

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



Interim Implementation Policy Labor Code Section 6403.5 Hospital Patient and Health Care Worker Injury Protection Act January 25, 2012

Background

On January 1, 2012, AB 1136, The Hospital Patient and Health Care Worker Injury Protection Act (Act) became effective in California. The Act, which has been incorporated into the California Labor Code as Section 6403.5, requires that general acute care hospitals¹ adopt a “patient protection and health care worker back and musculoskeletal injury prevention plan” as part of the employer’s Injury and Illness Prevention Program (IIPP).² The Act requires covered hospitals to adopt a safe patient handling policy for all units, which includes trained lift teams or other trained support staff, as well as the appropriate³ use of powered lift and transfer equipment to replace manual lifting and transferring. It also requires training for health care workers on the appropriate use of lifting devices and equipment, the five areas of body exposure, and the use of lifting devices to handle patients safely. The registered nurse, as the coordinator of care, must observe and direct patient lifts and mobilization, and participate as needed in patient handling.

Additionally, the Act prohibits disciplinary action by the hospital or any managers or hospital employees if a health care workers refuses to lift, reposition or transfer a patient due to concerns about patient or worker safety, or a lack of trained lift team personnel or equipment.

How Can Hospitals Comply with LC 6403.5?

The first step covered 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.

What is Cal/OSHA Doing to Implement LC 6403.5?

Cal/OSHA is working with employers and employees and their associations, as well as health and safety professionals to do extensive outreach and training in order to prepare for implementation of this law.

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

¹ This law does not apply to general acute care hospitals within the Department of Corrections and Rehabilitation or the State Department of Developmental Services.

² Title 8, California Code of Regulations, Section 3203

³ Patient handling procedures must be appropriate for the specific patient and consistent with the employer’s safety policies and the professional judgment and clinical assessment of the registered nurse, as the coordinator of patient care.

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training. In the interim, 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 reported discrimination against employees based on their health and safety activities to the Division of Labor Standards Enforcement (Labor Commissioner).

Until a specific safe patient handling regulation is adopted, if violations of existing regulations are found during the course of an inspection, Cal/OSHA will issue citations for those violations. An advisory meeting is scheduled for January 24, 2012, at the Elihu Harris State Building, 1515 Clay St. Oakland CA to discuss the new statute's requirements, to present information about safe patient handling and best practices and provide an opportunity for stakeholders to offer comments to the Division. Materials for this advisory meeting and other resource information are available on Cal/OSHA's website at:

<http://www.dir.ca.gov/dosh/DoshReg/5120Meetings.htm>. An additional advisory meeting will be held in March/April.

For more information, or to get on the mailing list for this project, please contact Steve Smith, Principal Engineer, at (916)574-2996, or Bob Nakamura, Senior Safety Engineer, at (510)286-7005. Contact information for Cal/OSHA's Consultation Service, which provides free assistance to employers and employees, is available at:

http://www.dir.ca.gov/dosh/consultation_offices.html, phone: 800-963-2424. A list of Cal/OSHA enforcement offices and contact information can be found at:

<http://www.dir.ca.gov/dosh/DistrictOffices.htm>.