

1 municipality shall not apply to the municipal payments made under this
2 section.

3 § 20. Article 29-D of the public health law is amended by adding a new
4 title 1-A to read as follows:

5 TITLE 1-A

6 SAFE PATIENT HANDLING

7 Section 2997-g. Legislative intent.

8 2997-h. Definitions.

9 2997-i. Safe patient handling workgroup.

10 2997-j. Dissemination of best practices, examples of sample safe
11 patient handling policies and other resources and
12 tools.

13 2997-k. Safe patient handling committees; programs.

14 2997-l. Activities.

15 § 2997-g. Legislative intent. The legislature hereby finds and
16 declares that it is in the public interest for health care facilities to
17 implement safe patient handling policies. There are many benefits that
18 can be derived from safe patient handling programs. Patients benefit
19 through improved quality of care and quality of life by reducing the
20 risk of injury. Caregivers also benefit from the reduced risk of career
21 ending and debilitating injuries leading to increased morale, improved
22 job satisfaction, and longevity in the profession. Health care facili-
23 ties may realize a return on their investment through reduced workers'
24 compensation medical and indemnity costs, reduced lost workdays, and
25 improved recruitment and retention of caregivers. All of this could lead
26 to fiscal improvement in health care in New York State.

27 § 2997-h. Definitions. For the purposes of this title:

28 1. "Health care facility" shall mean general hospitals, residential
29 health care facilities, diagnostic and treatment centers, and clinics
30 licensed pursuant to article twenty-eight of this chapter, facilities
31 which provide health care services and are licensed or operated pursuant
32 to article eight of the education law, article nineteen-G of the execu-
33 tive law or the correction law, and hospitals and schools defined in
34 section 1.03 of the mental hygiene law.

35 2. "Nurse" shall mean a registered professional nurse or a licensed
36 practical nurse as defined by article one hundred thirty-nine of the
37 education law.

38 3. "Direct care worker" shall mean any employee of a health care
39 facility who is responsible for patient handling or patient assessment
40 as a regular or incidental part of his or her employment, including any
41 licensed or unlicensed health care worker.

42 4. "Employee representative" shall mean the recognized or certified
43 collective bargaining agent for nurses or direct care workers of a
44 health care facility.

45 5. "Safe patient handling" shall mean the use of engineering controls,
46 lifting and transfer aids, or assistive devices by staff to perform the
47 acts of lifting, transferring and repositioning health care patients and
48 residents.

49 6. "Musculoskeletal disorders" shall mean conditions that involve the
50 nerves, tendons, muscles and supporting structures of the body.

51 § 2997-i. Safe patient handling workgroup. 1. The commissioner shall
52 establish a safe patient handling workgroup (referred to in this section
53 as the "workgroup") within the department. The workgroup shall consist
54 of, at the minimum, the commissioner or his or her designee; the commis-
55 sioner of labor or his or her designee; representatives of health care
56 provider organizations; representatives from employee organizations

1 representing nurses and representatives from employee organizations
2 representing direct care workers; representatives of nurse executives;
3 representatives who are certified ergonomist evaluation specialists; and
4 representatives who have expertise in fields of discipline related to
5 health care or occupational safety.

6 2. Workgroup members shall receive no compensation for their services
7 as members of the workgroup, but shall be reimbursed for actual and
8 necessary expenses incurred in the performance of their duties.

9 3. The workgroup shall be established no later than January first, two
10 thousand fifteen.

11 4. The workgroup shall:

12 (a) Review existing safe patient handling programs or policies,
13 including demonstration programs previously authorized by chapter seven
14 hundred thirty-eight of the laws of two thousand five and national data
15 and results;

16 (b) Consult with any organization, educational institution, other
17 government entity or agency or person that the workgroup determines may
18 be able to provide information and expertise on the development and
19 implementation of safe patient handling programs;

20 (c) Identify or develop training materials for consideration by health
21 care facilities; and

22 (d) Submit a report to the commissioner by July first, two thousand
23 fifteen identifying safe patient handling program best practices,
24 providing examples of sample policies, and identifying resources and
25 tools useful for providers to meet the goals of safe patient handling
26 policies.

