

1 LEADING TO INCREASED MORALE, IMPROVED JOB SATISFACTION AND LONGEVITY IN
2 THE PROFESSION. HEALTH CARE FACILITIES REALIZE A QUICK RETURN ON THEIR
3 INVESTMENT THROUGH REDUCED WORKERS' COMPENSATION MEDICAL AND INDEMNITY
4 COSTS, REDUCED LOST WORKDAYS AND IMPROVED RECRUITMENT AND RETENTION OF
5 CAREGIVERS. ALL OF THIS WILL LEAD TO FISCAL IMPROVEMENT IN HEALTH CARE
6 IN NEW YORK STATE.

7 S 2999-H. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE:

8 1. "HEALTH CARE FACILITY" SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP,
9 ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY OR ANY PERSON OR
10 GROUP OF PERSONS ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF OR IN THE
11 INTEREST OF THE EMPLOYER, WHICH PROVIDES HEALTH CARE SERVICES IN A
12 FACILITY LICENSED OR OPERATED PURSUANT TO ARTICLE TWENTY-EIGHT, TWENTY-
13 EIGHT-A OR THIRTY-SIX OF THIS CHAPTER, OR THE MENTAL HYGIENE LAW, THE
14 EDUCATION LAW OR THE CORRECTION LAW, INCLUDING ANY FACILITY OPERATED BY
15 THE STATE, A POLITICAL SUBDIVISION OR A PUBLIC BENEFIT CORPORATION AS
16 DEFINED BY SECTION SIXTY-SIX OF THE GENERAL CONSTRUCTION LAW.

17 2. "NURSE" SHALL MEAN A REGISTERED PROFESSIONAL NURSE OR A LICENSED
18 PRACTICAL NURSE AS DEFINED BY ARTICLE ONE HUNDRED THIRTY-NINE OF THE
19 EDUCATION LAW.

20 3. "DIRECT CARE WORKER" SHALL MEAN ANY EMPLOYEE OF A HEALTH CARE
21 FACILITY THAT IS RESPONSIBLE FOR PATIENT HANDLING OR PATIENT ASSESSMENT
22 AS A REGULAR OR INCIDENTAL PART OF THEIR EMPLOYMENT, INCLUDING ANY
23 LICENSED OR UNLICENSED HEALTH CARE WORKER.

24 4. "EMPLOYEE REPRESENTATIVE" SHALL MEAN THE RECOGNIZED OR CERTIFIED
25 COLLECTIVE BARGAINING AGENT FOR NURSES OR DIRECT CARE WORKERS OF A
26 HEALTH CARE FACILITY.

27 5. "SAFE PATIENT HANDLING" SHALL MEAN THE USE OF ENGINEERING CONTROLS,
28 LIFTING AND TRANSFER AIDS, OR ASSISTIVE DEVICES, BY NURSES OR DIRECT
29 CARE WORKERS, INSTEAD OF MANUAL LIFTING TO PERFORM THE ACTS OF LIFTING,
30 TRANSFERRING AND REPOSITIONING OF HEALTH CARE PATIENTS AND RESIDENTS.

31 6. "SAFE PATIENT HANDLING PROGRAM" SHALL INCLUDE:

32 (A) A WRITTEN POLICY STATEMENT; AND

33 (B) MANAGEMENT COMMITMENT AND EMPLOYEE INVOLVEMENT; AND

34 (C) COMMITTEES; AND

35 (D) RISK ASSESSMENTS; AND

36 (E) INCIDENT INVESTIGATION; AND

37 (F) PROCUREMENT OF ENGINEERING CONTROLS, LIFTING AND TRANSFER AIDS OR
38 ASSISTIVE DEVICES TO ENSURE SAFE PATIENT HANDLING; AND

39 (G) EMPLOYEE TRAINING AND EDUCATION ON SAFE PATIENT HANDLING; AND

40 (H) PROGRAM EVALUATION AND MODIFICATION.

