

1 WITHOUT SAFE PATIENT HANDLING LEGISLATION, IT IS PREDICTED THAT THE
2 DEMAND FOR NURSING SERVICES WILL EXCEED THE SUPPLY BY NEARLY THIRTY
3 PERCENT BY THE YEAR TWO THOUSAND TWENTY THUS DECREASING THE QUALITY OF
4 HEALTH CARE IN NEW YORK STATE. THERE ARE MANY BENEFITS THAT CAN BE
5 DERIVED FROM SAFE PATIENT HANDLING PROGRAMS. PATIENTS BENEFIT THROUGH
6 IMPROVED QUALITY OF CARE AND QUALITY OF LIFE BY REDUCING THE RISK OF
7 FALLS, BEING DROPPED, FRICTION BURNS, SKIN TEARS AND BRUISES. CAREGIVERS
8 BENEFIT FROM THE REDUCED RISK OF CAREER ENDING AND DEBILITATING INJURIES
9 LEADING TO INCREASED MORALE, IMPROVED JOB SATISFACTION AND LONGEVITY IN
10 THE PROFESSION. HEALTH CARE FACILITIES REALIZE A QUICK RETURN ON THEIR
11 INVESTMENT THROUGH REDUCED WORKERS' COMPENSATION MEDICAL AND INDEMNITY
12 COSTS, REDUCED LOST WORKDAYS AND IMPROVED RECRUITMENT AND RETENTION OF
13 CAREGIVERS. ALL OF THIS WILL LEAD TO FISCAL IMPROVEMENT IN HEALTH CARE
14 IN NEW YORK STATE.

15 S 2997-H. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE:

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

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

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

32 4. "EMPLOYEE REPRESENTATIVE" SHALL MEAN THE RECOGNIZED OR CERTIFIED
33 COLLECTIVE BARGAINING AGENT FOR NURSES OR DIRECT CARE WORKERS OF A
34 HEALTH CARE FACILITY.

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

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

40 (A) A WRITTEN POLICY STATEMENT; AND

41 (B) MANAGEMENT COMMITMENT AND EMPLOYEE INVOLVEMENT; AND

42 (C) COMMITTEES; AND

43 (D) RISK ASSESSMENTS; AND

44 (E) INCIDENT INVESTIGATION; AND

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

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

48 (H) PROGRAM EVALUATION AND MODIFICATION.

49 S 2997-I. NEW YORK STATE SAFE PATIENT HANDLING TASK FORCE. 1. A NEW
50 YORK STATE SAFE PATIENT HANDLING TASK FORCE IS HEREBY CREATED WITHIN THE
51 DEPARTMENT. SUCH TASK FORCE SHALL CONSIST OF A TOTAL OF THIRTEEN
52 MEMBERS AND SHALL INCLUDE THE COMMISSIONER OR HIS OR HER DESIGNEE; THE
53 COMMISSIONER OF LABOR OR HIS OR HER DESIGNEE; FIVE MEMBERS APPOINTED BY
54 THE GOVERNOR, TWO SUCH MEMBERS SHALL BE REPRESENTATIVES OF HEALTH CARE
55 ORGANIZATIONS, ONE SUCH MEMBER SHALL BE FROM AN EMPLOYEE ORGANIZATION
56 REPRESENTING NURSES AND ONE SUCH MEMBER SHALL BE FROM AN EMPLOYEE ORGAN-

1 IZATION REPRESENTING DIRECT CARE WORKERS; TWO SUCH MEMBERS SHALL BE
2 CERTIFIED ERGONOMIST EVALUATION SPECIALISTS; TWO MEMBERS TO BE APPOINTED
3 BY THE TEMPORARY PRESIDENT OF THE SENATE, WHO SHALL HAVE EXPERTISE IN
4 FIELDS OF DISCIPLINE RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY AND
5 ONE SUCH APPOINTEE SHALL BE FROM AN ORGANIZATION REPRESENTING EITHER A
6 NURSE OR DIRECT CARE WORKER; TWO MEMBERS TO BE APPOINTED BY THE SPEAKER
7 OF THE ASSEMBLY, WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE
8 RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY AND ONE SUCH APPOINTEE
9 SHALL BE FROM AN ORGANIZATION REPRESENTING EITHER A NURSE OR DIRECT CARE
10 WORKER; ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE SENATE,
11 WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE RELATED TO HEALTH CARE
12 OR OCCUPATIONAL SAFETY; AND ONE MEMBER APPOINTED BY THE MINORITY LEADER
13 OF THE ASSEMBLY, WHO SHALL HAVE EXPERTISE IN FIELDS OF DISCIPLINE
14 RELATED TO HEALTH CARE OR OCCUPATIONAL SAFETY.

