



AMERICAN INDUSTRIAL HYGIENE ASSOCIATION  
GOVERNMENT AFFAIRS DEPARTMENT  
**STATE UPDATE**

March 15, 2013

**MISSOURI**

Here is the latest legislative/regulatory report for your State. AIHA government affairs will send the reports every week, detailing any legislative and/or regulatory pertinent to the profession in your state. The reports will also include the text of many bills (if available) and update activity on bills already reported. However, reports will only be sent if there has been new activity on the legislation and/or regulations already reported, or new legislation and/or regulations are found. Reports are sent to local section officers and may be forwarded to others if you wish. Questions contact Aaron Trippler at [atrippler@aiha.org](mailto:atrippler@aiha.org).

**New Legislation**

**MO H 856**

**SPONSOR:** Morgan (D)  
**TITLE:** Musculoskeletal Injury Prevention Plan  
**INTRODUCED:** 03/13/2013  
**DISPOSITION:** Pending  
**LOCATION:** HOUSE  
**SUMMARY:** Requires hospitals to adopt a patient protection and health care worker back and musculoskeletal injury prevention plan.  
**STATUS:** 03/13/2013 INTRODUCED.

In bill text the following have special meaning:

green underline denotes added text

~~dark red struck-out text denotes deleted text~~

red text denotes vetoed text

The symbol, , indicates a link to an affected code section

**2013 MO H 856**

**AUTHOR:** Morgan  
**VERSION:** Introduced  
**VERSION DATE:** 03/13/2013

FIRST REGULAR SESSION

HOUSE BILL NO. 856

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MORGAN (Sponsor), MIMS, RUNIONS, PACE, ENGLISH, MCNEIL, CURTIS AND GARDNER (Co-sponsors).

AN ACT

To amend chapter 197, RSMo, by adding thereto one new section relating to a patient protection and hospital worker injury prevention plan.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 197, RSMo, is amended by adding thereto one new section, to be known as section 197.298, to read as follows:

197.298. 1. As used in this section, the following terms shall mean:

(1) "Department", the department of health and senior services;

(2) "Designated trained lift team", designated hospital employees specifically trained to handle patient lifts, repositionings, and transfers using patient transfer, repositioning, or lifting devices as appropriate for a specific patient. Designated trained lift team members may perform other duties as assigned during their work shifts, providing such duties do not interfere with designated trained lift team duties;

(3) "Health care worker", a hospital employee specifically trained to handle patient lifts, repositioning, and transfers using patient transfer, repositioning, and lifting devices as appropriate for a specific patient;

(4) "Hospital", any hospital, ambulatory surgical center, emergency care, or psychiatric facility licensed in this state by the department of health and senior services;

(5) "Safe patient handling policy", a policy of each hospital in this state that requires replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, and designated trained lift teams, as appropriate for a specific patient and consistent with the hospital's safety policies and the professional judgment and clinical assessment of the registered nurse acting as a coordinator of care for patients.

2. As part of injury and illness prevention programs, each hospital in this state shall adopt a patient protection and health care worker back and musculoskeletal injury prevention plan. The plan shall include a safe patient handling policy component reflected in professional occupational safety guidelines for the protection of patients and health care workers in hospitals.

3. Each hospital in this state shall maintain a safe patient handling policy at all times for all patient care units in the hospital, and shall provide designated trained lift teams trained in safe lifting techniques. The hospital shall provide training to designated health care workers, including but not limited to the following:

(1) The appropriate use of lifting devices and equipment;

(2) The five areas of body exposure: vertical, lateral, bariatric, repositioning, and ambulation;

(3) The use of lifting devices to handle patients safely.

4. As a coordinator of care, a registered nurse may be responsible for the observation and direction of patient lifts and mobilization, and may participate as needed in patient handling in accordance with such registered nurse's professional judgment.

5. A health care worker who refuses to lift, reposition, or transfer a patient due to concerns about patient or worker safety or the lack of designated trained lift team personnel or equipment shall not, based upon such refusal, be the subject of disciplinary action by the hospital or any of its managers or employees.

6. The department may make any inspection, survey, or investigation that the department deems necessary. The department or a representative of the department shall have access to all books, records, or other documents maintained by or on behalf of a hospital to the extent necessary to enforce this section, the rules adopted under this section, a court order granting injunctive relief, or other enforcement procedures.



7. All information and materials obtained or compiled by the department in connection with a complaint and investigation concerning a hospital shall be transparent and available to the public.

8. Any hospital that violates the provisions of this section shall be subject to a civil penalty of up to five thousand dollars a day for each day of such violation and for each act of violation. If the hospital fails to comply with the provisions of this section within five consecutive calendar days of a cited violation of this section, the civil penalty under this subsection shall increase to ten thousand dollars a day for each day of continued violation.

9. Any person who is discharged, discriminated against, or retaliated against or who is otherwise harmed by a violation of this section, including any nurses, patients, or other persons who are adversely affected, exposed to risk of harm, or suffer actual harm caused in whole or substantial part by the violation complained of, may file a civil action for appropriate injunctive relief or recover the following:

(1) Actual damages, including medical care, hospitalization, rehabilitation and reimbursement of lost wages and benefits damages;

(2) Punitive damages;

(3) Court costs; and

(4) Reasonable attorney's fees.

10. In addition to the amount recovered under subsection 9 of this section, a nurse whose employment is suspended or terminated in violation of this section shall be entitled to:

(1) Reinstatement in the nurse's former position or severance pay in an amount equal to three months of the nurse's most recent salary; and

(2) Compensation for wages and benefits lost during the period of suspension or termination.

11. A licensed nurse, patient, or other individual may file a complaint with the department against a hospital that violates the provisions of this section. For any complaint filed, the department shall:

(1) Receive and investigate the complaint;

(2) Determine whether a violation of this section as alleged in the complaint has occurred; and

(3) If a violation has occurred, issue an order that the complaining nurse, patient, or other individual shall not suffer any retaliation described in this section.

12. (1) No hospital shall discriminate or retaliate in any manner against any patient, employee, or contract employee of the hospital, or any other individual on the basis that such patient, employee, or individual, in good faith, individually or in conjunction with another person or persons, has presented a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any governmental entity, regulatory agency, or private accreditation body, made a civil claim or demand, or filed an action relating to the care, services, or conditions of a hospital or any affiliated or related facilities.

(2) For purposes of this subsection, an individual shall be deemed to be acting in good faith if the individual reasonably believes:

(a) The information reported or disclosed is true; and

(b) A violation of this section has occurred or may occur.

13. No hospital shall:

(1) Interfere with, restrain, or deny the exercise or attempt to exercise by any person of any right provided or protected under this section; or

(2) Coerce or intimidate any person regarding the exercise or attempt to exercise such right.

**Legislation Reported Earlier**

None to Report

**Regulatory Activity**

None to Report