8. A summary and analysis of the facility's risk factors identified in the violence risk assessment and preventive actions taken in response to the risk factors identified; and

9. Information on multicultural diversity to increase staff sensitivity to racial and ethnic issues and differences.

8:43E-11.11 Incident response, investigation and reporting

(a) A covered facility shall respond to violent acts, conduct incident investigations and prepare incident investigation reports in keeping with procedures specified by the violence prevention committee.

1. The procedures shall be in writing, easily understood by all employees and take into account issues of confidentiality, as determined by the violence prevention committee.

(b) A health care worker in a covered facility who is present during an incident of violence, or who is the first on the scene after such an incident occurs, shall act according to procedures established by the violence prevention committee.

1. Law enforcement officials shall be summoned, if necessary and in keeping with specified procedures, in order to assist victims, assess and secure the incident area, ensure the safety of everyone involved, protect evidence and reduce distractions during the incident response process.

(c) The incident investigation required by (a) above shall focus on fact-finding, prevention and corrective action rather than on assessing blame and/or fault finding.

(d) The incident investigation required by (a) above shall gather the following facts:

1. Date, time and location of the incident;

2. Identity, job title and job task of the victim;

3. Identity, if known, of the person who committed the violent act;

4. Description of the violent act, including whether a weapon was used;

5. Description of physical injuries, if any;

6. Number of employees in the vicinity when the incident occurred, if known, and their actions in response to the incident, if any;

7. Recommendations, if applicable, of police advisors, employees or consultants; and

8. Actions taken by the facility in response to the incident.

(e) A covered facility shall prepare a written incident investigation report for each violent act.

1. A covered facility shall provide written incident investigation reports, that have been de-identified as required by N.J.A.C. 8:43E-11.4(e)8, to the designated administrative representative and to the violence prevention committee according to established procedures.

i. The violence prevention committee shall decide if and when the de-identified data shall be aggregated.

2. The victim's identity shall not be included in the incident report if such identity would not be entered on NJOSH 300 (N.J.A.C. 12:110-5.1) and the OSHA Log of Work-Related Injuries and Illnesses (OSHA 300 Log) required by 29 CFR Part 1904;

(f) After reviewing the de-identified incident reports, the covered facility, in collaboration with the violence prevention committee, shall encourage appropriate follow-up, consider changes in procedures and add elements to training as needed.

8:43E-11.12 Recordkeeping

(a) A covered facility shall keep a record of all violent acts that occur in the facility to help select the appropriate controls to prevent the recurrence of workplace violence and to determine required training.

(b) A covered facility shall maintain, for at least five years after the reported act, all incident investigation reports required by N.J.A.C. 8:43E-11.11(a) and any record of a violent act contained in any of the following documents:

1. NJOSH 300, copies of which can be found at http://lwd.dol.state.nj.us/labor/forms_pdfs/Isse/NJOSH300.pdf;

2. The OSHA Log of Work-Related Injuries and Illnesses (OSHA Form 300, which can be found at http://osha.gov/recordkeeping/RKforms.html) required by 29 CFR Part 1904;

3. Staff termination records;

4. Union grievances and complaints;

5. Workers' compensation records;

6. Insurance records;

7. Medical records;

8. Police reports;

9. Accident investigation reports;

10. Minutes of safety meetings;

11. Training records; and

12. Employee questionnaires.

(c) A covered facility shall provide the Department of Health and Senior Services with immediate access to the records required to be maintained by this section and to any de-identified and/or aggregated data.

1. An employee and/or his or her authorized representatives shall have access to the employee's identifiable records and to de-identified and/or aggregated data within two business days.

(d) In accordance with N.J.S.A. 26:2H-5.20, the records created and maintained pursuant to this section shall not be considered public or government records under P.L. 1963, c. 73 (N.J.S.A. 47:1A-1 et seq.) or P.L. 2001, c. 404 (N.J.S.A. 47:1A-5 et seq.).

8:43E-11.13 Post-incident response

(a) The covered facility shall ensure that prompt and appropriate medical care is provided to health care workers injured during an incident.

