



New Law Requires Healthcare Employers to Adopt Measures for Safe Handling of Patients

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Effective January 1, 2012, California Labor Code Section 6403.5 will require that employers operating healthcare facilities adopt various measures designed to reduce injuries incurred by employees who move patients. Requirements include a safe patient handling policy, increased use of powered patient lifting devices, assignment of employees to "lift teams," and appropriate employee training. Employers are also prohibited from retaliating against employees who raise concerns about safe patient handling. A summary of the key provisions of this new law follows.

BACKGROUND

- California Occupational Safety and Health Act of 1973 created the Division of Occupational Safety and Health ("Cal/OSHA"), which "protects workers and the public from safety hazards."
- Cal/OSHA currently requires that virtually every employer in California create and implement an Injury and Illness Prevention Program ("IIPP") to improve workplace safety and health. Requirements vary depending on industry.
- Injuries to healthcare workers from patient handling (lifting) have been a persistent problem – 36,130 occupational musculoskeletal disorder cases among healthcare workers in 2008.

THE LEGISLATION

- On October 7, 2011, Gov. Brown signed into law AB 1136, "The Hospital Patient and Healthcare Worker Injury Protection Act," which adds Labor Code Section 6403.5. This new law becomes effective January 1, 2012.
- LC 6403.5 imposes new requirements on employers operating healthcare facilities regarding the safe handling of patients.

THE NEW REQUIREMENTS

- An employer that operates a healthcare facility must include within its IIPP a "patient protection and healthcare worker back and musculoskeletal injury prevention plan," which includes a "safe patient handling policy" for all patient care units.
- An employer must provide lift teams or other support staff trained in safe lifting techniques in each general acute care hospital.
- An employer must provide training to healthcare workers that includes:
 - The appropriate use of lifting devices and equipment;
 - The five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation;
 - The use of lifting devices to handle patient safely.
 - The registered nurse is responsible for observation and direction of patient lifts and mobilization, and shall participate as necessary.

KEY DEFINITIONS

- **"Safe Patient Handling Policy"**
 - Policy requiring replacement of manual lifting and transferring of patients with powered patient transferring devices, lifting devices and lift teams, as appropriate given patient condition, professional judgment and clinical assessment.
- **"Healthcare Worker"**
 - Lift team member or other staff responsible for assisting in lifting patients. Must be specifically trained to handle patient lifts, repositioning and transfers, using patient transfer, repositioning and lifting devices as appropriate.
- **"Lift Team"**
 - Hospital employees specifically trained to handle patient lifts, repositioning and transfers, using patient transfer, repositioning and lifting devices as appropriate. May perform other duties as well. Need not hire new staff for lift team unless patient care assignments are compromised.
- Since definitions of "healthcare worker" and "lift team" are essentially the same, the best practice is most likely to train all employees who may be involved in moving patients, and designate certain employees as lift team members.

ENFORCEMENT AND EMPLOYEE PROTECTION

- An Employer may not discipline an employee 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.
- Willful or repeated violations are crimes, and may result in significant penalties under Labor Code Section 6429.

ADVICE FOR EMPLOYERS

- Adopt patient protection and healthcare worker back and musculoskeletal injury prevention plan by January 1, 2012.
- Ensure that appropriate employees receive the necessary training.
- Monitor compliance with the plan.
- Be careful about disciplining employees who decline to handle patients due to safety concerns.

HOW NOSSAMAN CAN HELP

- Nossaman attorneys are available to assist with any questions you may have about this new legislation, including assisting in preparing the required documentation and training.

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