

NOTE: This document is applicable to cases involving violations that occurred during the period January 1, 2012, to October 1, 2014.



Frequently Asked Questions – January 25, 2012

AB 1136: Hospital Patient and Health Care Worker Injury Protection Act Safe Patient Handling

Q: When does the legislation become effective?

A: AB 1136 became effective on January 1, 2012. It is now incorporated into the California Labor Code as Section 6403.5

Q: What does the new legislation require?

A: AB 1136 will require all general acute care hospitals in California to:

- Include in their Injury and Illness Prevention Program (IIPP) a patient protection and health care worker back and musculoskeletal injury prevention plan that includes a safe patient handling policy.
- Maintain a safe handling policy for all patient care units including:
 - Lift teams or other trained support staff
 - Training
- Registered nurse observation and direction of patient lifts and mobilization
- Replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, and lift teams, as appropriate for the specific patient and consistent with the employer's safety policies and professional judgment and clinical assessment of the registered nurse
- Prohibition of disciplinary action against a health care worker for refusal to lift, reposition, or transfer a patient due to concerns about patient or worker safety or the lack of trained lift team personnel or equipment.

Q: Which hospitals are required to develop a safe patient handling policy?

A: The legislation applies only to general acute care hospitals in California, *except* those hospitals that are managed by the California Department of Corrections and Rehabilitation or the California Department of Developmental Services.

Q: What should hospitals do to comply with the new law?

A: The first step hospitals should take in complying with this new law is to review their existing patient handling programs, procedures, training, and

equipment. Hospitals should also review their history of injuries relating to patient handling. Based on this information, hospitals can identify gaps, and develop a plan to fill those gaps. Careful planning and consultation with affected supervisors and front-line employees will help to avoid unnecessary expenditures and creation of new hazards. Employees should always be trained when new equipment is to be implemented. Where powered lift equipment can not be immediately implemented, hospitals should identify interim measures that will reduce risk, in accordance with their IIPP.

Q: What is a safe patient handling policy?

A: This is a policy that requires replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, and lift teams, as appropriate for the specific patient and consistent with the employer's safety policies and the professional judgment and clinical assessment of the registered nurse. The employer is required to maintain a safe patient handling policy at all times for all patient care units, and is required to provide trained lift teams or other support staff trained in safe lifting techniques.

Q: Are lift teams required?

A: No. The law requires lift teams or other support staff that have been provided with the required training and equipment.

Q: What are the training requirements?

A: Health care workers who are responsible for lifting patients must be trained in safe lifting techniques, appropriate use of lifting devices and equipment, the types of patient handling that may expose the worker's body to increased risk of injury (vertical, lateral, bariatric, repositioning, ambulation), and the use of lifting devices to handle patients safely.

Q: Is powered patient lift and transfer equipment use mandated by the bill?

A: Yes. The bill requires the replacement of manual lifting and transfer of patients with the appropriate use of powered lift and transfer devices. The use of the devices is based on the specific patient, the employer's safety policies, and the professional judgment and clinical assessment of the registered nurse.

Q: Who is responsible for directing patient lifts and mobilization?

A: The registered nurse is responsible for observing and directing the patient lifts and mobilization.

Q: Can the registered nurse determine whether or not to use the lift assist depending on the situation?

A: Yes, according to the registered nurse's professional judgment and clinical assessment and the employer's safety policies. For example, if the patient is cooperative, can fully support the patient's own weight and is ambulatory, then the patient may be able to move from the bed to wheelchair without assistance. In this case, there may be no need to use a lift assist.

Q: Will hospitals have to record all lifts?

A: No. However, the hospital should have a method of evaluating the effectiveness of their safe patient handling program. This should include evaluating whether powered lift equipment was readily available and used in accordance with the policy.

Q: Does the bill protect health care workers who refuse to lift, reposition, or transfer patients?

A: Yes. The law states that a health care worker who refuses to lift, reposition, or transfer a patient due to concerns about patient or worker safety or the lack of trained lift team personnel or equipment, shall not be the subject of disciplinary action based on this refusal.

Q: The safe patient handling policy is to be 'reflected in professional occupational safety guidelines for the protection of patients and health care workers in health care facilities'. What guidelines does this refer to?

A: This refers to professional guidelines that address some component of safe patient handling. Examples of relevant guidelines are (1) 'Patient Handling and Movement Assessment: A White Paper' from the Facility Guidelines Institute http://www.fgiguideines.org/pdfs/FGI_PHAMA_whitepaper_042810.pdf , (2) 'A Resource Guide for Implementing a Safe Patient Handling Program in the Acute Care Setting' www.aohp.org/About/documents/GSBeyond.pdf , (3) Safe Patient Handling Training for Schools of Nursing by NIOSH www.cdc.gov/niosh/docs/2009-127/ , and (4) VA Hospital Safe Patient Handling and Movement Guidelines <http://www.visn8.va.gov/patientsafetycenter/safepthandling/> .

