

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO HEALTH AND SAFETY -- SAFE PATIENT HANDLING LEGISLATION

Introduced By: Representatives Diaz, Moura, Rice, Ajello, and Sullivan

Date Introduced: February 16, 2006

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 80

4 SAFE PATIENT HANDLING ACT OF 2006

5 **23-80-1. Short title.** – (a) This chapter shall be known and may be cited as the "Safe
6 Patient Handling Act of 2006."

7 **23-80-2. Legislative findings.** – (a) Patients are at greater risk of injury, including skin
8 tears, falls, and musculoskeletal injuries, when being lifted, transferred, or repositioned manually.

9 (b) Safe patient handling can reduce skin tears suffered by patients by threefold, and can
10 significantly reduce other injuries to patients as well.

11 (c) Health care workers lead the nation in work-related musculoskeletal disorders.
12 Between thirty-eight percent (38%) and fifty percent (50%) of nurses and other health care
13 workers will suffer a work-related back injury during their career. Forty-four percent (44%) of
14 these workers will be unable to return to their pre-injury position.

15 (d) Research indicates that nurses lift an estimated 1.8 tons per shift. Eighty-three percent
16 (83%) of nurses work in spite of back pain, and sixty percent (60%) of nurses fear a disabling
17 back injury. Twelve percent (12%) to thirty-nine percent (39%) of nurses not yet disabled are
18 considering leaving nursing due to back pain and injuries.

19 (e) Safe patient handling reduces injuries and costs. In nine (9) case studies evaluating the

1 impact of lifting equipment, injuries decreased sixty percent (60%) to ninety-five percent (95%),
2 Workers' Compensation costs dropped by ninety-five percent (95%), and absenteeism due to
3 lifting and handling was reduced by ninety-eight percent (98%).

4 SECTION 2. Chapter 23-17 of the General Laws entitled "Licensing of Health Care
5 Facilities" is hereby amended by adding thereto the following section:

6 **23-17-58. Safe patient handling.** – (1) Definitions. - As used in this chapter:

7 (a) "Safe patient handling" means the use of engineering controls, transfer aids, or
8 assistive devices whenever feasible and appropriate instead of manual lifting to perform the acts
9 of lifting, transferring, and/or repositioning health care patients and residents.

10 (b) "Safe patient handling policy" means protocols established to implement safe patient
11 handling.

12 (c) "Health care facility" means a hospital or a nursing facility.

13 (d) "Lift team" means health care facility employees specially trained to perform patient
14 lifts, transfers, and repositioning in accordance with safe patient handling policy.

15 (e) "Musculoskeletal disorders" means conditions that involve the nerves, tendons,
16 muscles, and supporting structures of the body.

17 (2) Licensure requirements. - Each licensed health care facility shall comply with the
18 following as a condition of licensure:

19 (a) Each licensed health care facility shall establish a safe patient handling committee,
20 which shall be chaired by a professional nurse or other appropriate licensed health care
21 professional. A health care facility may utilize any appropriately configured committee to
22 perform the responsibilities of this section. At least half of the members of the committee shall be
23 hourly, non-managerial employees who provide direct patient care.

24 (b) By July 1, 2007, each licensed health care facility shall develop a written safe patient
25 handling program, with input from the safe patient handling committee, to prevent
26 musculoskeletal disorders among health care workers and injuries to patients. As part of this
27 program, each licensed health care facility shall:

28 (i) By July 1, 2008, implement a safe patient handling policy for all shifts and units of the
29 facility that will achieve the maximum reasonable reduction of manual lifting, transferring, and
30 repositioning of all or most of a patient's weight, except in emergency, life-threatening, or
31 otherwise exceptional circumstances;

32 (ii) Conduct a patient handling hazard assessment. This assessment should consider such
33 variables as patient-handling tasks, types of nursing units, patient populations, and the physical
34 environment of patient care areas;

1 (iii) Develop a process to identify the appropriate use of the safe patient handling policy
2 based on the patient's physical and mental condition, the patient's choice, and the availability of
3 lifting equipment or lift teams. The policy shall include a means to address circumstances under
4 which it would be medically contraindicated to use lifting or transfer aids or assistive devices for
5 particular patients;

6 (iv) Designate and train a registered nurse or other appropriate licensed health care
7 professional to serve as an expert resource, and train all clinical staff on safe patient handling
8 policies, equipment, and devices before implementation, and at least annually or as changes are
9 made to the safe patient handling policies, equipment and/or devices being used;

