Safe Patient Handling

Chapter 135
H.F. 122
Omnibus Jobs and Economic Development Bill
Effective: 2008 and beyond – see below.

Bill Summary:
(Creates sections 182.6551 to 182.6553)

The Minnesota Nurses Association advanced this legislation, which requires nursing homes and hospitals to establish a “safe patient handling” program. As introduced the bill had numerous problems, including a provision that would have eliminated ALL manual lifting and transferring of residents, except in emergencies. The Long Term Care Imperative expressed strong opposition to that draft, and the advocates agreed to amend the bill into the version described below.

The Imperative testified against the bill – even in its amended form – and submitted letters of opposition to several committees, on the grounds that it constitutes an un-funded mandate for nursing facilities. Despite our opposition, the Legislature included the proposal in its omnibus workforce bill, and the Governor signed it. Given the various important details in this bill, we have elected to provide the exact language – with two explanatory notes from us:

[182.6551] CITATION. Sections 182.6551 to 182.6553 may be cited as the "Safe Patient Handling Act."

Sec. 24. [182.6552] DEFINITIONS.

Subdivision 1. Direct patient care worker. "Direct patient care worker" means an individual doing the job of directly providing physical care to patients including nurses, as defined by section 148.171, who provide physical care to patients.

Subd. 2. Health care facility. "Health care facility" means a hospital as defined in section 144.50, subdivision 2; an outpatient surgical center as defined in section 144.55, subdivision 2; and a nursing home as defined in section 144A.01, subdivision 5.

Subd. 3. Safe patient handling. "Safe patient handling" means a process, based on scientific evidence on causes of injuries, that uses safe patient handling equipment rather than people to transfer, move, and reposition patients in all health care facilities to reduce workplace injuries. This process also reduces the risk of injury to patients.

Subd. 4. Safe patient handling equipment. "Safe patient handling equipment" means engineering controls, lifting and transfer aids, or mechanical assistive devices used by nurses and other direct patient care workers instead of manual lifting to perform the acts of lifting, transferring, and repositioning health care facility patients and residents.
Subdivision 1. **Safe patient handling program required.** (a) By July 1, 2008, every licensed health care facility in the state shall adopt a written safe patient handling policy establishing the facility’s plan to achieve by January 1, 2011, the goal of minimizing manual lifting of patients by nurses and other direct patient care workers by utilizing safe patient handling equipment.

(b) The program shall address:

1. assessment of hazards with regard to patient handling;
2. the acquisition of an adequate supply of appropriate safe patient handling equipment;
3. initial and ongoing training of nurses and other direct patient care workers on the use of this equipment;
4. procedures to ensure that physical plant modifications and major construction projects are consistent with program goals; and
5. periodic evaluations of the safe patient handling program.

**NOTE** the bolded effective dates in the paragraphs above and below this box, then read the very last sentence of the bill, which authorizes an extension to 2012 for facilities that the Department of Labor and Industry determines are experiencing “hardship.”

Subd. 2. **Safe patient handling committee.** (a) By July 1, 2008, every licensed health care facility in the state shall establish a safe patient handling committee either by creating a new committee or assigning the functions of a safe patient handling committee to an existing committee.

(b) Membership of a safe patient handling committee or an existing committee must meet the following requirements:

1. at least half the members shall be nonmanagerial nurses and other direct patient care workers; and
2. in a health care facility where nurses and other direct patient care workers are covered by a collective bargaining agreement, the union shall select the committee members proportionate to its representation of nonmanagerial workers, nurses, and other direct patient care workers.

(c) A health care organization with more than one covered health care facility may establish a committee at each facility or one committee to serve this function for all the facilities. If the organization chooses to have one overall committee for multiple facilities, at least half of the members of the overall committee must be nonmanagerial nurses and other direct patient care workers and each facility must be represented on the committee.

(d) Employees who serve on a safe patient handling committee must be compensated by their employer for all hours spent on committee business.

Subd. 3. **Facilities with existing programs.** A facility that has already adopted a safe patient handling policy that satisfies the requirements of subdivision 1, and established
a safe patient handling committee by July 1, 2008, is considered to be in compliance with those requirements. The committee must continue to satisfy the requirements of subdivision 2, paragraph (b), on an ongoing basis.