41 S 2999-I. NEW YORK STATE SAFE PATIENT HANDLING TASK FORCE. 1. A NEW
42 YORK STATE SAFE PATIENT HANDLING TASK FORCE IS HEREBY CREATED WITHIN THE
43 DEPARTMENT. SUCH TASK FORCE SHALL CONSIST OF A TOTAL OF ELEVEN MEMBERS
44 AND SHALL INCLUDE THE COMMISSIONER OR HIS OR HER DESIGNEE; THE COMMIS-
45 SIONER OF LABOR OR HIS OR HER DESIGNEE; THREE MEMBERS APPOINTED BY THE
46 GOVERNOR, TWO SUCH MEMBERS SHALL BE REPRESENTATIVES OF HEALTH CARE
47 ORGANIZATIONS, ONE SUCH MEMBER SHALL BE FROM AN EMPLOYEE ORGANIZATION
48 REPRESENTING NURSES AND ONE SUCH MEMBER SHALL BE FROM AN EMPLOYEE ORGAN-
49 IZATION REPRESENTING DIRECT CARE WORKERS; TWO SUCH MEMBERS SHALL BE
50 CERTIFIED ERGONOMIST EVALUATION SPECIALISTS; TWO MEMBERS TO BE APPOINTED
51 BY THE TEMPORARY PRESIDENT OF THE SENATE, WHO SHALL HAVE EXPERTISE IN
52 FIELDS OF DISCIPLINE RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY AND
53 ONE SUCH APPOINTEE SHALL BE FROM AN ORGANIZATION REPRESENTING EITHER A
54 NURSE OR DIRECT CARE WORKER; TWO MEMBERS TO BE APPOINTED BY THE SPEAKER
55 OF THE ASSEMBLY, WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE
56 RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY AND ONE SUCH APPOINTEE

1 SHALL BE FROM AN ORGANIZATION REPRESENTING EITHER A NURSE OR DIRECT CARE
2 WORKER; ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE SENATE,
3 WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE RELATED TO HEALTH CARE
4 OR OCCUPATIONAL SAFETY; AND ONE MEMBER APPOINTED BY THE MINORITY LEADER
5 OF THE ASSEMBLY, WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE
6 RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY.

7 2. TASK FORCE MEMBERS SHALL RECEIVE NO COMPENSATION FOR THEIR
8 SERVICES, BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES
9 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

10 3. THE TASK FORCE SHALL BE APPOINTED NO LATER THAN JULY FIRST, TWO
11 THOUSAND THIRTEEN AND SHALL SERVE FOR A PERIOD OF TWO YEARS; ANY VACAN-
12 CIES ON THE TASK FORCE SHALL BE FILLED IN THE MANNER PROVIDED FOR IN THE
13 INITIAL APPOINTMENT.

14 4. THE CHAIRPERSON OF THE TASK FORCE SHALL BE THE COMMISSIONER OR HIS
15 OR HER DESIGNEE.

16 5. THE TASK FORCE SHALL MEET NO LESS THAN THREE TIMES A YEAR.

17 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MAJORITY OF THE
18 MEMBERS OF THE TASK FORCE THEN IN OFFICE SHALL CONSTITUTE A QUORUM FOR
19 THE TRANSACTION OF BUSINESS OR THE EXERCISE OF POWER OR FUNCTION OF THE
20 TASK FORCE. AN ACT, DETERMINATION OR DECISION OF THE MAJORITY OF THE
21 MEMBERS OF THE TASK FORCE SHALL BE HELD TO BE THE ACT, DETERMINATION OR
22 DECISION OF THE TASK FORCE.

23 7. THE TASK FORCE SHALL:

24 (A) PREPARE A POLICY STATEMENT REQUIRING A COMPREHENSIVE SAFE PATIENT
25 HANDLING PROGRAM TO BE IMPLEMENTED AT ALL HEALTH CARE FACILITIES, AS
26 DEFINED IN SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-H
27 OF THIS TITLE. THE POLICY STATEMENT SHALL INCLUDE THE REQUIREMENTS FOR
28 DEVELOPING AND IMPLEMENTING AN EFFECTIVE SAFE PATIENT HANDLING PROGRAM
29 THAT SHALL INCLUDE ALL ELEMENTS SPECIFIED IN SUBDIVISION SIX OF SECTION
30 TWENTY-NINE HUNDRED NINETY-NINE-H OF THIS TITLE;