10 (v) Conduct an annual performance evaluation of the safe patient handling with the
11 results of the evaluation reported to the safe patient handling committee or other appropriately
12 designated committee. The evaluation shall determine the extent to which implementation of the
13 program has resulted in a reduction in musculoskeletal disorder claims and days of lost work
14 attributable to musculoskeletal disorder caused by patient handling, and include recommendations
15 to increase the program's effectiveness; and

16 (vi) Submit an annual report to the safe patient handling committee of the facility, which
17 shall be made available to the public upon request, on activities related to the identification,
18 assessment, development, and evaluation of strategies to control risk of injury to patients, nurses
19 and other health care workers associated with the lifting, transferring, repositioning, or movement
20 of a patient.

21 (c) Nothing in this section precludes lift team members from performing other duties as
22 assigned during their shift.

23 (d) An employee may, in accordance with established facility protocols, report to the
24 committee, as soon as possible, after being required to perform a patient handling activity that
25 he/she believes in good faith exposed the patient and/or employee to an unacceptable risk of
26 injury. Such employee reporting shall not be cause for discipline or be subject to other adverse
27 consequences by his/her employer. These reportable incidents shall be included in the facility's
28 annual performance evaluation.

29 SECTION 3. Section 23-15-4 of the General Laws in Chapter 23-15 entitled
30 "Determination of Need for New Health Care Equipment and New Institutional Health Services"
31 is hereby amended to read as follows:

32 **23-15-4. Review and approval of new health care equipment and new institutional**
33 **health services.** -- (a) No health care provider or health care facility shall develop or offer new
34 health care equipment or new institutional health services in Rhode Island, the magnitude of

1 which exceeds the limits defined by this chapter, without prior review by the health services
2 council and approval by the state agency; except that review by the health services council may
3 be waived in the case of expeditious reviews conducted in accordance with section 23-15-5, and
4 except that health maintenance organizations which fulfill criteria to be established in rules and
5 regulations promulgated by the state agency with the advice of the health services council shall be
6 exempted from the review and approval requirement established in this section upon approval by
7 the state agency of an application for exemption from the review and approval requirement
8 established in this section which contain any information that the state agency may require to
9 determine if the health maintenance organization meets the criteria.

10 (b) No approval shall be made without an adequate demonstration of need by the
11 applicant at the time and place and under the circumstances proposed, nor shall the approval be
12 made without a determination that a proposal for which need has been demonstrated is also
13 affordable by the people of the state.

14 (c) No approval of new institutional health services for the provision of health services to
15 inpatients shall be granted unless the written findings required in accordance with section 23-15-
16 6(b)(6) are made.

17 (d) Applications for determination of need shall be filed with the state agency on a date
18 fixed by the state agency together with plans and specifications and any other appropriate data
19 and information that the state agency shall require by regulation, and shall be considered in
20 relation to each other no less than once a year. A duplicate copy of each application together with
21 all supporting documentation shall be kept on file by the state agency as a public record.

22 (e) The health services council shall consider, but shall not be limited to, the following in
23 conducting reviews and determining need:

24 (1) The relationship of the proposal to state health plans that may be formulated by the
25 state agency;

26 (2) The impact of approval or denial of the proposal on the future viability of the
27 applicant and of the providers of health services to a significant proportion of the population
28 served or proposed to be served by the applicant;

29 (3) The need that the population to be served by the proposed equipment or services has
30 for the equipment or services;

31 (4) The availability of alternative, less costly, or more effective methods of providing
32 services or equipment, including economies or improvements in service that could be derived
33 from feasible cooperative or shared services;

34 (5) The immediate and long term financial feasibility of the proposal, as well as the

1 probable impact of the proposal on the cost of, and charges for, health services of the applicant;

2 (6) The relationship of the services proposed to be provided to the existing health care
3 system of the state;

4 (7) The impact of the proposal on the quality of health care in the state and in the
5 population area to be served by the applicant;

6 (8) The availability of funds for capital and operating needs for the provision of the
7 services or equipment proposed to be offered;

8 (9) The cost of financing the proposal including the reasonableness of the interest rate,
9 the period of borrowing, and the equity of the applicant in the proposed new institutional health
10 service or new equipment;

11 (10) The relationship, including the organizational relationship of the services or
12 equipment proposed, to ancillary or support services;

13 (11) Special needs and circumstances of those entities which provide a substantial
14 portion of their services or resources, or both, to individuals not residing within the state;

15 (12) Special needs of entities such as medical and other health professional schools,
16 multidisciplinary clinics, and specialty centers; also, the special needs for and availability of
17 osteopathic facilities and services within the state;

18 (13) In the case of a construction project:

19 (i) The costs and methods of the proposed construction, ~~and~~

20 (ii) The probable impact of the construction project reviewed on the costs of providing
21 health services by the person proposing the construction project; and

22 (iii) The proposed availability and use of safe patient handling equipment in the new or
23 renovated space to be constructed.