(b) The covered facility shall establish a post-incident response system.

1. The covered facility shall provide, at a minimum, an in-house crisis response team for employee-victims and their co-workers, and individual and group crisis counseling, which may include support groups, family crisis intervention and professional referrals as indicated in the violence prevention plan.

(c) The covered facility shall ensure that provisions for medical confidentiality and protection from discrimination shall be included in facility policies and procedures to prevent victims from suffering further loss.

8:43E-11.14 Prohibition of retaliatory action

(a) As used in this section, "retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, in accordance with section 2 of P.L. 1986, c. 105 (N.J.S.A. 34:19-2).

(b) A covered facility shall not take any retaliatory action against any health care worker for reporting violent incidents.

8:43E-11.15 Enforcement and penalties

A covered facility licensed pursuant to N.J.S.A. 26:2H-1 et seq. that is in violation of the provisions of this subchapter shall be subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.

(a)

SENIOR SERVICES AND HEALTH SYSTEMS BRANCH

HEALTH FACILITIES EVALUATION AND LICENSING DIVISION

OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE FACILITY LICENSURE

Safe Patient Handling

Adopted New Rules: N.J.A.C. 8:43E-12

Adopted Amendment: N.J.A.C. 8:43E-3.4

Proposed: January 3, 2011 at 43 N.J.R. 17(a).

Adopted: July 16, 2011 by Christina Tan, M.D., M.P.H., Acting Commissioner, Department of Health and Senior Services (with the approval of the Health Care Administration Board).

Filed: August 3, 2011 as R.2011 d.232, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 26:2H-14.15.

Effective Date: September 6, 2011.
Expiration Date: August 18, 2013.

Summary of Public Comments and Agency Responses:

The Department of Health and Senior Services (Department) received written comments from the individuals listed below on or before the close of the 60-day public comment period, which ended March 4, 2011.

1. Kristin DiSandro, Director-Practice and Research, JNESO-the professional health care union, District Council 1, IUOE/AFL-CIO, New Brunswick, NJ.
2. Rick Engler, Director, New Jersey Work Environment Council, Trenton, NJ.
3. John W. Indyk, Health Care Association of New Jersey, Hamilton, NJ.
4. Michele Ochsner, Ph.D., Princeton, NJ.
5. Carolyn Torre, RN, MA, APN, Director, Regulatory Affairs, New Jersey State Nurses Association, Trenton, NJ.
6. Ann Twomey, President, Health Professionals Allied Employees, Emerson, NJ.

The numbers in parentheses after each comment below identify the respective commenters listed above.

1. COMMENT: The commenter states that its members wholeheartedly support the proposed amendment and new rules. Studies have shown that patient handling programs reduce workers' compensation costs by 61 percent, reduce lost workday injury rates by 66 percent, reduce restricted workdays by 38 percent and substantially reduce the number of workers suffering from repeated injuries. Although the commenter believes hospitals will resist the changes because of the initial start-up costs for the committees and equipment purchases, they will in the end reap the benefits by paying out less time for injured workers. Research shows that the payback period for a safe patient handling program is approximately four years. However, this payback is only financial and does not include the benefits that are associated with a reduction in injuries, increase in employee morale and improved patient satisfaction. The commenter appreciates that organizations with collective bargaining agents will be required to provide copies of their programs when requested according to N.J.A.C. 8:43E-12.5. The commenter states that the proposed new rules are a win-win for employers, employees and patients. The commenter is especially appreciative of N.J.A.C. 8:43E-12.16, which provides the necessary assurance of no repercussions to staff members who report their organizations for not being compliant with the new rules. (1)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

2. COMMENT: The commenter participated in the stakeholders' meetings that included representatives of the hospital and long-term care industry. The commenter supports adoption of the new rules and amendment because they will protect patients and caregivers, and ultimately reduce health care costs. The commenter has witnessed the value of key elements of the proposed new rules, such as: worker participation in a joint worker-management committee; policies and procedures to minimize risk; worker education and training; reporting and recordkeeping requirements; and, protection for workers from retaliation for exercising their rights under the law. (2)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

