

New Yorkers for Patient & Family Empowerment
SAFE LIFTING & MOVING IN HEALTHCARE:
NEW YORK'S NEW LAW

Frequently Asked Questions (FAQs) by Suzanne Mattei & Laura Slavin

In 2014, a new statute was enacted in New York declaring that health care facilities must establish programs to avoid manual lifting in favor of safer methods for lifting and moving of hospital patients and nursing home residents. (The federal Occupational Safety & Health Administration refers to this as “safe patient handling,” although a better term should be found.)

The National Institute for Occupational Safety & Health (NIOSH) urges that no caregiver should manually lift more than 35 lbs. of a person’s body weight vertically. Yet the old “Hook and Toss” approach – in which a caregiver hooks his or her arms under the armpits of the patient and lifts – is still commonly used to move a patient. Another often risky measure is the “Pivot Transfer,” which requires that patients be able to stand and take a step. If a patient is unable to stand or step, the healthcare worker may suddenly have to bear the patient’s full weight. Unsafe patient handling methods can cause back, joint or muscle pain, bruises, skin tears, and falls.

Under a proper program for safe lifting and moving in healthcare, trained healthcare workers use modern mechanical lifts and repositioning devices to transfer and reposition patients rather than the healthcare worker trying to bear the patient’s weight. Such policies are beneficial to both patients and healthcare workers. Effective safe handling programs decrease the risk of injury to patients, and healthcare workers benefit from the decreased risk of career ending injuries. When healthcare workers face fewer risks on the job, they are more likely to experience better job satisfaction, fewer lost work days due to injury, and more longevity in the profession. These factors can help reduce costs and improve the quality of healthcare in New York State.

The new law creates a special task force (“Workgroup”) within the New York State Department of Health (“DOH”) to identify resources and best practices for these programs.

WHO WAS PART OF THE WORKGROUP THAT IDENTIFIES THESE RESOURCES AND BEST PRACTICES AND WHAT DID THIS WORKGROUP DO? The DOH Commissioner established the Workgroup. It included representatives of health care providers, employee organizations (direct care workers), and executive nurses (management); specialists in ergonomist evaluation; and experts in disciplines related to healthcare. It also included a representative of New Yorkers for Patient & Family Empowerment. (§ 2997-I)

The Workgroup reviewed existing programs in other states on safe lifting and moving in healthcare and consulting with organizations that may be able to aid with the development of guidelines for New York. In July, the group will submit its report to the DOH Commissioner, which will identify “best practices” for such programs, providing examples of sample policies, and identify resources to help providers meet the goals of the new law. (§ 2997-I)

WHAT WILL THE DEPARTMENT OF HEALTH DO WITH THE WORKGROUP’S RECOMMENDATIONS? The DOH Commissioner must disseminate best practices, sample policies, and other resources and tools to the healthcare facilities covered by the new law, taking into consideration the Workgroup’s recommendations, by January 1, 2016. (§ 2997-J)

WHAT IS THE FIRST STEP THAT HEALTH CARE FACILITIES MUST TAKE TO COMPLY WITH THE NEW LAW? By January 1, 2016, each healthcare facility must establish a committee consisting of individuals with expertise or experience in safe lifting and moving in healthcare. At least half of the members must be direct care workers. If a facility has a resident council, then at least one member of the committee should be a representative from the resident council. The committee's role will be to design and recommend the process for implementing a program for the healthcare facility. (§ 2997-K)

WHAT ARE THE NEXT STEPS FOR HEALTHCARE FACILITY COMPLIANCE WITH THE LAW? (1) By January 1, 2017, the facility must implement a safe patient handling program, but the program may be phased in with the acquisition of equipment. The facility must implement its program "considering" the sample policies and best practices disseminated by the DOH Commissioner. (2) The facility must conduct a patient handling assessment, but its decision on how to implement its program is based on both the patient's condition and the availability of equipment. (3) The facility must provide initial and ongoing annual training on safe patient handling for current employees and new hires, with retraining if deficiencies appear. (§ 2997-K)

WHAT CAN A HEALTHCARE WORKER DO IF FACED WITH AN UNSAFE LIFTING SITUATION? The facility must develop procedures that allow employees to refuse to perform patient handling or movement that the employee believes in good faith will expose a patient or health care facility employee to an unacceptable risk of injury. Such procedures shall require that the nurse or direct care worker make a good faith effort to ensure patient safety and bring the matter to the attention of the facility in a timely manner. If a worker complies with the procedure to refuse hazardous lifting/moving, the worker "shall not be the subject of disciplinary action by the health care facility." (§ 2997-K)

HOW IS THE FACILITY'S PROGRAM EVALUATED? The facility must establish an incident investigation process and also conduct an annual internal performance evaluation of the program to determine its effectiveness and report the results to its own facility committee. The law does not require DOH to conduct regular evaluations of facility programs. (§ 2997-K)

IS THERE ANY INCENTIVE FOR THE HEALTHCARE FACILITY TO COMPLY WITH THE NEW LAW, GIVEN HOW MUCH DISCRETION THE FACILITY IS ALLOWED? Yes. By July 1, 2016, the Department of Financial Services will establish rules under which a reduced worker's compensation rate can be awarded to health care facilities with programs established under this law. These rules will set qualification requirements for the incentive. The Department of Financial Services will evaluate and report on the impact of this incentive, including changes in worker injury claim frequency and costs, to the Legislature by December 1, 2018. (2997-J)

IS IT COST-EFFECTIVE FOR A FACILITY TO BUY THE EQUIPMENT? Yes. The Kaleida Health Network launched its program in late 2004 and recovered its investment by 2007, primarily through lower staff Lost Work Days, due to fewer injuries among healthcare workers. In a NIOSH study of six nursing homes, cost recovery occurred in less than three years. Savings also can occur from reduced patient injuries and improved caregiver retention.

HOW CAN I LEARN MORE ABOUT THIS NEW LAW? Contact New Yorkers for Patient & Family Empowerment at 646-465-3635. (Healthcare workers should contact their union's or professional association's director of health and safety.)

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