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2013-2014 Regular Sessions

I N S E N A T E

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Introduced by Sens. MAZIARZ, GRISANTI, ADDABBO, AVELLA, BALL, BONACIC, BOYLE, CARLUCCI, DIAZ, DILAN, ESPAILLAT, GALLIVAN, GIPSON, GOLDEN, HANNON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, LANZA, LARKIN, LATIMER, LAVALLE, MARTINS, MONTGOMERY, O'BRIEN, PARKER, PERALTA, PERKINS, RIVERA, SAMPSON, SAVINO, SERRANO, TKACZYK, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to a safe patient handling policy for health care facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "safe
2 patient handling act".
3 S 2. 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 POLICY
7 SECTION 2997-G. LEGISLATIVE INTENT.
8 2997-H. DEFINITIONS.
9 2997-I. STATEWIDE SAFE PATIENT HANDLING WORK GROUP.
10 2997-J. STATEWIDE SAFE PATIENT HANDLING POLICY.
11 2997-K. HEALTH CARE FACILITY SAFE PATIENT HANDLING COMMITTEES.
12 2997-L. ENFORCEMENT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 S 2997-G. LEGISLATIVE INTENT. THE LEGISLATURE HEREBY FINDS AND
2 DECLARES THAT IT IS IN THE PUBLIC INTEREST TO ENACT A STATEWIDE SAFE
3 PATIENT HANDLING POLICY FOR HEALTH CARE FACILITIES IN NEW YORK STATE.
4 WITHOUT SAFE PATIENT HANDLING LEGISLATION, IT IS PREDICTED THAT THE
5 DEMAND FOR NURSING SERVICES WILL EXCEED THE SUPPLY BY NEARLY THIRTY
6 PERCENT BY THE YEAR TWO THOUSAND TWENTY THUS DECREASING THE QUALITY OF
7 HEALTH CARE IN NEW YORK STATE. THERE ARE MANY BENEFITS THAT CAN BE
8 DERIVED FROM SAFE PATIENT HANDLING PROGRAMS. PATIENTS BENEFIT THROUGH
9 IMPROVED QUALITY OF CARE AND QUALITY OF LIFE BY REDUCING THE RISK OF
10 FALLS, BEING DROPPED, FRICTION BURNS, SKIN TEARS AND BRUISES. CAREGIVERS
11 BENEFIT FROM THE REDUCED RISK OF CAREER ENDING AND DEBILITATING INJURIES
12 LEADING TO INCREASED MORALE, IMPROVED JOB SATISFACTION AND LONGEVITY IN
13 THE PROFESSION. HEALTH CARE FACILITIES REALIZE A QUICK RETURN ON THEIR
14 INVESTMENT THROUGH REDUCED WORKERS' COMPENSATION MEDICAL AND INDEMNITY
15 COSTS, REDUCED LOST WORKDAYS AND IMPROVED RECRUITMENT AND RETENTION OF
16 CAREGIVERS. ALL OF THIS WILL LEAD TO FISCAL IMPROVEMENT IN HEALTH CARE
17 IN NEW YORK STATE.

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

19 1. "HEALTH CARE FACILITY" SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP,
20 ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY OR ANY PERSON OR
21 GROUP OF PERSONS ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF OR IN THE
22 INTEREST OF AN EMPLOYER THAT PROVIDES HEALTH CARE SERVICES IN A FACILITY
23 LICENSED OR OPERATED PURSUANT TO ARTICLE TWENTY-EIGHT, TWENTY-EIGHT-A OF
24 THIS CHAPTER, ARTICLE EIGHT OR TITLE EIGHT OF THE EDUCATION LAW, ARTICLE
25 NINETEEN-G OF THE EXECUTIVE LAW, THE CORRECTION LAW, OR FACILITIES OPER-
26 ATED BY THE STATE AS DEFINED IN ARTICLE SEVEN, THIRTEEN OR NINETEEN OF
27 THE MENTAL HYGIENE LAW INCLUDING ANY FACILITY OPERATED BY THE STATE OR A
28 PUBLIC BENEFIT CORPORATION AS DEFINED BY SECTION SIXTY-SIX OF THE GENER-
29 AL CONSTRUCTION LAW; PROVIDED THAT THE PROVISIONS OF THIS TITLE SHALL
30 NOT APPLY TO ANY FACILITY OPERATED OR FUNDED BY ANY MUNICIPAL CORPO-
31 RATION, AS DEFINED IN SECTION TWO OF THE GENERAL MUNICIPAL LAW, EXCEPT
32 THAT SUCH PROVISIONS SHALL APPLY TO FACILITIES LICENSED OR OPERATED BY
33 ANY POLITICAL SUBDIVISION OF THE STATE PURSUANT TO ARTICLE TWENTY-EIGHT
34 OR TWENTY-EIGHT-A OF THIS CHAPTER.

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 THAT IS RESPONSIBLE FOR PATIENT HANDLING OR PATIENT ASSESSMENT
40 AS A REGULAR OR INCIDENTAL PART OF THEIR 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 NURSES OR DIRECT
47 CARE WORKERS TRANSFERRING AND REPOSITIONING OF HEALTH CARE PATIENTS AND
48 RESIDENTS IN HEALTH CARE FACILITIES.

49 6. (A) "FACILITY SAFE PATIENT HANDLING POLICY" SHALL INCLUDE:

50 (I) A WRITTEN POLICY STATEMENT; AND

51 (II) MANAGEMENT COMMITMENT AND EMPLOYEE INVOLVEMENT; AND

52 (III) COMMITTEES; AND

53 (IV) A FACILITY SAFE PATIENT HANDLING PROGRAM.

54 (B) "FACILITY SAFE PATIENT HANDLING PROGRAM" SHALL INCLUDE:

55 (I) RISK ASSESSMENTS; AND

56 (II) INCIDENT INVESTIGATION; AND

1 (III) RECOMMENDATIONS REGARDING PROCUREMENT OF ENGINEERING CONTROLS,
2 LIFTING AND TRANSFER AIDS OR ASSISTIVE DEVICES TO ENSURE SAFE PATIENT
3 HANDLING; AND

4 (IV) EMPLOYEE TRAINING AND EDUCATION ON SAFE PATIENT HANDLING; AND

5 (V) PROGRAM EVALUATION AND MODIFICATION.

6 S 2997-I. STATEWIDE SAFE PATIENT HANDLING WORK GROUP. 1. A STATEWIDE
7 SAFE PATIENT HANDLING WORK GROUP IS HEREBY CREATED WITHIN THE DEPART-
8 MENT. SUCH WORK GROUP SHALL CONSIST OF, AT MINIMUM, THE COMMISSIONER OR
9 HIS OR HER DESIGNEE; THE COMMISSIONER OF LABOR OR HIS OR HER DESIGNEE;
10 REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS, REPRESENTATIVES FROM
11 EMPLOYEE ORGANIZATIONS REPRESENTING NURSES AND REPRESENTATIVES FROM
12 EMPLOYEE ORGANIZATIONS REPRESENTING DIRECT CARE WORKERS; REPRESENTATIVES
13 WHO ARE CERTIFIED ERGONOMIST EVALUATION SPECIALISTS AND REPRESENTATIVES
14 WHO HAVE EXPERIENCE IN OCCUPATIONAL HEALTH AND SAFETY.

15 2. WORK GROUP 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 WORK GROUP SHALL BE ESTABLISHED NO LATER THAN JANUARY FIRST,
19 TWO THOUSAND FIFTEEN.

20 4. THE WORK GROUP SHALL:

21 (A) PREPARE A STATEWIDE POLICY STATEMENT OUTLINING THE REQUIREMENT OF
22 A COMPREHENSIVE SAFE PATIENT HANDLING PROGRAM TO BE IMPLEMENTED AT ALL
23 HEALTH CARE FACILITIES, AS DEFINED IN SUBDIVISION ONE OF SECTION TWEN-
24 TY-NINE HUNDRED NINETY-SEVEN-H OF THIS TITLE. THE POLICY STATEMENT
25 SHALL OUTLINE THE REQUIREMENTS FOR DEVELOPING AND IMPLEMENTING A SAFE
26 PATIENT HANDLING PROGRAM THAT MUST INCLUDE ALL ELEMENTS SPECIFIED IN
27 SUBDIVISION SIX OF SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-H OF THIS
28 TITLE;

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

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

34 (D) IDENTIFY OR DEVELOP TRAINING MATERIALS AND PROCEDURES WITH REGARD
35 TO THE EQUIPMENT OR TECHNOLOGY RECOMMENDED BY THE STATEWIDE POLICY;

36 (E) REVIEW RULES AND REGULATIONS PRIOR TO ADOPTION BY THE DEPARTMENT;

37 (F) REVIEW AND UPDATE THE POLICY STATEMENT ON A BI-ANNUAL BASIS;

38 (G) SERVE AS A RESOURCE FOR THE HEALTH CARE FACILITIES' SAFE PATIENT
39 HANDLING COMMITTEES, PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-SEV-
40 EN-K OF THIS TITLE;

41 (H) ENGAGE IN CONSULTATION AND MAKE RECOMMENDATIONS RELATED TO THE
42 FEASIBILITY OF ESTABLISHING A STATEWIDE SAFE PATIENT HANDLING POLICY
43 APPLICABLE TO HEALTH CARE FACILITIES LICENSED OR OPERATED PURSUANT TO
44 ARTICLE THIRTY-SIX OF THIS CHAPTER; AND

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

48 5. ALL STATE DEPARTMENTS, COMMISSIONS, AGENCIES AND PUBLIC AUTHORITIES
49 SHALL PROVIDE THE WORK GROUP WITH ANY REASONABLY REQUESTED ASSISTANCE OF
50 ADVICE IN A TIMELY MANNER.

51 S 2997-J. STATEWIDE SAFE PATIENT HANDLING POLICY. 1. ON OR BEFORE
52 JANUARY FIRST, TWO THOUSAND SIXTEEN THE COMMISSIONER, IN CONSULTATION
53 WITH THE WORK GROUP, SHALL PROMULGATE AND DISSEMINATE RULES, REGULATIONS
54 AND A STATEWIDE SAFE PATIENT HANDLING POLICY TO HEALTH CARE FACILITIES
55 COVERED BY THIS TITLE.

1 2. THE STATEWIDE SAFE PATIENT HANDLING POLICY SHALL INCLUDE RECOMMEN-
2 DATIONS REGARDING THE APPROPRIATE UTILIZATION OF SAFE PATIENT HANDLING
3 EQUIPMENT AND STRATEGIES; AND TO FACILITATE PATIENTS AND RESIDENTS
4 REACHING THE HIGHEST PRACTICAL FUNCTIONAL LEVEL WHILE SIMULTANEOUSLY
5 PROVIDING FOR THE SAFETY OF THE PATIENTS AND THE HEALTH CARE WORKER. THE
6 STATEWIDE SAFE PATIENT HANDLING POLICY SHALL INCLUDE RECOMMENDED STAND-
7 ARDS WITH REGARD TO:

8 (A) THE EQUIPMENT, DEVICES OR TECHNOLOGY TO BE CONSIDERED BY THE
9 HEALTH CARE FACILITIES' SAFE PATIENT HANDLING COMMITTEES, PURSUANT TO
10 SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-K OF THIS
11 TITLE, AND THEIR USE BY A NURSE OR DIRECT CARE WORKER WHO IS ENGAGED IN
12 PATIENT HANDLING;

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

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

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

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

24 (F) PROCEDURES REGARDING THE MANAGEMENT OF CIRCUMSTANCES THAT MAY
25 RESULT IN UNSAFE PATIENT HANDLING; AND

26 (G) APPROPRIATE UTILIZATION OF ENGINEERING CONTROLS, LIFTING AND
27 TRANSFER AIDS OR ASSISTIVE DEVICES AS IT RELATES TO THE MOBILIZATION AND
28 HANDLING NEEDS OF PATIENTS AND RESIDENTS, INCLUDING WHETHER USE OF SUCH
29 DEVICES IS CONSISTENT WITH A PATIENT'S OR RESIDENT'S PLAN OF CARE OR
30 TREATMENT.

31 3. EACH HEALTH CARE FACILITY SHALL FILE WITH THE DEPARTMENT BY JULY
32 FIRST, TWO THOUSAND SIXTEEN A DETAILED PLAN TO COMPLY WITH THIS TITLE.
33 THE DEPARTMENT SHALL ACCEPT SUCH PLAN BY JULY FIRST, TWO THOUSAND SEVEN-
34 TEEN. HOWEVER, EFFECTIVE JULY FIRST, TWO THOUSAND SEVENTEEN, EACH FACIL-
35 ITY AS DEFINED IN SUBDIVISIONS TWO AND THREE OF SECTION TWENTY-EIGHT
36 HUNDRED ONE OF THIS CHAPTER AND EACH FACILITY AS DEFINED IN ARTICLE
37 TWENTY-EIGHT-A OF THIS CHAPTER SHALL KEEP ON FILE AT THE FACILITY A
38 DETAILED PLAN TO COMPLY WITH THIS TITLE AND MAKE SUCH PLAN AVAILABLE AT
39 THEIR ANNUAL DEPARTMENT SURVEY AND UPON REQUEST TO THE FACILITY SAFE
40 PATIENT HANDLING COMMITTEE ESTABLISHED PURSUANT TO SECTION TWENTY-NINE
41 HUNDRED NINETY-SEVEN-K OF THIS TITLE.

