

1 1. "HEALTH CARE FACILITY" SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP,
2 ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, OR ANY PERSON OR
3 GROUP OF PERSONS ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF OR IN THE
4 INTEREST OF THE EMPLOYER, WHICH PROVIDES HEALTH CARE SERVICES IN A
5 FACILITY LICENSED OR OPERATED PURSUANT TO ARTICLE TWENTY-EIGHT OR TWEN-
6 TY-EIGHT-A OF THIS CHAPTER, OR THE MENTAL HYGIENE LAW, THE EDUCATION
7 LAW, ARTICLE NINETEEN-G OF THE EXECUTIVE LAW OR THE CORRECTION LAW,
8 INCLUDING ANY FACILITY OPERATED BY THE STATE, A POLITICAL SUBDIVISION OR
9 A PUBLIC BENEFIT CORPORATION AS DEFINED BY SECTION SIXTY-SIX OF THE
10 GENERAL CONSTRUCTION LAW.

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

14 3. "DIRECT CARE WORKER" SHALL MEAN ANY EMPLOYEE OF A HEALTH CARE
15 FACILITY WHO IS RESPONSIBLE FOR PATIENT HANDLING OR PATIENT ASSESSMENT
16 AS A REGULAR OR INCIDENTAL PART OF HIS OR HER EMPLOYMENT, INCLUDING ANY
17 LICENSED OR UNLICENSED HEALTH CARE WORKER.

18 4. "EMPLOYEE REPRESENTATIVE" SHALL MEAN THE RECOGNIZED OR CERTIFIED
19 COLLECTIVE BARGAINING AGENT FOR NURSES OR DIRECT CARE WORKERS OF A
20 HEALTH CARE FACILITY.

21 5. "LIFT TEAM" SHALL MEAN HEALTH CARE FACILITY EMPLOYEES SPECIALLY
22 TRAINED TO CONDUCT PATIENT LIFTS, TRANSFERS AND REPOSITIONING USING
23 LIFTING EQUIPMENT WHEN APPROPRIATE.

24 6. "SAFE PATIENT HANDLING" SHALL MEAN THE USE OF ENGINEERING CONTROLS,
25 LIFTING AND TRANSFER AIDS, OR ASSISTIVE DEVICES BY LIFT TEAMS OR OTHER
26 STAFF, INSTEAD OF MANUAL LIFTING TO PERFORM THE ACTS OF LIFTING, TRANS-
27 FERRING AND REPOSITIONING HEALTH CARE PATIENTS AND RESIDENTS.

28 7. "MUSCULOSKELETAL DISORDERS" SHALL MEAN CONDITIONS THAT INVOLVE THE
29 NERVES, TENDONS, MUSCLES AND SUPPORTING STRUCTURES OF THE BODY.

30 S 2997-I. SAFE PATIENT HANDLING COMMITTEES; PROGRAMS. 1. ON OR BEFORE
31 FEBRUARY FIRST, TWO THOUSAND FIFTEEN, EACH HEALTH CARE FACILITY SHALL
32 ESTABLISH A SAFE PATIENT HANDLING COMMITTEE EITHER BY CREATING A NEW
33 COMMITTEE OR ASSIGNING THE FUNCTIONS OF A SAFE PATIENT HANDLING COMMIT-
34 TEE TO AN EXISTING COMMITTEE. THE PURPOSE OF A COMMITTEE IS TO DESIGN
35 AND RECOMMEND THE PROCESS FOR IMPLEMENTING A SAFE PATIENT HANDLING
36 PROGRAM. AT LEAST ONE-HALF OF THE MEMBERS OF THE SAFE PATIENT HANDLING
37 COMMITTEE SHALL BE FRONTLINE MANAGERIAL EMPLOYEES WHO PROVIDE DIRECT
38 CARE TO PATIENTS UNLESS DOING SO WILL ADVERSELY AFFECT PATIENT CARE.