24 (14) Those appropriate considerations that may be established in rules and regulations
25 promulgated by the state agency with the advice of the health services council;

26 (15) The potential of the proposal to demonstrate or provide one or more innovative
27 approaches or methods for attaining a more cost effective and/or efficient health care system;

28 (16) The relationship of the proposal to the need indicated in any requests for proposals
29 issued by the state agency;

30 (17) The input of the community to be served by the proposed equipment and services
31 and the people of the neighborhoods close to the health care facility who are impacted by the
32 proposal;

33 (18) The relationship of the proposal to any long-range capital improvement plan of the
34 health care facility applicant.

1 (f) In conducting its review, the health services council shall perform the following:

2 (1) Within one hundred and fifteen (115) days after initiating its review, which must be
3 commenced no later than thirty-one (31) days after the filing of an application, the health services
4 council shall determine as to each proposal whether the applicant has demonstrated need at the
5 time and place and under the circumstances proposed, and in doing so may apply the criteria and
6 standards set forth in subsection (e) of this section; provided however, that a determination of
7 need shall not alone be sufficient to warrant a recommendation to the state agency that a proposal
8 should be approved. The director shall render his or her decision within five (5) days of the
9 determination of the health services council.

10 (2) Prior to the conclusion of its review in accordance with section 23-15-6(e), the health
11 services council shall evaluate each proposal for which a determination of need has been
12 established in relation to other proposals, comparing proposals with each other, whether similar
13 or not, establishing priorities among the proposals for which need has been determined, and
14 taking into consideration the criteria and standards relating to relative need and affordability as
15 set forth in subsection (e) of this section and section 23-15-6(f).

16 (3) At the conclusion of its review, the health services council shall make
17 recommendations to the state agency relative to approval or denial of the new institutional health
18 services or new health care equipment proposed; provided that:

19 (i) The health services council shall recommend approval of only those proposals found
20 to be affordable in accordance with the provisions of section 23-15-6(f); and

21 (ii) If the state agency proposes to render a decision that is contrary to the
22 recommendation of the health services council, the state agency must render its reasons for doing
23 so in writing.

24 (g) Approval of new institutional health services or new health care equipment by the
25 state agency shall be subject to conditions that may be prescribed by rules and regulations
26 developed by the state agency with the advice of the health services council, but those conditions
27 must relate to the considerations enumerated in subsection (e) and to considerations that may be
28 established in regulations in accordance with subsection (e)(14).

29 (h) The offering or developing of new institutional health services or health care
30 equipment by a health care facility without prior review by the health services council and
31 approval by the state agency shall be grounds for the imposition of licensure sanctions on the
32 facility, including denial, suspension, revocation, or curtailment or for imposition of any
33 monetary fines that may be statutorily permitted by virtue of individual health care facility
34 licensing statutes.

1 (i) No government agency and no hospital or medical service corporation organized
2 under the laws of the state shall reimburse any health care facility or health care provider for the
3 costs associated with offering or developing new institutional health services or new health care
4 equipment unless the health care facility or health care provider has received the approval of the
5 state agency in accordance with this chapter. Government agencies and hospital and medical
6 service corporations organized under the laws of the state shall, during budget negotiations, hold
7 health care facilities and health care providers accountable to operating efficiencies claimed or
8 projected in proposals which receive the approval of the state agency in accordance with this
9 chapter.

10 (j) In addition, the state agency shall not make grants to, enter into contracts with, or
11 recommend approval of the use of federal or state funds by any health care facility or health care
12 provider which proceeds with the offering or developing of new institutional health services or
13 new health care equipment after disapproval by the state agency.

14 SECTION 4. This act shall take effect on January 1, 2007.

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LC01442/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- SAFE PATIENT HANDLING LEGISLATION

1 This act would establish the "Safe Patient Handling Act of 2006" to promote the safe
2 handling of patients in health care facilities.

3 This act would take effect on January 1, 2007.

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LC01442/SUB A/2
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