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

18 3. THE TASK FORCE SHALL BE APPOINTED NO LATER THAN JULY FIRST, TWO
19 THOUSAND FOURTEEN AND SHALL SERVE FOR A PERIOD OF TWO YEARS; ANY VACAN-
20 CIES ON THE TASK FORCE SHALL BE FILLED IN THE MANNER PROVIDED FOR IN THE
21 INITIAL APPOINTMENT.

22 4. THE CHAIRPERSON OF THE TASK FORCE SHALL BE THE COMMISSIONER OR HIS
23 OR HER DESIGNEE.

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

25 6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MAJORITY OF THE
26 MEMBERS OF THE TASK FORCE THEN IN OFFICE SHALL CONSTITUTE A QUORUM FOR
27 THE TRANSACTION OF BUSINESS OR THE EXERCISE OF POWER OR FUNCTION OF THE
28 TASK FORCE. AN ACT, DETERMINATION OR DECISION OF THE MAJORITY OF THE
29 MEMBERS OF THE TASK FORCE SHALL BE HELD TO BE THE ACT, DETERMINATION OR
30 DECISION OF THE TASK FORCE.

31 7. THE TASK FORCE SHALL:

32 (A) PREPARE A POLICY STATEMENT REQUIRING A COMPREHENSIVE SAFE PATIENT
33 HANDLING PROGRAM TO BE IMPLEMENTED AT ALL HEALTH CARE FACILITIES, AS
34 DEFINED IN SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-H
35 OF THIS TITLE. THE POLICY STATEMENT SHALL INCLUDE THE REQUIREMENTS FOR
36 DEVELOPING AND IMPLEMENTING AN EFFECTIVE SAFE PATIENT HANDLING PROGRAM
37 THAT SHALL INCLUDE ALL ELEMENTS SPECIFIED IN SUBDIVISION SIX OF SECTION
38 TWENTY-NINE HUNDRED NINETY-SEVEN-H OF THIS TITLE;

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

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

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

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

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

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

49 (H) SUBMIT A REPORT TO THE COMMISSIONER BY JULY FIRST, TWO THOUSAND
50 FIFTEEN IDENTIFYING SAFE PATIENT HANDLING PROGRAM ELEMENTS AND RECOMMEN-
51 DATIONS OF SAFE PATIENT LIFTING EQUIPMENT, TECHNIQUES OR DEVICES.

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

55 S 2997-J. STATEWIDE SAFE PATIENT HANDLING POLICY. 1. THE COMMISSIONER,
56 IN CONSULTATION WITH THE TASK FORCE, SHALL PROMULGATE RULES AND REGU-

1 LATIONS FOR A STATEWIDE SAFE PATIENT HANDLING POLICY FOR HEALTH CARE
2 FACILITIES COVERED BY THIS TITLE. SUCH POLICY SHALL BE MADE AVAILABLE TO
3 ALL FACILITIES COVERED BY THIS TITLE ON OR BEFORE JANUARY FIRST, TWO
4 THOUSAND SIXTEEN.

5 2. THE STATEWIDE SAFE PATIENT HANDLING POLICY SHALL INCLUDE STANDARDS
6 WITH REGARD TO:

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

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

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

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

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

20 3. EACH HEALTH CARE FACILITY SHALL FILE WITH THE DEPARTMENT BY JULY
21 FIRST, TWO THOUSAND SIXTEEN A DETAILED PLAN TO COMPLY WITH THE RULES AND
22 REGULATIONS OF THE STATEWIDE SAFE PATIENT HANDLING POLICY. THE DEPART-
23 MENT SHALL ACCEPT SUCH PLAN BY JULY FIRST, TWO THOUSAND SEVENTEEN.

24 S 2997-K. HEALTH CARE FACILITY SAFE PATIENT HANDLING COMMITTEES. 1.
25 EACH HEALTH CARE FACILITY SHALL ESTABLISH A SAFE PATIENT HANDLING
26 COMMITTEE EITHER BY CREATING A NEW COMMITTEE OR ASSIGNING THE POWERS AND
27 DUTIES TO AN EXISTING COMMITTEE. AT LEAST ONE-HALF OF THE MEMBERS OF
28 THE SAFE PATIENT HANDLING COMMITTEE SHALL BE FRONTLINE NON-MANAGERIAL
29 NURSES OR DIRECT CARE WORKERS. AT LEAST ONE NON-MANAGERIAL NURSE AND ONE
30 NON-MANAGERIAL DIRECT CARE WORKER SHALL BE ON THE SAFE PATIENT HANDLING
31 COMMITTEE. THE COMMITTEE SHALL HAVE TWO CO-CHAIRS WITH ONE FROM MANAGE-
32 MENT AND ONE FRONTLINE NON-MANAGERIAL NURSE OR DIRECT CARE WORKER.

