

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 508

INTRODUCER: Health Regulation Committee and Senator Fasano

SUBJECT: Safe lifting of hospitalized patients

DATE: January 24, 2008 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires each hospital to establish a policy addressing the safe lifting, and associated handling, of patients by the hospital's employees by December 2008. The policy is to be developed by a committee composed of an appropriate mix of management and nonmanagement employees, at least half of whom are clinical employees engaged in direct patient care, including registered nurses who are engaged in direct patient care. This policy is to be based on the specific population of patients at that hospital and hospital-specific risk factors. The bill provides several factors that the committee is to consider as it develops the policy. The committee is also required to develop an ongoing evaluation process to determine the effectiveness of the policy once established.

This bill creates a new section of the Florida Statutes: 381.396.

II. Present Situation:

Licensure and Regulatory Framework

Chapter 395, Florida Statutes (F.S.), delegates authority to the Agency for Health Care Administration (Agency) to license and regulate, pursuant to the provisions in part II of ch. 408, F.S., and part I of ch 395, F.S., hospitals, ambulatory surgical centers, and mobile surgical facilities.

Section 395.002 (12), F.S., defines hospital as:

(12) "Hospital" means any establishment that:

(a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

(b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in s. 408.07, shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital.

However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992.

Section 395.1012, F.S., requires each licensed hospital to adopt a patient safety plan and appoint a patient safety officer and a patient safety committee. If the patient safety plan is adopted to implement the requirements of 42 C.F.R. 482.21,¹ then Florida's plan requirement is met. The patient safety committee is responsible for, among other things, reviewing and evaluating the quality of patient safety measures used by the facility and assisting in the implementation of the patient safety plan.

Rule 59A-3.2085(5)(d), Florida Administrative Code (F.A.C.), requires each hospital to develop written standards of nursing practice and related policies and procedures to define and describe the scope and conduct of patient care provided by the nursing staff.

Rule 59A-3.277, F.A.C., requires a hospital safety committee to adopt, implement and monitor a comprehensive, hospital-wide safety program. The committee must adopt written policies and procedures to enhance the safety of the hospital, its personnel and patients; however, there are no requirements for specific procedures for patient handling and lifting in hospitals.

Rule 59A-3.080, F.A.C., prohibits construction work, including demolition, to be started until the Agency's Office of Plans and Construction has given written approval. This includes all construction of new facilities and additions, modifications, or renovations to existing facilities. Accordingly, any remodeling plans for the purpose of incorporating patient handling and moving equipment would have to be submitted to the Office of Plans and Construction for approval.

¹ This section of the Code of Federal Regulations is titled "Conditions of Participation: Quality assessment and performance improvement program."

Injuries in the Health Care Setting

According to the Bureau of Labor Statistics, musculoskeletal disorders are the most common type of nonfatal injury or illness reported by nursing aides, orderlies, and attendants and this occupation had the highest rate of musculoskeletal disorders reported in 2006 at 293 per 10,000 workers.² Musculoskeletal disorder is defined as an injury or disorder of the muscles, nerves, tendons, joints, cartilage, or spinal discs and does not include disorders caused by slips, trips, falls, motor vehicle accidents, or similar accidents. In addition, nursing aides, orderlies, and attendants had a high incidence rate of 526 per 10,000 workers of injuries and illnesses. Fifty-six percent of the injuries and illnesses to these workers involved health care patients, of which 86 percent were due to overexertion.

It is estimated that 12 percent of nurses leave the profession annually due to back injuries and greater than 52 percent complain of chronic back pain. Injuries secondary to patient handling tasks exacerbate the shortage of nurses and are of particular concern with the aging of the nursing workforce.³

The National Institute for Occupational Safety and Health (NIOSH) is currently developing safe patient handling and movement principles. The NIOSH, the Centers for Disease Control and Prevention, and many other organizations have developed a model for protecting the safety and health of health care workers, which involves a no-lift or minimal-lift policy using mechanical lift equipment.

Patients are also at risk for new injuries or complications to existing conditions due to inappropriate lifting and handling techniques.

Challenges to Patient Lifting

Patient handling and movement tasks are physically demanding, performed under unfavorable conditions, and are often unpredictable in nature. Patients offer multiple challenges, including variation in size, physical disabilities, cognitive function, level of cooperation, and may be loaded down with tubes and devices. The presence of wounds and fractures also complicates any move. One study has estimated that the cumulative weight lifted by a nurse in a typical 8-hour shift is equivalent to 1.8 tons. Lifting patients is also challenging because patient lifts are often accomplished in awkward positions such as bending or reaching over beds or chairs while a nurse's back is flexed.