Subd. 4. Committee duties. A safe patient handling committee shall:
(1) complete a patient handling hazard assessment that:
   (i) considers patient handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas;
   (ii) identifies problems and solutions;
   (iii) identifies areas of highest risk for lifting injuries; and
   (iv) recommends a mechanism to report, track, and analyze injury trends;
(2) make recommendations on the purchase, use, and maintenance of an adequate supply of appropriate safe patient handling equipment;
(3) make recommendations on training of nurses and other direct patient care workers on use of safe patient handling equipment, initially when the equipment arrives at the facility and periodically afterwards;
(4) conduct annual evaluations of the safe patient handling implementation plan and progress toward goals established in the safe patient handling policy; and
(5) recommend procedures to ensure that, when remodeling of patient care areas occurs, the plans incorporate safe patient handling equipment or the physical space and construction design needed to accommodate safe patient handling equipment at a later date.

Subd. 5. Training materials. The commissioner shall make training materials on implementation of this section available to all health care facilities at no cost as part of the training and education duties of the commissioner under section 182.673.

Subd. 6. Enforcement. This section shall be enforced by the commissioner under section 182.661. A violation of this section is subject to the penalties provided under section 182.666.

Subd. 7. Grant program. The commissioner may make grants to health care facilities to acquire safe patient handling equipment and for training on safe patient handling and safe patient handling equipment. Grants to any one facility may not exceed $40,000. A grant must be matched on a dollar-for-dollar basis by the grantee. The commissioner shall establish a grant application process. The commissioner may give priority for grants to facilities that demonstrate that acquiring safe patient handling equipment will impose a financial hardship on the facility. For health care facilities that provide evidence of hardship, the commissioner may waive the 50 percent match requirement and may grant such a facility more than $40,000. Health care facilities that the commissioner determines are experiencing hardship shall not be required to meet the safe patient handling requirements until July 1, 2012.

**Funding:** The bill provides $500,000 in state fiscal year 2008 (July 1, 2007, to June 30, 2008) for patient safe handling grants. This is a onetime appropriation and is available until expended.
Study. (a) The commissioner of labor and industry shall study ways to require workers' compensation insurers to recognize compliance with Minnesota Statutes, section 182.6553, in the workers' compensation premiums of health care and long-term care facilities. The commissioner shall report by January 15, 2008, the results of the study to the chairs of the policy committees of the legislature with primary jurisdiction over workers' compensation issues. (b) By January 15, 2008, the commissioner must make recommendations to the legislature regarding funding sources available to health care facilities for safe patient handling programs and equipment, including, but not limited to, low interest loans, interest free loans, and federal, state, or county grants.

Work Group to Work on Expansion to Other Providers: The Minnesota State Council on Disability shall convene a work group comprised of representatives from the Minnesota Medical Association and other organizations representing clinics, disability advocates, and direct care workers, to do the following: (1) assess the current options for and use of safe patient handling equipment in unlicensed outpatient clinics, physician offices, and dental settings; (2) identify barriers to the use of safe patient handling equipment in these settings; and (3) define clinical settings that move patients to determine applicability of the Safe Patient Handling Act. The work group must report to the Legislature by January 15, 2008, including reports to the chairs of the senate and House of Representatives committees on workforce development.

NOTES:
• We have written to the Department of Labor and Industry to inquire about the grant application process and when facilities may apply, and about how it will define “hardship”. We will advise members as soon as we have more information about these items.
• The bill had also provided $500,000 for the second year of the budget cycle, but Governor Pawlenty used his line-item veto authority to eliminate it. While disappointing, the veto message he issued suggests the Governor is open to approving additional funding: “The workers’ compensation special compensation fund has never been used for the purchase of safety equipment as this fund is used for workers compensation benefits and administration. There is a current safety grant fund that is available for assistance in purchasing safety equipment. The Department of Labor and Industry will be reporting back on January 15, 2008 with recommendations on the options and barriers for safe patient handling which will allow the 2008 Legislature to determine a more appropriate funding source. I have not vetoed the first year of funding for equipment so purchases can be made while we await the study.”