31 (B) REVIEW EXISTING SAFE PATIENT HANDLING PROGRAMS OR POLICIES,
32 INCLUDING DEMONSTRATION PROGRAMS PREVIOUSLY AUTHORIZED BY CHAPTER SEVEN
33 HUNDRED THIRTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE;

34 (C) CONSULT WITH ANY ORGANIZATION, EDUCATIONAL INSTITUTION, OTHER
35 GOVERNMENT ENTITY OR AGENCY OR PERSON;

36 (D) CONDUCT PUBLIC HEARINGS, AS IT DEEMS NECESSARY;

37 (E) IDENTIFY OR DEVELOP TRAINING MATERIALS AND PROCEDURES WITH REGARD
38 TO THE EQUIPMENT OR TECHNOLOGY REQUIRED BY THE STATEWIDE POLICY;

39 (F) REVIEW RULES AND REGULATIONS PRIOR TO ADOPTION BY THE DEPARTMENT;

40 (G) REVIEW AND UPDATE THE POLICY STATEMENT ON A BI-ANNUAL BASIS; AND

41 (H) SUBMIT A REPORT TO THE COMMISSIONER BY JULY FIRST, TWO THOUSAND
42 FOURTEEN IDENTIFYING SAFE PATIENT HANDLING PROGRAM ELEMENTS AND RECOM-
43 MENDATIONS OF SAFE PATIENT LIFTING EQUIPMENT, TECHNIQUES OR DEVICES.

44 8. ALL STATE DEPARTMENTS, COMMISSIONS, AGENCIES AND PUBLIC AUTHORITIES
45 SHALL PROVIDE THE TASK FORCE WITH ANY REASONABLY REQUESTED ASSISTANCE OF
46 ADVICE IN A TIMELY MANNER.

47 S 2999-J. STATEWIDE SAFE PATIENT HANDLING POLICY. 1. THE COMMISSIONER,
48 IN CONSULTATION WITH THE TASK FORCE, SHALL PROMULGATE RULES AND REGU-
49 LATIONS FOR A STATEWIDE SAFE PATIENT HANDLING POLICY FOR HEALTH CARE
50 FACILITIES COVERED BY THIS TITLE. SUCH POLICY SHALL BE MADE AVAILABLE TO
51 ALL FACILITIES COVERED BY THIS TITLE ON OR BEFORE JANUARY FIRST, TWO
52 THOUSAND FIFTEEN.

53 2. THE STATEWIDE SAFE PATIENT HANDLING POLICY SHALL INCLUDE STANDARDS
54 WITH REGARD TO:

55 (A) THE EQUIPMENT, DEVICES OR TECHNOLOGY TO BE USED BY A NURSE OR
56 DIRECT CARE WORKER WHO IS ENGAGED IN PATIENT HANDLING;

(B) THE RATIO OF SUCH EQUIPMENT OR TECHNOLOGY BASED UPON THE TYPE OF FACILITY, THE NUMBER OF BEDS IN A FACILITY, THE NUMBER OF PATIENT-HANDLING TASKS, TYPES OF CARE UNITS, PATIENT POPULATIONS, AND PATIENT CARE AREAS;

(C) THE MINIMUM NUMBER OF DEVICES TO ENSURE THAT CURRENT ASSESSED HAZARDS ARE ELIMINATED OR MITIGATED;

(D) ESTABLISHING PROCEDURES FOR THE SUBMISSION AND REPORTING OF COMPLIANCE BY EACH HEALTH CARE FACILITY COVERED BY THIS TITLE; AND

(E) ESTABLISHING PROCEDURES FOR COMPLAINTS OR VIOLATIONS, INCLUDING THE FILING PROCESS, REVIEW, AND EVALUATION AND CORRECTIVE ACTION OF SUCH COMPLAINTS.