3. COMMENT: The commenter appreciates having had the opportunity to comment not only on the notice of proposal, but also during the course of lengthy discussions involving the Department and stakeholders. The commenter thanks the Department for ensuring that the proposed rules adhere to the legislative intent of the Safe Patient Handling Act. As a means to better facilitate compliance, the commenter appreciates the Department's willingness and efforts to incorporate clarification into the proposed rules where deemed necessary by the stakeholders. (3)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

4. COMMENT: The commenter supports the proposed new rules and amendment, has reviewed the literature on the issue and has led grant-funded, injury-reduction projects with hospitals and nursing homes. The commenter states that there is clear evidence that when appropriate mechanical lifts and devices are offered in the context of a multi-faceted injury reduction effort, musculoskeletal injuries among direct care nurses and paraprofessionals in hospitals and long-term care facilities decrease. The commenter has frequently watched staff put themselves and their patients at risk trying to manually lift and reposition residents, and has talked to staff that suffer from chronic back, shoulder, neck and arm injuries. The commenter knows a direct care professional who is recovering from spinal fusion surgery after two years of chronic back pain who injured her back trying to lift a patient from the floor. The commenter states that there are always objections from regulated entities about the short-term costs of investing in equipment and training; however, the data also demonstrate that comprehensive safe patient handling programs save money by reducing the costs associated with workplace injury in a relatively short period. Given the critical shortage of nurses and direct care professionals in New Jersey and around the country, the commenter says we cannot afford to wait regarding these regulations. (4)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

5. COMMENT: The commenter strongly supports the proposed new rules and is hopeful that when the rules are fully operational, they will contribute both to improved care for patients and to a significant reduction in musculoskeletal injuries to health care workers as a result of unassisted patient handling. (5)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

6. COMMENT: The commenter supports the proposed new rules and amendment. The commenter participated in an extensive and productive negotiations process while the legislation was being drafted and later during the development of the proposed new rules and amendment. The proposed new rules and amendment include the elements that health and safety experts have identified as being essential for the success of ergonomic and violence prevention programs, notably: frontline worker participation in a joint worker-management committee that oversees all aspects of the program; policies and procedures to minimize risk; periodic risk assessments; worker education and training; reporting and recordkeeping provisions; and protection from retaliation for workers exercising their rights under the law. The commenter is pleased that these long-overdue rules are poised to go into effect and looks forward to working with employers to assure that all parties benefit from these protections. (6)

RESPONSE: The Department appreciates the commenter's support for the proposed new rules and amendment.

Federal Standards Statement

The Federal OSHA ergonomics standard was rescinded in 2001. (See 66 FR 20403). Since then, several healthcare worker unions and injured worker advocacy groups initiated campaigns to introduce "safe patient handling" at the State level. The adopted new rules and amendment are mandated by the "Safe Patient Handling Act," N.J.S.A. 26:2H-14.8 et seq., and are not subject to Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Full text of adoption follows (additions to proposal indicated in boldface with asterisk ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

(Agency Note: The text of N.J.A.C. 8:43E-3.4 below reflects the adoption of new paragraphs (a)17 and 18, which is published elsewhere in this issue of the New Jersey Register.)

SUBCHAPTER 3. ENFORCEMENT REMEDIES

8:43E-3.4 Civil monetary penalties

(a) Pursuant to N.J.S.A. 26:2H-13 and 14, the Commissioner may assess a penalty for violation of licensure regulations in accordance with the following standards:

1.-14. (No change.)

15. For failure of an entity licensed in accordance with N.J.S.A. 26:2H-1 et seq. to disclose to a patient or resident, pursuant to N.J.A.C.

8:43E-10.7, a serious preventable adverse event that affected that patient or resident, the following:

i. (No change.)

ii. $5,000 for failure to disclose an event that the health care facility reported, in a timely manner, to the Department;

16. For violation of N.J.A.C. 8:43G-12A or 36.3(b)4, governing emergency care for sexual assault victims, $5,000 per violation, which may be assessed for each day noncompliance is found;

17.-18. (No change.)