27 5. All state departments, commissions, agencies, and public authori-
28 ties shall provide the workgroup with any reasonably requested assist-
29 ance or advice in a timely manner.

30 § 2997-j. Dissemination of best practices, examples of sample safe
31 patient handling policies and other resources and tools. The commission-
32 er shall disseminate best practices, examples of sample safe patient
33 handling policies, and other resources and tools to health care facili-
34 ties, taking into consideration the recommendations of the safe patient
35 handling workgroup. Such best practices, examples of sample safe patient
36 handling policies, and other resources and tools shall be made available
37 to all facilities covered by this title on or before January first, two
38 thousand sixteen.

39 § 2997-k. Safe patient handling committees; programs. 1. On or before
40 January first, two thousand sixteen, each health care facility shall
41 establish a safe patient handling committee (referred to in this section
42 as a "committee" except where the context clearly requires otherwise)
43 either by creating a new committee or assigning the functions of a safe
44 patient handling committee to an existing committee, including but not
45 limited to a safety committee or quality assurance committee, or subcom-
46 mittee thereof. The purpose of a committee is to design and recommend
47 the process for implementing a safe patient handling program for the
48 health care facility. The committee shall include individuals with
49 expertise or experience that is relevant to safe patient handling,
50 including risk management, nursing, purchasing, or occupational safety
51 and health, and in facilities where there are employee representatives,
52 at least one shall be appointed on behalf of nurses and at least one
53 shall be appointed on behalf of direct care workers. One half of the
54 members of the committee shall be frontline non-managerial employees who
55 provide direct care to patients. At least one non-managerial nurse and
56 one non-managerial direct care worker shall be on the safe patient



1 handling committee. In health care facilities where a resident council
2 is established, and where feasible, at least one member of the safe
3 patient handling committee shall be a representative from the resident
4 council. The committee shall have two co-chairs with one from manage-
5 ment and one frontline non-managerial nurse or direct care worker.

6 2. On or before January first, two thousand seventeen, each health
7 care facility, in consultation with the committee, shall establish a
8 safe patient handling program. As part of this program, a health care
9 facility shall:

10 (a) implement a safe patient handling policy, considering the elements
11 of the sample safe patient handling policies and best practices dissem-
12 inated by the commissioner, as well as the type of facility and its
13 services, patient populations and care plans, types of caregivers, and
14 physical environment, for all shifts and units of the health care facil-
15 ity. Implementation of the safe patient handling policy may be phased-
16 in;

17 (b) conduct a patient handling hazard assessment. This assessment
18 should consider such variables as patient-handling tasks, types of nurs-
19 ing units, patient populations and the physical environment of patient
20 care areas;

21 (c) develop a process to identify the appropriate use of the safe
22 patient handling policy based on the patient's physical and medical
23 condition and the availability of safe patient handling equipment. The
24 policy shall include a means to address circumstances under which it
25 would be contraindicated based on a patient's physical, medical, weight-
26 bearing, cognitive and/or rehabilitative status to use lifting or trans-
27 fer aids or assistive devices for particular patients;

28 (d) provide initial and on-going yearly training and education on safe
29 patient handling for current employees and new hires, and establish
30 procedures to ensure that retraining for those found to be deficient is
31 provided as needed;

32 (e) set up and utilize a process for incident investigation and post-
33 investigation review which may include a plan of correction and imple-
34 mentation of controls;

35 (f) conduct an annual performance evaluation of the program to deter-
36 mine its effectiveness, with the results of the evaluation reported to
37 the committee. The evaluation shall determine the extent to which imple-
38 mentation of the program has resulted in a reduction in the risk of
39 injury to patients, musculoskeletal disorder claims and days of lost
40 work attributable to musculoskeletal disorders by employees caused by
41 patient handling, and include recommendations to increase the program's
42 effectiveness;