Q: Do registered nurses, certified nurse assistants, transport team members, physical therapists, occupational therapists (OT's), diagnostic imaging personnel and other clinical specialists that have been trained in safe patient lifting,

repositioning, and transfer fall under the definition of “lift team or other support staff?”

A: Yes, if the employees have been specifically trained to handle patient lifts, repositionings and transfers using patient transfer, repositioning or lifting devices as appropriate for the specific patient.

Q: Is there any particular equipment that is required to be used by a hospital under its safe patient handling policy?

A: The legislation calls for the use of powered patient transfer or lifting devices. Examples of these devices include mounted ceiling lifts, air powered lateral transfer mattresses, and portable powered mechanical lifts.

Q: In acute care rehab hospitals, one goal for patient care may be to move away from devices and work on building strength towards transferring and moving to eventually increasing independence. How does this bill apply in those settings?

A: The legislation applies to general acute care hospitals, including rehabilitation activities in general acute care hospitals. The process of moving from mobilization to ambulation may involve the use of devices to protect patients and health care workers from patient falls. For example, ceiling lifts can be used to support patients to different degrees while they become more independent with ambulation.

Q: What does the term “manual lifting and transferring of patients” mean?

A: The term is not specifically defined in the legislation. The term patient lifting is commonly used to refer to vertical movement of a patient, while the term patient transfer is used to refer to moving a patient from one place to another, for example from a bed to a gurney. Manual means that the patient handling is done “by hand” without the assistance of machines.

Q: What does the term “repositioning” mean?

A: The term is not specifically defined in the legislation. The term repositioning is commonly used to mean a change in the patient’s position on a bed, gurney, chair or other support surface.

Q: Which agency will enforce the new legislation?

A: This bill is an amendment to the California Occupational Safety and Health Act of 1973; therefore, enforcement will be the responsibility of Cal/OSHA. Cal/OSHA is working with the Occupational Safety and Health Standards Board to adopt an implementing regulation. The California

Department of Public Health will continue to enforce licensing requirements regarding safety in hospitals. The Division of Labor Standards Enforcement (Labor Commissioner) will also continue to investigate cases involving discrimination against employees for their health and safety activities.

Q: Is Cal/OSHA going to propose a regulation to enforce the requirements in the Labor Code?

A: The legislation became effective on January 1, 2012. It is now incorporated into the Labor Code at Section 6403.5 Cal/OSHA is working with the Occupational Safety and Health Standards Board to adopt an implementing regulation. This will allow stakeholder involvement in the process of rulemaking.

Q: Has Cal-OSHA issued an interpretation on how they will be enforcing the bill until a regulation is passed?

A: Cal/OSHA is currently focusing on outreach activities to ensure employers and employees and their associations are fully informed about the requirements of the new law. Cal/OSHA will investigate complaints and will respond to requests for assistance to the Consultation Unit, regarding the new law. Cal/OSHA is preparing an interim implementation guideline, which will be posted at: <http://www.dir.ca.gov/dosh/dosh1.html>. Cal/OSHA is also working with the Occupational Safety and Health Standards Board to develop an implementing regulation.

Since 1991, all employers in California have been required to establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP), which includes the identification and evaluation of hazards, investigation of occupational injuries and illnesses, timely correction of hazards, and procedures for employee training. Until a regulation to implement Labor Code Section 6403.5 is adopted, when Cal/OSHA receives a complaint or request for consultation, Cal/OSHA will evaluate the employer's program by:

- Reviewing the IIPP to determine if the program effectively addresses hazards associated with patient handling. This includes determining whether the hospital has:
 - Adopted an effective safe patient handling policy that meets the requirements of the Labor Code.
 - Trained personnel who will perform or supervise lifts.
 - Identified and evaluated hazards related to patient handling
 - Taken action, or is taking action in a timely manner, to correct hazards, such as by planning for, purchasing or installing powered

lift equipment to ensure that equipment is readily available to employees who perform lifts, repositionings and transfers of patients.

- Established effective procedures for communicating with employees about patient handling hazards.
- Established effective procedures for investigating employee injuries and illnesses, particularly in regards to patient handling.
- Reviewing the Log of Work-Related Injuries and Illnesses (Cal/OSHA Log 300) and other injury records.
- Referring to the Licensing unit of the California Department of Public Health (CDPH) issues that solely relate to the safety of patients.
- Referring issues of discrimination against employees based on their health and safety activities to the Division of Labor Standards Enforcement (Labor Commissioner).

Until a specific regulation is adopted, if violations of existing regulations are found during the course of an inspection, Cal/OSHA will issue citations for those violations.