19. For violations of N.J.A.C. 8:43E-12 resulting in either actual harm or immediate and serious risk of harm, to individuals who are directly employed by a covered health care facility, $2,500 per violation, which may be assessed for each day noncompliance is found; and

20. For other violations of N.J.A.C. 8:43E-12 not resulting in harm as set forth in (a)19 above, $1,000 per violation, which may be assessed for each day noncompliance is found.

(b)-(c) (No change.)

SUBCHAPTER 12. SAFE PATIENT HANDLING

8:43E-12.1 Authority, scope and purpose

(a) The provisions of this subchapter apply to health care workers whose job duties entail patient handling and who are employed by general hospitals, special hospitals, county and private psychiatric hospitals and nursing homes licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.).

(b) The purpose of this subchapter is to minimize unassisted patient handling in order to decrease the number of job-related musculoskeletal injuries and disorders suffered by health care workers; to minimize health care worker days away from work and workers' compensation costs due to job-related musculoskeletal injuries and disorders; to diminish the role that job-related musculoskeletal injuries and disorders play in exacerbating the loss of health care providers in New Jersey; and to improve the comfort, dignity, satisfaction and quality of care for patients.

(c) Nothing in this subchapter shall be construed to limit the right of a patient to refuse the use of assisted patient handling.

8:43E-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Assessment of patient's need for assisted patient handling" or "patient assessment" means the assessment required to determine a patient's required level of assisted patient handling, taking into account the patient's physical and cognitive condition and ensuring consistency with patient safety, well-being and preference.

"Assisted patient handling" means patient handling using mechanical patient handling equipment including, but not limited to, electric beds, portable base and ceiling track-mounted full body sling lifts, stand assist lifts and mechanized lateral transfer aids; and patient handling aids including, but not limited to, gait belts with handles, sliding boards and surface friction-reducing devices.

"Committee" means the safe patient handling committee established at a covered facility.

"Covered health care facility" or "covered facility" means a general hospital, special hospital, county or private psychiatric hospital or nursing home licensed by the Department of Health and Senior Services pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.).

"De-identified" means information that does not specifically identify the individual or individuals involved, either by name or other pre-assigned identification number and that makes a reasonable effort to prevent the individual or individuals involved from being identified from such information.

"Health care worker" means an individual who is directly employed by a covered health care facility and whose job duties entail patient handling.

"Injury investigation" means an in-depth analysis of a health care worker injury sustained during patient handling that is designed to identify both direct and underlying causes of the injury, in order to develop corrective actions that could reduce the potential for similar injuries in the future.

"Near miss" means an occurrence that could have resulted in an adverse event to someone, but the adverse event was prevented.

"OSHA" means the Occupational Safety and Health Administration of the United States Department of Labor.

"Patient" means a patient or resident at a covered health care facility.

"Patient handling" means the lifting, transferring, repositioning, transporting or moving of an individual who is a patient in a covered health care facility.

"Safe patient handling program" or "program" means the program established by a covered facility pursuant to N.J.S.A. 26:2H-14.8 et seq. and N.J.A.C. 8:43E-12.

"Unassisted patient handling" means patient handling using a health care worker's body strength without the use of mechanical patient handling equipment or patient handling aids.

8:43E-12.3 Safe patient handling committee

(a) By *[(three months after the effective date of these rules)]* ***December 6, 2011***, each covered health care facility shall establish a safe patient handling committee.

1. The committee shall meet as needed, but no less than quarterly.

(b) In the case of a health care system that owns or operates more than one covered health care facility, the system may operate the safe patient handling committee at the system level, provided that committee membership includes at least one health care worker from each facility and the system develops a safe patient handling program for each facility, taking into account the characteristics of the patients at the facility.

(c) At least 50 percent of the members of the committee shall be health care workers who are representative of the different disciplines at the facility or facilities.

1. The committee members shall include supervisors, health care workers and other facility staff as appropriate who have experience, expertise or responsibility relevant to the operation of a safe patient handling program.

2. The safe patient handling committee shall select a chairperson from among its members.

(d) In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the management of the facility or system shall consult with the collective bargaining agents regarding the selection of the health care worker committee members.

(e) The committee shall be responsible for all aspects of the development, implementation and periodic evaluation and revision of the facility's safe patient handling program, including the evaluation and selection of patient handling equipment.

8:43E-12.4 Establishment of the safe patient handling program

(a) A covered health care facility shall establish a safe patient handling program to reduce the risk of injury to both patients and health care workers in the facility.

(b) The covered facility shall designate a representative of administration who shall be responsible for overseeing all aspects of the safe patient handling program.

(c) The representative shall ensure that the covered facility supports the program by providing assistance that includes:

1. Recognizing problems related to patient handling;

2. Developing clear goals;

3. Assigning responsibilities to designated staff members;

4. Allocating fiscal resources for planning and training;

5. Allocating fiscal resources for the purchase, implementation and maintenance of the required equipment in the time allowed; and

6. Ensuring follow-up and revisions to the plan.

(d) A covered facility shall allow employee input regarding the program through means developed by the safe patient handling committee.

8:43E-12.5 Written description of the program

(a) A covered facility shall maintain a detailed written description of the program and its components.

(b) A covered facility shall make a copy of the written description of the program available upon request, to the Office of Certificate of Need

and Health Care Facility Licensure in the Department of Health and Senior Services.

(c) A covered facility shall make the written description available within two business days after a request by a health care worker or collective bargaining agent who represents health care workers at the facility.

(d) If a language other than English is the exclusive language spoken by at least 10 percent of a covered facility's healthcare workers, the covered facility shall translate the description of the safe patient handling program into that language and make it available to those workers.

8:43E-12.6 Safe patient handling policy

(a) The covered facility, under the direction of the safe patient handling committee, shall establish a written safe patient handling policy for all units and for all shifts.

(b) The content of the safe patient handling policy shall include, at a minimum, the following:

1. A requirement that an assessment of a patient's need for assisted patient handling shall be performed for each patient;

2. A requirement that assisted patient handling shall be used for patient handling tasks, except when not required based on an assessment of a patient's need for assisted patient handling or in the case of a medical emergency, during which a patient's life would be threatened if the required safe patient handling equipment were not immediately available;

3. A statement that patients shall have the right to refuse the use of assisted patient handling; and

4. A commitment that all elements of the policy shall be consistent with patient and health care worker safety and well-being.

(c) The safe patient handling policy shall:

1. Comply with all of the requirements of N.J.A.C. 8:43E-12; and

2. Be signed by the chief executive officer of the covered facility.

(d) A statement summarizing the policy shall be posted in a location easily visible to staff, patients, residents and visitors.

(e) If a language other than English is the exclusive language spoken by at least 10 percent of a facility's healthcare workers, the covered facility shall translate the safe patient handling policy into that language and make it available to those workers.

8:43E-12.7 Assessments of patient need for assisted patient handling

(a) The safe patient handling committee shall:

1. Establish a uniform system of protocols and procedures to be used consistently throughout the facility for conducting patient assessments, which shall include, at a minimum, the following:

i. Identification of who shall be responsible for conducting patient assessments;

ii. Methods to be used to determine strength, physical ability and cognitive ability; preferences; and any special circumstances likely to affect transfer or repositioning tasks; and

iii. Determination of when to perform patient assessments including, at a minimum, at the time of initial admission and whenever there is a change in any of the factors that determine a patient's dependency level;

2. Ensure that the patient assessments are communicated to everyone who may be responsible for lifting, transferring or repositioning that patient; and

3. Ensure that decisions about the selection and appropriate use of equipment shall be based on the patient assessments.

8:43E-12.8 Needs assessment

(a) The covered facility, under the direction of the safe patient handling committee, shall conduct a needs assessment for each unit or department within the facility every three years, or sooner if needed, to determine the type and quantity of assisted patient handling equipment required and, if necessary, to prioritize the need for equipment among the units or areas within the covered facility based on the needs assessments.

(b) The needs assessment for each unit or department shall focus on, at a minimum, the following:

1. Typical patient type and care needs on each unit;

2. The categories of staff and types of patients to whom injuries are occurring;

3. When and where injuries are occurring (department, unit, date, time and shift);

4. The number and leading types of musculoskeletal injuries and disorders among healthcare workers;

5. Types of tasks that caused injury (or are difficult or painful to perform) including, at a minimum, lifting, repositioning and transferring patients;

6. Specific equipment associated with employee or patient injuries;

7. Available patient handling equipment and any problems associated with its use;

8. Potential problems with new equipment and assurance of access, storage and maintenance;

9. Facility costs associated with unassisted and assisted patient handling injuries including, at a minimum, medical and workers' compensation costs; and

10. Indirect impact of injuries on staff turnover and replacement.

(c) The covered facility and its committee shall conduct a needs assessment required by (a) and (b) above by using resources including, at a minimum, the following:

1. New Jersey Occupational Safety and Health Form 300 (N.J.A.C. 12:110-5.1);

2. OSHA Log of Work-Related Injuries and Illnesses (OSHA Forms 300 and 301) required by 29 CFR Part 1904, which is incorporated herein by reference, as amended and supplemented;

3. Reports of workers' compensation claims;

4. Accident and incident reports;

5. Facility incident reports for employees and patients;

6. Insurance company reports;

7. Employee interviews and surveys; and

8. Reviews and observations of workplace conditions.

8:43E-12.9 Implementation plan

(a) The safe patient handling committee shall draft an implementation plan, which shall be approved by the covered facility's governing body.

(b) The implementation plan shall address topics including, at a minimum, the following:

1. How to phase in the safe patient handling program;

2. Communication and enforcement of the mandate that no person shall use patient handling equipment prior to completing the training required by N.J.A.C. 8:43E-12.12; and

3. Availability of an adequate number and variety of assisted patient handling equipment on each patient care unit as determined by the safe patient handling committee.

8:43E-12.10 Financial plan

(a) The safe patient handling committee shall recommend a financial plan for the program, which shall include, at a minimum, the following:

1. A recommended annual budget for the safe patient handling program; and

2. A recommendation for a three-year plan, which takes into account the financial constraints of the facility to purchase the safe patient handling equipment necessary to carry out the safe patient handling policy.

8:43E-12.11 Equipment selection, usage and maintenance

(a) The safe patient handling committee shall:

1. Recommend equipment selection;

2. Promote and monitor the use and maintenance of the selected equipment;

3. Ensure that healthcare workers and other employees who may handle safe patient handling equipment shall have the opportunity to participate in the selection of equipment by trying out equipment from vendors that allow evaluation prior to purchase.

i. The evaluations of healthcare workers and employees shall be factored into purchasing decisions before the facility determines which equipment to purchase;

4. Establish an evaluation process to determine whether selected assisted patient handling equipment is appropriate for the task to be accomplished, comfortable for the patient and safe and stable for both patient and caregiver;

5. Develop a plan to ensure that equipment users have prompt access to and availability of assisted patient handling equipment; and

6. Develop and implement procedures to ensure that all patient handling equipment shall be used, cleaned, maintained and stored in a safe manner that complies with manufacturer recommendations.

8:43E-12.12 Training program

(a) A covered facility, under the direction of the safe patient handling committee, shall:

1. Ensure that the training required by this section shall be based on researched and proven approaches for performing safe patient handling;

2. Ensure that the patient handling training for a health care worker required by this section is conducted prior to any use of the safe patient handling equipment by the healthcare worker, and at least annually thereafter;

3. Provide that training shall be at least two hours in duration and shall be held during paid work time;

4. Provide appropriate interim training for health care workers beginning work between annual training sessions; and

5. Provide refresher training, as needed.

(b) A covered facility shall require all health care workers responsible for patient handling to participate in the annual safe patient handling training.