39 2. ON OR BEFORE DECEMBER FIRST, TWO THOUSAND FIFTEEN, EACH HEALTH CARE
40 FACILITY SHALL ESTABLISH A SAFE PATIENT HANDLING PROGRAM. AS PART OF
41 THIS PROGRAM, A HEALTH CARE FACILITY SHALL:

42 (A) IMPLEMENT A SAFE PATIENT HANDLING POLICY FOR ALL SHIFTS AND UNITS
43 OF THE HEALTH CARE FACILITY. IMPLEMENTATION OF THE SAFE PATIENT HANDL-
44 ING POLICY MAY BE PHASED-IN WITH THE ACQUISITION OF EQUIPMENT PURSUANT
45 TO SUBDIVISION THREE OF THIS SECTION;

46 (B) CONDUCT A PATIENT HANDLING HAZARD ASSESSMENT. THIS ASSESSMENT
47 SHOULD CONSIDER SUCH VARIABLES AS PATIENT-HANDLING TASKS, TYPES OF NURS-
48 ING UNITS, PATIENT POPULATIONS AND THE PHYSICAL ENVIRONMENT OF PATIENT
49 CARE AREAS;

50 (C) DEVELOP A PROCESS TO IDENTIFY THE APPROPRIATE USE OF THE SAFE
51 PATIENT HANDLING POLICY BASED ON THE PATIENT'S PHYSICAL AND MEDICAL
52 CONDITION AND THE AVAILABILITY OF LIFTING EQUIPMENT OR LIFT TEAMS. THE
53 POLICY SHALL INCLUDE A MEANS TO ADDRESS CIRCUMSTANCES UNDER WHICH IT
54 WOULD BE MEDICALLY CONTRAINDICATED TO USE LIFTING OR TRANSFER AIDS OR
55 ASSISTIVE DEVICES FOR PARTICULAR PATIENTS;

(D) CONDUCT AN ANNUAL PERFORMANCE EVALUATION OF THE PROGRAM TO DETERMINE ITS EFFECTIVENESS, WITH THE RESULTS OF THE EVALUATION REPORTED TO THE SAFE PATIENT HANDLING COMMITTEE. THE EVALUATION SHALL DETERMINE THE EXTENT TO WHICH IMPLEMENTATION OF THE PROGRAM HAS RESULTED IN A REDUCTION IN MUSCULOSKELETAL DISORDER CLAIMS AND DAYS OF LOST WORK ATTRIBUTABLE TO MUSCULOSKELETAL DISORDERS CAUSED BY PATIENT HANDLING, AND INCLUDE RECOMMENDATIONS TO INCREASE THE PROGRAM'S EFFECTIVENESS; AND

(E) WHEN DEVELOPING ARCHITECTURAL PLANS FOR CONSTRUCTING OR REMODELING A HEALTH CARE FACILITY OR A UNIT OF A HEALTH CARE FACILITY IN WHICH PATIENT HANDLING AND MOVEMENT OCCURS, CONSIDER THE FEASIBILITY OF INCORPORATING PATIENT HANDLING EQUIPMENT OR THE PHYSICAL SPACE AND CONSTRUCTION DESIGN NEEDED TO INCORPORATE THAT EQUIPMENT AT A LATER DATE.

3. ON OR BEFORE JANUARY THIRTIETH, TWO THOUSAND EIGHTEEN, EACH HEALTH CARE FACILITY SHALL COMPLETE, AT A MINIMUM, ACQUISITION OF ITS CHOICE OF: (A) ONE READILY AVAILABLE LIFT PER ACUTE CARE UNIT ON THE SAME FLOOR, UNLESS THE SAFE PATIENT HANDLING COMMITTEE DETERMINES A LIFT IS UNNECESSARY IN THE UNIT; (B) ONE LIFT FOR EVERY TEN ACUTE CARE AVAILABLE INPATIENT BEDS; OR (C) EQUIPMENT FOR USE BY LIFT TEAMS. HEALTH CARE FACILITIES SHALL TRAIN THEIR STAFFS ON POLICIES, EQUIPMENT AND DEVICES AT LEAST ANNUALLY.

4. NOTHING IN THIS SECTION PRECLUDES LIFT TEAM MEMBERS FROM PERFORMING OTHER DUTIES AS ASSIGNED DURING THEIR SHIFT.

5. A HEALTH CARE FACILITY SHALL DEVELOP PROCEDURES FOR EMPLOYEES TO REFUSE TO PERFORM OR BE INVOLVED IN PATIENT HANDLING OR MOVEMENT THAT THE EMPLOYEE BELIEVES IN GOOD FAITH WILL EXPOSE A PATIENT OR HEALTH CARE FACILITY EMPLOYEE TO AN UNACCEPTABLE RISK OF INJURY. A HEALTH CARE FACILITY EMPLOYEE WHO IN GOOD FAITH FOLLOWS THE PROCEDURE DEVELOPED BY THE HEALTH CARE FACILITY IN ACCORDANCE WITH THIS SUBSECTION SHALL NOT BE THE SUBJECT OF DISCIPLINARY ACTION BY THE HEALTH CARE FACILITY FOR THE REFUSAL TO PERFORM OR BE INVOLVED IN THE PATIENT HANDLING OR MOVEMENT.