43 (g) when developing architectural plans for constructing or remodeling
44 a health care facility or a unit of a health care facility in which
45 patient handling and movement occurs, consider the feasibility of incor-
46 porating patient handling equipment or the physical space and
47 construction design needed to incorporate that equipment at a later
48 date; and

49 (h) develop a process by which employees may refuse to perform or be
50 involved in patient handling or movement that the employee reasonably
51 believes in good faith will expose a patient or health care facility
52 employee to an unacceptable risk of injury. Such process shall require
53 that the nurse or direct care worker make a good faith effort to ensure
54 patient safety and bring the matter to the attention of the facility in
55 a timely manner. A health care facility employee who reasonably and in
56 good faith follows the process developed by the health care facility in

1 accordance with this subdivision shall not be the subject of discipli-
2 nary action by the health care facility for the refusal to perform or be
3 involved in the patient handling or movement.

4 § 2997-1. Activities. The activities enumerated in section twenty-nine
5 hundred ninety-seven-k of this title shall be undertaken consistent with
6 section twenty-eight hundred five-j of this chapter by a covered health
7 care provider and shall be deemed activities of such program as
8 described in such section and any and all information attributable to
9 such activities shall be subject to provisions of section twenty-eight
10 hundred five-m of this chapter and section sixty-five hundred twenty-
11 seven of the education law.

12 § 21. Section 2304 of the insurance law is amended by adding a new
13 subsection (j) to read as follows:

14 (j)(1) On or before July first, two thousand sixteen, the department
15 shall make rules establishing requirements for health care facilities to
16 obtain a reduced worker's compensation rate for safe patient handling
17 programs implemented pursuant to title one-A of article twenty-nine-A of
18 the public health law.

19 (2) The department shall complete an evaluation of the results of the
20 reduced rate, including changes in claim frequency and costs, and shall
21 report to the appropriate committees of the legislature on or before
22 December first, two thousand eighteen and again on or before December
23 first, two thousand twenty.

24 § 22. Subdivision 6 of section 2899 of the public health law, as
25 amended by chapter 331 of the laws of 2006, is amended to read as
26 follows:

27 6. "Provider" shall mean any residential health care facility licensed
28 under article twenty-eight of this chapter; or any certified home health
29 agency, licensed home care services agency or long term home health care
30 program certified under article thirty-six of this chapter; or any adult
31 care facility licensed under article seven of the social services law.

32 § 23. Paragraph (a) of subdivision 9 of section 2899-a of the public
33 health law, as amended by chapter 331 of the laws of 2006, is amended to
34 read as follows:

35 (a) In the event that funds are appropriated in any given fiscal year
36 for the reimbursement for the costs of providing such criminal history
37 information, reimbursement shall be made available in an equitable and
38 direct manner for the projected cost of the fee established pursuant to
39 law by the division of criminal justice services for processing a crimi-
40 nal history information check, the fee imposed by the federal bureau of
41 investigation for a national criminal history check, and costs associ-
42 ated with obtaining the fingerprints to all providers licensed, but not
43 certified under article thirty-six of this chapter, and all adult care
44 facilities licensed under article seven of the social services law,
45 including those that are subject to this article and are unable to
46 access direct reimbursement from state and/or federal funded health
47 programs.

48 § 24. The social services law is amended by adding a new section 461-t
49 to read as follows:

50 § 461-t. Review of criminal history information concerning prospective
51 direct care employees. Every adult care facility shall conduct a crimi-
52 nal history record check of prospective direct care employees utilizing
53 the procedures and standards set forth in article twenty-eight-E of the
54 public health law.

55 § 25. The public health law is amended by adding a new section 2997-e
56 to read as follows: