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.001(2) (2013); TEX. HEALTH & SAFETY CODE ANN. § 242.003(6)(B) (2013).

<sup>279</sup> TEX. HEALTH & SAFETY CODE ANN. § 242.003(6)(A) (2013).

<sup>280</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.001 (2013).

<sup>281</sup> Safe Patient Handling and Movement Practices Act, 2005 Tex. Sess. Law Serv. Ch. 401 (S.B. 1525) (Vernon's).

<sup>282</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(a) (2013).

<sup>283</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(4) (2013). *Cf. AFL-CIO v. Am. Petrol. Inst.*, 448 U.S. 607 (1980) (Rehnquist, J., concurring) ("the feasibility requirement . . . is a legislative mirage, appearing to some Members and not to others, and assuming any form desired by the beholder.").

<sup>284</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(4) (2013).

<sup>285</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(a) (2013). TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(4) (2013).

<sup>286</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(5) (2013).

<sup>287</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(7) (2013).

<sup>288</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(1) (2013).

<sup>289</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(a) (2013) ("shall adopt and ensure implementation of a policy. . .").

**Must facilities purchase safe-patient-handling equipment?**

The law only requires facilities to use "existing equipment."<sup>290</sup>

**How will this law effect facility construction or remodeling?**

Facilities who plan construction or remodeling must consider incorporating SPH design.<sup>291</sup>

**What training is necessary?**

Facilities must train patient care workers to identify, assess, and control patient-handling risks.<sup>292</sup>

**How must facilities evaluate their programs?**

Each facility must manage its SPH policy to develop risk-control strategies.<sup>293</sup> It looks at risk-reducing alternatives, including its equipment and environment factors.<sup>294</sup> And it receives a yearly report identifying, assessing, and developing SPH strategies.<sup>295</sup> In that reporting, the nurse staffing committee teams up with management.<sup>296</sup>

**Does this law give employees the right to refuse improper lifts?**

Facilities must develop procedures for nurses, in good faith, to refuse patient-handling tasks that expose nurses or patients to unreasonable injury risks.<sup>297</sup> Under exceptional circumstances, workers may perform manual lifts.<sup>298</sup>

**Will Texas levy noncompliance fines?**

Facilities must comply with this law as a licensing condition.<sup>299</sup>

**Washington  
Safe Patient Handling  
Washington Revised Code § 70.41.390 (2013)**

**Who does this law apply to?**

Washington's "Safe Patient Handling" law covers general and specialty hospitals.<sup>300</sup> And it covers state psychiatric hospitals.<sup>301</sup>

<sup>290</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(4) (2013).

<sup>291</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(8) (2013).

<sup>292</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(2) (2013).

<sup>293</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(a) (2013).

<sup>294</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(3) (2013).

<sup>295</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(7) (2013).

<sup>296</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(5) (2013).

<sup>297</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(6) (2013).

<sup>298</sup> TEX. HEALTH & SAFETY CODE ANN. § 256.002(b)(4) (2013).

<sup>299</sup> TEX. HEALTH & SAFETY CODE ANN. § 256 (2013).

<sup>300</sup> See Safe Patient Handling Act, WASH. REV. CODE ANN. § 70.41.390(3) (2013) (covering "each hospital"); WASH. REV. CODE ANN. § 70.41.020(4) (2013) (defining "hospital").

<sup>301</sup> WASH. REV. CODE ANN. § 70.41.020(4) (2013) (excluding coverage of Wash. Rev. Code § 71.12); WASH. REV. CODE ANN. § 71.12.455 (2013) (covering every private, county, or municipal psychiatric hospital).

**Who does this law not apply to?**

This law does not apply to private psychiatric hospitals.<sup>302</sup> Nor does it apply to skilled or long-term nursing facilities.<sup>303</sup> It will not cover places that diagnose and care for mental illness, substance abuse, or developmental disability.<sup>304</sup> And it will not cover outpatient or primary care facilities.<sup>305</sup>

**When must health care providers comply?**

This law took effect in June 2006.<sup>306</sup> Each facility must establish an SPH committee by February 2007 and an SPH program by December 2007.<sup>307</sup> Required SPH-equipment purchases must be made by January 2010.<sup>308</sup>

**Which lift methods are required?**

This law defines SPH as the "use of engineering controls, lifting and transfer aids, or assistive devices, by lift teams or other staff, instead of manual lifting. . . ."<sup>309</sup> Facilities must acquire patient-handling equipment.<sup>310</sup> Hospitals may use SPH-trained lift teams.<sup>311</sup> A "lift team" consists of hospital workers specially trained for patient handling.<sup>312</sup> Under exceptional circumstances, workers may lift patients manually.<sup>313</sup>

**Will Washington help fund the transition?**

Yes. It offers a reduced workers compensation premium for hospitals with fully implemented SPH programs,<sup>314</sup> and a 100% tax credit for hospital purchases of SPH equipment up to \$1000 per acute-care bed.<sup>315</sup>

**Who will manage each facility's program?**

A hospital must establish an SPH committee to design and update its program.<sup>316</sup> It may form a new committee or assign SPH to an existing one.<sup>317</sup> Where practical, the committee consists of at least half non-managerial workers who provide direct patient care.<sup>318</sup>

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<sup>302</sup> WASH. REV. CODE ANN. § 70.41.020(4) (2013).

<sup>303</sup> WASH. REV. CODE ANN. § 70.41.020(4) (2013) (excluding coverage of Wash. Rev. Code 18.51); WASH. REV. CODE ANN. § 18.51.010(3) (2013) (defining "nursing home").

<sup>304</sup> WASH. REV. CODE ANN. § 70.41.020(4) (2013).

<sup>305</sup> WASH. REV. CODE ANN. § 70.41.390(3) (2013); WASH. REV. CODE ANN. § 70.41.020(4) (2013).

<sup>306</sup> Safe Patient Handling Act, 2006 Wash. Legis. Serv. Ch. 165 (S.H.B. 1672) (West).

<sup>307</sup> WASH. REV. CODE ANN. § 70.41.390(2)-(3) (2013).

<sup>308</sup> WASH. REV. CODE ANN. § 70.41.390(4) (2013).

<sup>309</sup> WASH. REV. CODE ANN. § 70.41.390(1)(b) (2013).

<sup>310</sup> WASH. REV. CODE ANN. § 70.41.390(4) (2013).

<sup>311</sup> WASH. REV. CODE ANN. § 70.41.390(1)(a)-(b)(2013).

<sup>312</sup> WASH. REV. CODE ANN. § 70.41.390(1)(a) (2013).

<sup>313</sup> WASH. REV. CODE ANN. § 70.41.390(3)(c) (2013).

<sup>314</sup> WASH. REV. CODE ANN. § 51.16.230 (2013) (Department of Labor and Industries created special risk class).

<sup>315</sup> WASH. REV. CODE ANN. § 82.04.4485(1),(3) (2013) (Department of Revenue set out business and occupations tax credit).

<sup>316</sup> WASH. REV. CODE ANN. § 70.41.390(2)(2013).

<sup>317</sup> WASH. REV. CODE ANN. § 70.41.390(2)(2013).

<sup>318</sup> WASH. REV. CODE ANN. § 70.41.390(2)(2013).

**Do programs require Unit Peer-Leaders?**

No.

**How must facilities assess risk?**

This law requires hospitals assess risk by surveying "patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas. . . ." <sup>319</sup> On the individual patient level, workers must weigh whether SPH equipment is medically useful or not. <sup>320</sup>

**Does Washington require written plans?**

This law does not explicitly say.

**Must facilities purchase safe-patient-handling equipment?**

Washington sets a minimum-acquisition standard. <sup>321</sup> Hospitals may choose (a) where necessary, one "readily available" lift per acute-care unit on the same floor, (b) one lift for every ten acute-care beds, or (c) SPH equipment for lift team use. <sup>322</sup>

**What training is necessary?**

At least yearly, hospitals must train staff on policies and equipment. <sup>323</sup>

**How must facilities evaluate their programs?**

Each year, the facility evaluates its SPH program and the committee receives a report. <sup>324</sup> It discloses patient-handling MSD claims and lost work days. <sup>325</sup> And it recommends changes to improve program effectiveness. <sup>326</sup>

**Does this law give employees the right to refuse improper lifts?**

Hospitals must have good-faith refusal procedures for lift tasks that expose workers or patients to unacceptable injury risks. <sup>327</sup> Facilities must not discipline workers for those refusals. <sup>328</sup>

**Will Washington levy noncompliance fines?**

Facilities must comply with this law as a licensing condition. <sup>329</sup>

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<sup>319</sup> WASH. REV. CODE ANN. § 70.41.390(3)(b)(2013).

<sup>320</sup> WASH. REV. CODE ANN. § 70.41.390(3)(b)(2013).

<sup>321</sup> WASH. REV. CODE ANN. § 70.41.390(4) (2013).

<sup>322</sup> WASH. REV. CODE ANN. § 70.41.390(4) (2013).

<sup>323</sup> WASH. REV. CODE ANN. § 70.41.390(4) (2013).

<sup>324</sup> WASH. REV. CODE ANN. § 70.41.390(3)(d) (2013).

<sup>325</sup> WASH. REV. CODE ANN. § 70.41.390(3)(d) (2013).

<sup>326</sup> WASH. REV. CODE ANN. § 70.41.390(3)(d) (2013).

<sup>327</sup> WASH. REV. CODE ANN. § 70.41.390(6) (2013).

<sup>328</sup> WASH. REV. CODE ANN. § 70.41.390(6) (2013).

<sup>329</sup> *E.g.*, WASH. REV. CODE ANN. § 70.41.130 (2013).