S 3. The activities enumerated in title 1-A of article 29-D of the public health law, as added by section two of this act, shall be undertaken pursuant to section 2805-j of the public health law by a covered health care provider and shall be deemed activities of such program as described in such section and any and all information attributable to such activities shall be subject to provisions of section 2805-m of the public health law and section 6527 of the education law.

S 4. Section 2304 of the insurance law is amended by adding a new subsection (j) to read as follows:

(J)(1) ON OR BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE DEPARTMENT SHALL DEVELOP RULES TO PROVIDE A REDUCED WORKER'S COMPENSATION RATE FOR HEALTH CARE FACILITIES THAT IMPLEMENT A SAFE PATIENT HANDLING PROGRAM PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW. SUCH RULES SHALL INCLUDE ANY REQUIREMENTS FOR OBTAINING THE REDUCED RATE THAT MUST BE MET BY HEALTH CARE FACILITIES.

(2) THE DEPARTMENT SHALL COMPLETE AN EVALUATION OF THE RESULTS OF THE REDUCED RATE, INCLUDING CHANGES IN CLAIM FREQUENCY AND COSTS, AND SHALL REPORT TO THE APPROPRIATE COMMITTEES OF THE LEGISLATURE ON OR BEFORE DECEMBER FIRST, TWO THOUSAND EIGHTEEN AND AGAIN ON OR BEFORE DECEMBER FIRST, TWO THOUSAND TWENTY.

S 5. (a) For the period January 1, 2015 through December 30, 2018, a hospital may take a credit against the assessment due under subdivision 18 of section 2807-c of the public health law for the cost of purchasing mechanical lifting devices and other equipment that are primarily used to minimize patient handling by health care providers, consistent with a

1 safe patient handling program developed and implemented by the hospital
2 in compliance with section two of this act. The credit is equal to one
3 hundred percent of the cost of the mechanical lifting devices or other
4 equipment.

5 (b) For the period January 1, 2015 through December 30, 2018, a resi-
6 dential health care facility may take a credit against an assessment due
7 under paragraph (b) of subdivision 2 of section 2807-d of the public
8 health law for the cost of purchasing mechanical lifting devices and
9 other equipment that are primarily used to minimize patient handling by
10 health care providers, consistent with a safe patient handling program
11 developed and implemented by the residential health care facility in
12 compliance with section two of this act. The credit is equal to one
13 hundred percent of the cost of the mechanical lifting devices or other
14 equipment.

15 (c) No application is necessary for a credit claimed pursuant to this
16 section; however, a health care facility taking a credit under this
17 section must maintain records, as required by the commissioner of
18 health, necessary to verify eligibility for the credit under this
19 section. A credit earned during one calendar year may be carried over to
20 be credited against assessments due in a subsequent calendar year. No
21 refunds shall be granted for credits under this section.

22 (d) The maximum credit that may be earned under this section for each
23 health care facility is limited to one thousand dollars for each staffed
24 inpatient bed.

25 (e) Credits are available on a first in-time basis. The commissioner
26 of health shall disallow any credits, or portion thereof, that would
27 cause the total amount of credits claimed statewide under this section
28 to exceed one thousand dollars multiplied by the number of acute inpa-
29 tient hospital beds and residential health care facility beds in the
30 state. If the limitation is reached, the commissioner of health shall
31 notify health care facilities that the annual statewide limit has been
32 met. In addition, the commissioner of health shall provide written
33 notice to any health care facility that has claimed tax credits after
34 the limitation has been met. The notice shall indicate the amount of tax
35 due and shall provide that the tax be paid within thirty days from the
36 date of such notice. Such commissioner shall not assess penalties and
37 interest on the amount due in the initial notice if the amount due is
38 paid by the due date specified in the notice, or any extension thereof.

39 (f) Credit shall not be claimed under this section for the acquisition
40 of mechanical lifting devices and other equipment if the acquisition
41 occurred before the effective date of this act.

42 (g) Credit shall not be claimed under this section for any acquisition
43 of mechanical lifting devices and other equipment that occurs after
44 December 31, 2018.

45 (h) The commissioner of health shall issue an annual report on the
46 amount of credits claimed by health care facilities under this section,
47 with the first report due on July 1, 2016.

48 S 6. This act shall take effect immediately.