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

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

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

44 (D) SET UP AND UTILIZE A PROCESS FOR INCIDENT INVESTIGATION AND POST-
45 INVESTIGATION REVIEW WHICH INCLUDES A PLAN OF CORRECTION AND IMPLEMENTA-
46 TION OF CONTROLS;

47 (E) MAKE RECOMMENDATIONS FOR THE ACQUISITION OF EQUIPMENT OR PROCE-
48 DURES BEYOND THE MINIMUM STATE RECOMMENDATIONS; AND

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

50 S 2997-L. ENFORCEMENT. 1. ANY NURSE OR DIRECT CARE WORKER OR EMPLOYEE
51 REPRESENTATIVE WHO BELIEVES THE HEALTH CARE FACILITY HAS NOT MET THE
52 STANDARDS SET FORTH IN THIS TITLE SHALL BRING THE MATTER TO THE ATTEN-
53 TION OF THE HEALTH CARE FACILITY IN THE FORM OF A WRITTEN NOTICE AND
54 SHALL AFFORD THE HEALTH CARE FACILITY A REASONABLE OPPORTUNITY TO
55 CORRECT SUCH DEFICIENCIES, PROVIDED THAT SUCH NOTICE NEED NOT BE
56 PROVIDED WHERE THE NURSE OR DIRECT WORKER OR EMPLOYEE REPRESENTATIVE

1 REASONABLY BELIEVES THAT THE FAILURE TO MEET STANDARDS PRESENTS AN IMMI-
2 NENT THREAT TO THE SAFETY OF A SPECIFIC NURSE OR DIRECT CARE WORKER, OR
3 TO THE GENERAL HEALTH OF A SPECIFIC PATIENT, AND REPORTING WILL NOT
4 RESULT IN CORRECTIVE ACTION.

5 2. IN THE EVENT THAT THE HEALTH CARE FACILITY RECEIVING NOTICE PURSU-
6 ANT TO SUBDIVISION ONE OF THIS SECTION DOES NOT TAKE CORRECTIVE ACTION
7 WITHIN SIXTY DAYS, OR IN THE EVENT THAT NOTICE OF A FAILURE TO MEET
8 STANDARDS IS NOT REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, A
9 NURSE OR DIRECT CARE WORKER SHALL HAVE THE RIGHT TO REFUSE TO ENGAGE IN
10 PATIENT HANDLING UNTIL THE HEALTH CARE FACILITY HAS ADEQUATELY ADDRESSED
11 THE SPECIFIC FAILURE TO MEET STANDARDS. UPON REFUSAL, SUCH NURSE OR
12 DIRECT CARE WORKER OR HIS OR HER REPRESENTATIVE SHALL FILE A COMPLAINT
13 TO THE DEPARTMENT IN THE MANNER SET FORTH IN THE STATEWIDE SAFE PATIENT
14 HANDLING POLICY.

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

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

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

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

26 S 6510-F. STATE SAFE PATIENT HANDLING POLICY. 1. THE REFUSAL OF A
27 LICENSED PRACTICAL NURSE OR A REGISTERED NURSE TO ENGAGE IN PATIENT
28 HANDLING SHALL NOT CONSTITUTE PATIENT ABANDONMENT OR NEGLECT IF SUCH
29 NURSE HAS, IN A MANNER CONSISTENT WITH ARTICLE TWENTY-NINE-D OF THE
30 PUBLIC HEALTH LAW AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO
31 SUCH ARTICLE, REFUSED A PATIENT HANDLING ASSIGNMENT AND FILED A
32 COMPLAINT WITH THE DEPARTMENT OF HEALTH.

33 2. THE REFUSAL OF A LICENSED OR UNLICENSED HEALTH CARE WORKER TO
34 ENGAGE IN PATIENT HANDLING NOT CONSISTENT WITH THE STATE SAFE PATIENT
35 HANDLING POLICY OR A FACILITY'S SAFE PATIENT HANDLING POLICY SHALL NOT
36 BE CONSIDERED PROFESSIONAL MISCONDUCT. THE REFUSAL OF A LICENSED OR
37 UNLICENSED HEALTH CARE WORKER TO ENGAGE IN PATIENT HANDLING SHALL NOT
38 CONSTITUTE PATIENT ABANDONMENT OR NEGLECT IF SUCH WORKER HAS, IN A
39 MANNER CONSISTENT WITH ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW
40 AND THE RULES AND REGULATIONS PROMULGATED PURSUANT TO SUCH ARTICLE,
41 REFUSED A PATIENT HANDLING ASSIGNMENT AND FILED A COMPLAINT WITH THE
42 DEPARTMENT OF HEALTH.

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