3. EACH HEALTH CARE FACILITY SHALL FILE WITH THE DEPARTMENT BY JULY FIRST, TWO THOUSAND FIFTEEN A DETAILED PLAN TO COMPLY WITH THE RULES AND REGULATIONS OF THE STATEWIDE SAFE PATIENT HANDLING POLICY. THE DEPARTMENT SHALL ACCEPT SUCH PLAN BY JULY FIRST, TWO THOUSAND SIXTEEN.

S 2999-K. HEALTH CARE FACILITY SAFE PATIENT HANDLING COMMITTEES. 1. EACH HEALTH CARE FACILITY SHALL ESTABLISH A SAFE PATIENT HANDLING COMMITTEE EITHER BY CREATING A NEW COMMITTEE OR ASSIGNING THE POWERS AND DUTIES TO AN EXISTING COMMITTEE. AT LEAST ONE-HALF OF THE MEMBERS OF THE SAFE PATIENT HANDLING COMMITTEE SHALL BE FRONTLINE NON-MANAGERIAL NURSES OR DIRECT CARE WORKERS. AT LEAST ONE NON-MANAGERIAL NURSE AND ONE NON-MANAGERIAL DIRECT CARE WORKER SHALL BE ON THE SAFE PATIENT HANDLING COMMITTEE. THE COMMITTEE SHALL HAVE TWO CO-CHAIRS WITH ONE FROM MANAGEMENT AND ONE FRONTLINE NON-MANAGERIAL NURSE OR DIRECT CARE WORKER.

2. THE SAFE PATIENT HANDLING COMMITTEE SHALL: (A) SET CRITERIA FOR EVALUATION OF PATIENTS AND/OR RESIDENTS TO DETERMINE WHICH LIFT AND/OR REPOSITIONING EQUIPMENT, DEVICES OR TECHNOLOGY ARE TO BE USED; AND FOR PERFORMANCE OF RISK ASSESSMENTS OF THE ENVIRONMENT, JOB TASKS AND PATIENT NEEDS;

(B) ENSURE LIFT AND/OR REPOSITIONING EQUIPMENT IS SET UP, USED AND MAINTAINED ACCORDING TO MANUFACTURER'S INSTRUCTIONS;

(C) PROVIDE INITIAL AND ON-GOING YEARLY TRAINING AND EDUCATION ON SAFE PATIENT HANDLING FOR CURRENT EMPLOYEES AND NEW HIRES, AND ENSURE THAT RETRAINING FOR THOSE FOUND TO BE DEFICIENT IS PROVIDED AS NEEDED WITHOUT IMPACT TO THE EMPLOYMENT STATUS OF THE RETRAINED EMPLOYEES;

(D) SET UP AND UTILIZE A PROCESS FOR INCIDENT INVESTIGATION AND POST-INVESTIGATION REVIEW WHICH INCLUDES A PLAN OF CORRECTION AND IMPLEMENTATION OF CONTROLS;

(E) MAKE RECOMMENDATIONS FOR THE ACQUISITION OF EQUIPMENT OR PROCEDURES BEYOND THE MINIMUM STATE RECOMMENDATIONS; AND

(F) PERFORM, AT MINIMUM, AN ANNUAL PROGRAM ASSESSMENT AND EVALUATION.

S 2999-L. ENFORCEMENT. 1. ANY NURSE OR DIRECT CARE WORKER OR EMPLOYEE REPRESENTATIVE WHO BELIEVES THE HEALTH CARE FACILITY HAS NOT MET THE STANDARDS SET FORTH IN THIS TITLE SHALL BRING THE MATTER TO THE ATTENTION OF THE HEALTH CARE FACILITY IN THE FORM OF A WRITTEN NOTICE AND SHALL AFFORD THE HEALTH CARE FACILITY A REASONABLE OPPORTUNITY TO CORRECT SUCH DEFICIENCIES, PROVIDED THAT SUCH NOTICE NEED NOT BE PROVIDED WHERE THE NURSE OR DIRECT WORKER OR EMPLOYEE REPRESENTATIVE REASONABLY BELIEVES THAT THE FAILURE TO MEET STANDARDS PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF A SPECIFIC NURSE OR DIRECT CARE WORKER, OR TO THE GENERAL HEALTH OF A SPECIFIC PATIENT, AND REPORTING WILL NOT RESULT IN CORRECTIVE ACTION.