² "Nonfatal Occupational Injuries and Illnesses Requiring Days Away From Work, 2006" Bureau of Labor Statistics, published on November 8, 2007. Found at: <<http://stats.bls.gov/news.release/pdf/osh2.pdf>> (Last visited on January 16, 2008).

³ See American Nurses Association, Nursing World, "Safe Patient Handling and Movement", updated 1/7/2008. Found at: <<http://nursingworld.org/MainMenuCategories/ANAPoliticalPower/State/StateLegislativeAgenda/SPHM.aspx>> (Last visited on January 16, 2008).

Costs of Back Injury

According to the Bureau of Labor Statistics, there were 52,730 back injuries in the education and health services industry segment reported in 2006.⁴ Back injury can result in days away from work, expensive rehabilitation costs, surgery, and a change in career. Claims involving back strain can cost about \$4,000. The average back injury case costs \$25,000. More serious cases requiring surgery can cost \$85,000.⁵ Indirect costs related to lost production, retraining, and sick or administrative time is estimated to be at least four times that of direct costs.

Legislative Activity in Other Jurisdictions

Other states that have passed legislation relating to safe patient handling in hospitals or nursing homes include Hawaii, Maryland, Minnesota, New Jersey, New York, Ohio, Rhode Island, Texas and Washington. Bills in California have been vetoed three times. At least seven other states have introduced legislation related to safe patient lifting and handling. Currently H.R. 378, introduced on January 10, 2007, is pending before the U.S. Congress. This bill requires, among other things, the Secretary of Labor, acting through the Director of Occupational Safety and Health Administration, to establish a Federal Safe Patient Handling Standard to prevent musculoskeletal disorders for direct-care registered nurses and other health care providers working in health care facilities by requiring the elimination of manual lifting of patients through the use of mechanical devices, except during a declared state of emergency.

III. Effect of Proposed Changes:

Section 1. Creates s. 381.396, F.S., to require each hospital licensed under ch. 395, F.S., to develop a policy addressing the safe lifting and associated handling of patients by December 2008. The policy is to be developed by a committee composed of an appropriate mix of management and nonmanagement employees, at least half of whom are clinical employees engaged in direct patient care, including registered nurses who are engaged in the direct care of patients. The committee is to use data to evaluate the risk of injury to patients and employees and determine the appropriateness of alternative strategies for lifting and handling patients based on the hospital's patient population and identified hospital-specific risk factors.

The committee is to consider using mechanical lifting devices or other engineering controls, using lifting teams, training employees, and incorporating physical space and construction design for medical lifting devices in architectural plans for hospital construction or renovation.

The committee is also required to develop an ongoing evaluation process to determine the effectiveness of the policy that the hospital establishes.

Section 2. Provides an effective date of October 1, 2008.

⁴ *Supra* 2. Table 5.

⁵ A Back Injury Prevention Guide for Health Care Providers. Found at: http://www.dir.ca.gov/dosh/dosh_publications/backinj.pdf (Last visited on January 16, 2008).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill requires each hospital to assign the tasks of researching, evaluating alternatives, and developing the policy for safe lifting and patient handling to an existing or newly created committee. Membership on the committee includes management staff and non-management employees, including registered nurses and other clinical employees who are engaged in the direct care of patients. Participation on this committee could detract from staff's time currently devoted to other activities, including direct patient contact.

It is foreseeable that worker's compensation claims and claims for civil liability because of patient injuries resulting from improper or ineffective lifting will be reduced and that employee attendance and morale will improve as a result of implementing safe lifting and patient handling policies and procedures.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are no regulatory or enforcement provisions if a hospital fails to comply with the law, since it is created in ch. 381, F.S., as opposed to ch. 395, F.S., under which hospitals are regulated.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The committee substitute provides a date by which the policy must be established and changes the composition of the committee charged with developing the policy addressing the safe lifting, and associated handling, of patients by hospital employees. In the bill as filed, the committee is to be composed equally of the hospital's management staff and nonmanagement employees, including representation by registered nurses who are engaged in the direct care of patients. The committee make-up specified in the committee substitute includes an appropriate mix of management and nonmanagement employees, at least half of whom are clinical employees engaged in direct patient care, including registered nurses engaged in direct patient care.

B. Amendments:

None.