42 4. GRANTS TO APPROVED ORGANIZATIONS. (A) THE COMMISSIONER SHALL MAKE
43 GRANTS WITHIN THE AMOUNTS APPROPRIATED TO APPROVED ORGANIZATIONS FOR THE
44 PROVISION OF SERVICES OR EQUIPMENT RELATING TO THE IMPLEMENTATION OF THE
45 SAFE PATIENT HANDLING ACT. SUCH SERVICES AND EQUIPMENT SHALL INCLUDE BUT
46 NOT BE LIMITED TO:

47 (I) TRAINING; AND

48 (II) MECHANICAL LIFTS.

49 (B) THE COMMISSIONER SHALL GIVE NOTICE AND PROVIDE OPPORTUNITY TO
50 SUBMIT APPLICATIONS TO IMPLEMENT SAFE PATIENT HANDLING PROGRAMS. IN
51 ORDER TO BE CONSIDERED FOR A GRANT TO IMPLEMENT A SAFE PATIENT HANDLING
52 PROGRAM APPLICANTS MUST SHOW EVIDENCE OF THE FOLLOWING:

53 (I) FINANCIAL NEED;

54 (II) A PLAN APPROVED BY THE DEPARTMENT; AND

55 (III) PREVIOUS IMPLEMENTATION STRATEGIES.

56 APPLICATIONS SHALL BE MADE ON FORMS PROVIDED BY THE COMMISSIONER.

1 S 2997-K. HEALTH CARE FACILITY SAFE PATIENT HANDLING COMMITTEES. 1.
2 EACH HEALTH CARE FACILITY SHALL ESTABLISH A SAFE PATIENT HANDLING
3 COMMITTEE EITHER BY CREATING A NEW COMMITTEE OR ASSIGNING THE POWERS AND
4 DUTIES TO AN EXISTING COMMITTEE. AT LEAST ONE-HALF OF THE MEMBERS OF
5 THE SAFE PATIENT HANDLING COMMITTEE SHALL BE FRONTLINE NON-MANAGERIAL
6 NURSES OR DIRECT CARE WORKERS. AT LEAST ONE NON-MANAGERIAL NURSE AND ONE
7 NON-MANAGERIAL DIRECT CARE WORKER SHALL BE ON THE SAFE PATIENT HANDLING
8 COMMITTEE. IN HEALTH CARE FACILITIES WHERE A RESIDENT COUNCIL IS ESTAB-
9 LISHED, AND WHERE FEASIBLE, AT LEAST ONE MEMBER OF THE SAFE PATIENT
10 HANDLING COMMITTEE SHALL BE A REPRESENTATIVE FROM THE RESIDENT COUNCIL.
11 THE COMMITTEE SHALL HAVE TWO CO-CHAIRS WITH ONE FROM MANAGEMENT AND ONE
12 FRONTLINE NON-MANAGERIAL NURSE OR DIRECT CARE WORKER.

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

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

20 (C) PROVIDE INITIAL AND ON-GOING YEARLY TRAINING AND EDUCATION ON SAFE
21 PATIENT HANDLING FOR CURRENT EMPLOYEES AND NEW HIRES, AND ESTABLISH
22 PROCEDURES TO ENSURE THAT RETRAINING FOR THOSE FOUND TO BE DEFICIENT IS
23 PROVIDED AS NEEDED;

24 (D) SET UP AND UTILIZE A PROCESS FOR INCIDENT INVESTIGATION AND POST-
25 INVESTIGATION REVIEW WHICH MAY INCLUDE A PLAN OF CORRECTION AND IMPE-
26 MENTATION OF CONTROLS;

27 (E) MAKE RECOMMENDATIONS FOR THE ACQUISITION OF EQUIPMENT OR PROCE-
28 DURES BEYOND THE MINIMUM STATE RECOMMENDATIONS;

29 (F) PERFORM AN ANNUAL PROGRAM ASSESSMENT AND EVALUATION; AND

30 (G) APPROPRIATE UTILIZATION OF ENGINEERING CONTROLS, LIFTING AND
31 TRANSFER AIDS OR ASSISTIVE DEVICES AS IT RELATES TO THE MOBILIZATION AND
32 HANDLING NEEDS OF PATIENTS AND RESIDENTS, INCLUDING WHETHER USE OF SUCH
33 DEVICES IS CONSISTENT WITH A PATIENT'S OR RESIDENT'S PLAN OF CARE OR
34 TREATMENT.

35 S 2997-L. ENFORCEMENT. 1. ANY NURSE OR DIRECT CARE WORKER OR EMPLOYEE
36 REPRESENTATIVE WHO BELIEVES THE HEALTH CARE FACILITY HAS NOT MET THE
37 STANDARDS SET FORTH IN THIS TITLE SHALL BRING THE MATTER TO THE ATTEN-
38 TION OF THE HEALTH CARE FACILITY IN THE FORM OF A WRITTEN NOTICE AND
39 SHALL AFFORD THE HEALTH CARE FACILITY A REASONABLE OPPORTUNITY TO
40 CORRECT SUCH DEFICIENCIES. SUCH WRITTEN NOTICE NEED NOT BE PROVIDED
41 WHERE THE NURSE OR DIRECT CARE WORKER OR EMPLOYEE REPRESENTATIVE REASON-
42 ABLY BELIEVES THAT THE FAILURE TO MEET STANDARDS OF THE FACILITY POLICY
43 PRESENTS AN IMMINENT THREAT TO THE SAFETY OF A SPECIFIC NURSE OR DIRECT
44 CARE WORKER, OR TO THE GENERAL HEALTH OF A SPECIFIC PATIENT; IN SUCH
45 INSTANCE THE NURSE OR DIRECT CARE WORKER SHALL MAKE A GOOD FAITH EFFORT
46 TO ENSURE PATIENT SAFETY AND BRING THE MATTER TO THE ATTENTION OF THE
47 FACILITY AND THE DEPARTMENT IN THE MANNER SET FORTH IN THE FACILITY
48 POLICY.

49 2. IN THE EVENT THAT THE HEALTH CARE FACILITY RECEIVING WRITTEN NOTICE
50 PURSUANT TO SUBDIVISION ONE OF THIS SECTION DOES NOT TAKE CORRECTIVE
51 ACTION WITHIN SIXTY DAYS, OR IN THE EVENT THAT NOTICE OF A FAILURE TO
52 MEET STANDARDS IS NOT REQUIRED PURSUANT TO SUBDIVISION ONE OF THIS
53 SECTION, A NURSE OR DIRECT CARE WORKER SHALL HAVE THE RIGHT TO REFUSE TO
54 ENGAGE IN PATIENT HANDLING UNTIL THE HEALTH CARE FACILITY HAS ADEQUATELY
55 ADDRESSED THE SPECIFIC FAILURE TO MEET STANDARDS. UPON REFUSAL, SUCH
56 NURSE OR DIRECT CARE WORKER OR HIS OR HER REPRESENTATIVE SHALL FILE A

1 COMPLAINT TO THE DEPARTMENT IN THE MANNER SET FORTH IN THE STATEWIDE
2 SAFE PATIENT HANDLING POLICY.

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

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

9 5. THE DEPARTMENT AND THE DEPARTMENT OF LABOR SHALL PUBLISH AND MAKE
10 PUBLIC WHICH HEALTH CARE FACILITIES ARE IN COMPLIANCE WITH THIS TITLE.

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

13 S 6510-F. FACILITY SAFE PATIENT HANDLING POLICY. THE REFUSAL OF A
14 LICENSED OR UNLICENSED HEALTH CARE WORKER TO ENGAGE IN PATIENT HANDLING
15 WHICH IS NOT CONSISTENT WITH THE FACILITY'S SAFE PATIENT HANDLING POLICY
16 SHALL NOT BE CONSIDERED PROFESSIONAL MISCONDUCT AND SHALL NOT CONSTITUTE
17 PATIENT ABANDONMENT OR NEGLIGENCE. THE REFUSAL OF A LICENSED OR UNLICENSED
18 HEALTH CARE WORKER TO ENGAGE IN PATIENT HANDLING SHALL NOT CONSTITUTE
19 PATIENT ABANDONMENT OR NEGLIGENCE IF SUCH WORKER HAS, IN A MANNER CONSIST-
20 ENT WITH ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW AND THE RULES
21 AND REGULATIONS PROMULGATED PURSUANT TO SUCH ARTICLE, REFUSED A PATIENT
22 HANDLING ASSIGNMENT AND FILED A COMPLAINT WITH THE DEPARTMENT OF HEALTH.

23 S 4. This act shall take effect October 1, 2014.