

By Senator Villalobos

38-1492-07

1                                   A bill to be entitled  
 2           An act relating to patient handling; creating  
 3           s. 381.029, F.S.; providing definitions;  
 4           requiring the governing body of a hospital to  
 5           adopt a policy regarding the safe movement of  
 6           patients; providing requirements for the  
 7           policy; prohibiting a hospital from retaliating  
 8           or discriminating against an employee who, in  
 9           good faith, reports a violation of the act,  
 10          initiates or participates in an investigation  
 11          brought by a regulatory agency or accrediting  
 12          body with regard to a violation of this act, or  
 13          discusses a violation of this act with certain  
 14          individuals; requiring the agency to adopt  
 15          rules; amending s. 395.701, F.S.; authorizing a  
 16          hospital to claim credit for the purchase of  
 17          certain mechanical lifting devices with regard  
 18          to the computation of the annual assessment for  
 19          inpatient revenues; providing an effective  
 20          date.

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 22 Be It Enacted by the Legislature of the State of Florida:  
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24           Section 1. Section 381.029, Florida Statutes, is  
 25 created to read:

26           381.029 Safe patient handling and movement  
 27 practices.--

28           (1) As used in this section, the term:

29           (a) "Agency" means the Agency for Health Care  
 30 Administration.  
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1           **(b) "Good faith" means that an employee believes that**  
2 **the information he or she reported or disclosed is true and**  
3 **that a violation has occurred or may occur.**

4           **(c) "Hospital" means an institution licensed under**  
5 **chapter 395.**

6           **(d) "Minimal-lift philosophy" means to the greatest**  
7 **extent possible minimizing lifting tasks, encouraging a**  
8 **patient to assist with any lifting or moving activities**  
9 **without exacerbating his or her condition or putting himself**  
10 **or herself at risk, and avoiding any handling that involves**  
11 **manually lifting or moving the whole or a large part of a**  
12 **patient's weight.**

13           **(e) "Nurse" means a registered nurse, a licensed**  
14 **practical nurse, or an advanced registered nurse practitioner**  
15 **as defined in s. 464.003.**

16           **(2)(a) The governing body of a hospital shall adopt**  
17 **and ensure implementation of a policy and program to identify,**  
18 **assess, and develop strategies to control the risk of injury**  
19 **to patients and nurses associated with the lifting,**  
20 **transferring, repositioning, or movement of a patient.**

21           **(b) The policy shall be consistent with a minimal-lift**  
22 **philosophy and establish a process that, at a minimum,**  
23 **includes:**

24           **1. Establishment of a safe patient handling and**  
25 **movement committee that is responsible for implementing a**  
26 **minimal manual lift program in the facility. The committee may**  
27 **be a subcommittee of an existing committee and shall include**  
28 **in its membership representatives of the bargaining unit if**  
29 **one is recognized and members of the nursing staff from**  
30 **various units of the facility;**

1           2. Analysis of the risk of injury to patients, nurses,  
2 and health care workers posed by the patient-handling and  
3 moving needs of the patient populations served by the hospital  
4 and the physical environment in which patient handling and  
5 movement occurs;

6           3. Evaluation of alternative ways to reduce risks  
7 associated with patient handling and moving, including  
8 evaluation of equipment and the environment;

9           4. Establishment of a program that will eliminate  
10 manual lifting, moving, and repositioning of patients, which  
11 poses risks of injury based on current research and practice;

12           5. Establishment of a patient-handling hazard  
13 assessment. This assessment must consider such variables as  
14 patient-handling tasks, types of nursing units, patient  
15 populations, and the physical environment of patient care  
16 areas;

17           6. Development of a process to identify the  
18 appropriate use of the safe patient handling policy based on  
19 the patient's physical and medical condition and the  
20 availability of lifting equipment or lift teams;

21           7. Acquisition of, training with, and deployment of  
22 sufficient equipment and aids so that manual lifting,  
23 repositioning, or movement of all or most of a patient's  
24 weight is restricted to emergency, life-threatening, or  
25 otherwise exceptional circumstances;

26           8. Adoption of procedures for a nurse to employ in  
27 order to refuse to perform, or be involved in, patient  
28 handling or movement that the nurse believes in good faith  
29 will expose a patient or the nurse to an unacceptable risk of  
30 injury;

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1           9. Submission of an annual report to the governing  
2 body of the hospital and the agency on activities related to  
3 the identification, assessment, and development of strategies  
4 to control risk of injury to patients, nurses, and other  
5 health care workers associated with the lifting, transferring,  
6 repositioning, or movement of a patient;

7           10. Development of a process to identify the  
8 appropriate use of the safe patient handling policy based on  
9 the patient's physical and medical condition and the  
10 availability of lifting equipment or lift teams;

11           11. An annual performance evaluation of the program to  
12 determine its effectiveness, with the results of the  
13 evaluation reported to the safe patient handling committee.  
14 The evaluation shall determine the extent to which  
15 implementation of the program has resulted in a reduction in  
16 claims of musculoskeletal disorders and days of lost work  
17 attributable to musculoskeletal disorders caused by patient  
18 handling, and include recommendations to increase the  
19 program's effectiveness;

20           12. Publication of the policy, a plan for implementing  
21 the program, and publication of the results of an annual  
22 evaluation that uses data analysis to measure the success of  
23 the program; and

24           13. Consideration of the feasibility of incorporating  
25 patient handling and movement equipment, or the physical space  
26 and construction design needed to incorporate that equipment  
27 at a later date, when developing architectural plans for  
28 constructing or remodeling a hospital, or a unit of a hospital  
29 in which patient handling and movement occurs.

30           (3) A hospital may not penalize, discriminate against,  
31 or retaliate in any manner against an employee with respect to

1 compensation for, or terms, conditions, or privileges of,  
2 employment if such an employee in good faith, individually or  
3 in conjunction with another person or persons:

4 (a) Reports a violation or suspected violation of this  
5 section to a regulatory agency, a private accrediting body,  
6 or management personnel of the hospital;

7 (b) Initiates, cooperates in, or otherwise  
8 participates in an investigation or proceeding brought by a  
9 regulatory agency or private accrediting body concerning  
10 matters covered by this section;

11 (c) Informs or discusses violations or suspected  
12 violations of this section with any other employee, with any  
13 representative of an employee, with a patient or patient  
14 representative, or with the public; or

15 (d) Otherwise avails himself or herself of the rights  
16 set forth in this section.

17 (4) The agency shall adopt rules for administering  
18 this section which require compliance with policy development  
19 and reporting by January 1, 2008, and full implementation of  
20 safe-lift policies by July 1, 2008.

21 Section 2. Subsection (7) is added to section 395.701,  
22 Florida Statutes, to read:

23 395.701 Annual assessments on net operating revenues  
24 for inpatient and outpatient services to fund public medical  
25 assistance; administrative fines for failure to pay  
26 assessments when due; exemption.--

27 (7) Beginning January 1, 2008, and continuing through  
28 December 31, 2012, when computing the annual assessment for  
29 inpatient revenue, as required in paragraph (2)(a), any  
30 hospital may claim credit for the amount that it spent during  
31 that fiscal year for the purchase of mechanical lifting

1 devices and other equipment primarily used to minimize patient  
2 handling by health care providers, consistent with a safe  
3 patient handling program developed and implemented by the  
4 hospital in compliance with s. 381.029(2). The credit shall be  
5 equal to 100 percent of the cost of the mechanical lifting  
6 devices or other equipment. A credit earned during any one  
7 fiscal year may be carried over to be credited against the  
8 assessment required under paragraph (2)(a) and incurred in a  
9 subsequent fiscal year. Refunds may not be granted for credits  
10 under this subsection.

11 (a) An application is not necessary for the credit;  
12 however, a hospital taking a credit under this subsection must  
13 maintain and submit records, as required by the agency,  
14 necessary to verify eligibility for the credit under this  
15 subsection.

16 (b) The total maximum credit that may be earned under  
17 this subsection for each hospital is limited to \$1,000 for  
18 each available inpatient bed used for acute care.

19 Section 3. This act shall take effect July 1, 2007.

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22 SENATE SUMMARY

23 Requires the governing body of a hospital to adopt a  
24 policy regarding the safe movement of a patient. Provides  
25 requirements for the policy. Prohibits a hospital from  
26 retaliating or discriminating against an employee who, in  
27 good faith, reports a violation of the act, initiates or  
28 participates in an investigation brought by a regulatory  
29 agency or accrediting body with regard to a violation of  
30 this act, or discusses a violation of this act with  
31 certain individuals. Requires the agency to adopt rules.  
Authorizes a hospital to claim credit for its purchase of  
certain mechanical lifting devices with regard to the  
computation of the annual assessment for inpatient  
revenues.