2. IN THE EVENT THAT THE HEALTH CARE FACILITY RECEIVING NOTICE PURSUANT TO SUBDIVISION ONE OF THIS SECTION DOES NOT TAKE CORRECTIVE ACTION WITHIN SIXTY DAYS, OR IN THE EVENT THAT NOTICE OF A FAILURE TO MEET STANDARDS IS NOT REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, A

1 NURSE OR DIRECT CARE WORKER SHALL HAVE THE RIGHT TO REFUSE TO ENGAGE IN
2 PATIENT HANDLING UNTIL THE HEALTH CARE FACILITY HAS ADEQUATELY ADDRESSED
3 THE SPECIFIC FAILURE TO MEET STANDARDS. UPON REFUSAL, SUCH NURSE OR
4 DIRECT CARE WORKER OR HIS OR HER REPRESENTATIVE SHALL FILE A COMPLAINT
5 TO THE DEPARTMENT IN THE MANNER SET FORTH IN THE STATEWIDE SAFE PATIENT
6 HANDLING POLICY.

7 3. NO EMPLOYER SHALL TAKE RETALIATORY ACTION AGAINST ANY NURSE OR
8 DIRECT CARE WORKER FOR RAISING CONCERNS OR ISSUES REGARDING SAFE PATIENT
9 HANDLING, FILING A COMPLAINT OR REFUSING TO ENGAGE IN PATIENT HANDLING.

10 4. NURSES AND DIRECT CARE WORKERS, AS DEFINED IN SECTION TWENTY-NINE
11 HUNDRED NINETY-NINE-H OF THIS TITLE SHALL BE CONSIDERED EMPLOYEES FOR
12 THE PURPOSES OF SECTION SEVEN HUNDRED FORTY-ONE OF THE LABOR LAW.

13 5. THE DEPARTMENT AND THE DEPARTMENT OF LABOR SHALL PUBLISH AND MAKE
14 PUBLIC WHICH HEALTH CARE FACILITIES ARE IN COMPLIANCE WITH THE STATEWIDE
15 SAFE PATIENT HANDLING POLICY.

16 S 3. The education law is amended by adding a new section 6510-f to
17 read as follows:

18 S 6510-F. STATE SAFE PATIENT HANDLING POLICY. 1. THE REFUSAL OF A
19 LICENSED PRACTICAL NURSE OR A REGISTERED NURSE TO ENGAGE IN PATIENT
20 HANDLING SHALL NOT CONSTITUTE PATIENT ABANDONMENT OR NEGLECT IF SUCH
21 NURSE HAS, IN A MANNER CONSISTENT WITH ARTICLE TWENTY-NINE-D OF THE
22 PUBLIC HEALTH LAW AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO
23 SUCH ARTICLE, REFUSED A PATIENT HANDLING ASSIGNMENT AND FILED A
24 COMPLAINT WITH THE DEPARTMENT OF HEALTH.

25 2. THE REFUSAL OF A LICENSED OR UNLICENSED HEALTH CARE WORKER TO
26 ENGAGE IN PATIENT HANDLING NOT CONSISTENT WITH THE STATE SAFE PATIENT
27 HANDLING POLICY OR A FACILITY'S SAFE PATIENT HANDLING POLICY SHALL NOT
28 BE CONSIDERED PROFESSIONAL MISCONDUCT. THE REFUSAL OF A LICENSED OR
29 UNLICENSED HEALTH CARE WORKER TO ENGAGE IN PATIENT HANDLING SHALL NOT
30 CONSTITUTE PATIENT ABANDONMENT OR NEGLECT IF SUCH WORKER HAS, IN A
31 MANNER CONSISTENT WITH ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW
32 AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO SUCH ARTICLE,
33 REFUSED A PATIENT HANDLING ASSIGNMENT AND FILED A COMPLAINT WITH THE
34 DEPARTMENT OF HEALTH.

35 S 4. This act shall take effect on the one hundred twentieth day after
36 it shall have become a law.