1. Training shall be mandated for supervisors, all equipment users, members of the safe patient handling committee and all departments and staff that are engaged in patient handling activities.

(c) A covered facility shall provide patient handling training in a manner and language that employees can understand.

1. If a language other than English is the exclusive language spoken by at least 10 percent of a facility's health care workers, the training shall be conducted in that language and handouts shall be made available in that language.

(d) Training shall include, at a minimum, the following:

1. An explanation of the covered facility's safe patient handling policies and practices;

2. Causes and prevention of musculoskeletal injuries and disorders;

3. How to recognize and address early indications of musculoskeletal injuries and disorders before serious injury develops;

4. Identification, assessment and control of patient handling risks, including use of assessments of patient need for assisted patient handling and appropriate communication with patients;

5. A demonstration of safe, appropriate and effective use of patient handling equipment;

6. Trainee participation in operating unit-specific patient handling equipment and demonstration that they are proficient in using such equipment for patients with a range of physical limitations;

7. The facility's procedures for reporting work-related injuries and illnesses pursuant to the New Jersey Public Employees' Occupational Safety and Health Act, as required by N.J.S.A. 34:6A-40, or OSHA's injury and illness recording and reporting requirements at 29 CFR Part 1904; and

8. Explanation, demonstration and practice of researched and proven methods and techniques that one or more health care workers may use for patient handling of a patient who refuses assisted patient handling.

(e) The safe patient handling committee shall, at least once a year, or more frequently as needed, review the training content and methods and make necessary revisions.

8:43E-12.13 Educational materials

(a) The safe patient handling committee shall appoint a person or persons to:

1. Develop educational materials to help orient patients and their families to the facility's assisted patient handling program; and

2. Include the information specified in (a)1 above in the covered facility's admissions package and in a discussion with the patient and family following an assessment of a patient's need for assisted patient handling.

8:43E-12.14 Injury investigation, reporting, analysis and recordkeeping

(a) A covered facility, under the direction of the safe patient handling committee, shall:

1. Encourage employees to report injuries and near misses in a non-punitive environment;

2. Designate a person or persons to develop procedures for performing injury investigations, preparing investigation reports and educating staff when an injury or near miss occurs;

3. Establish a mechanism for reporting all incidents, including near misses and injuries, resulting from patient handling;

4. Appoint an appropriate facility department to receive and analyze the reports required by (a)3 above, and to generate de-identified, aggregated data reports that take into account, at a minimum, items identified at N.J.A.C. 8:43E-12.8(b); the safe and proper use of assisted patient handling equipment; patient refusals of assisted patient handling associated with injuries to healthcare workers; and the overall efficacy of the safe patient handling program;

5. Establish a system for monthly reporting of the reports generated pursuant to (a)4 above to the safe patient handling committee*[.]**;*

6. Inform the safe patient handling committee of any violations of this subchapter; and

7. Maintain records of work-related musculoskeletal injuries and disorders to help identify problem areas in accordance with the New Jersey Public Employees' Occupational Safety and Health injury and illness recordkeeping requirements (N.J.A.C. 12:110-5), or OSHA's injury and illness recording and reporting requirements at 29 CFR Part 1904.

8:43E-12.15 Evaluation and recommendations

(a) The safe patient handling committee shall:

1. Evaluate the de-identified, aggregated data developed pursuant to N.J.A.C. 8:43E-12.14(a)4 in order to, at a minimum, identify units and shifts with ongoing injuries related to patient handling and track the impact of injuries on employee turnover;

2. Have access to reports and data collected pursuant to N.J.A.C. 8:43E-12.14 prior to de-identification and aggregation, as determined necessary by the committee and in keeping with procedures established by the committee, in order to fulfill its obligations specified in (a)1 above and in N.J.A.C. 8:43E-12.3(e);

3. Determine what measures to take to increase patient acceptance of safe patient handling, including changes to the education of healthcare workers, patients and family members; and

4. Provide evaluation results and recommended improvements regarding the safe patient handling program to the facility's governing body at least annually, or more frequently as needed.

8:43E-12.16 Prohibition of certain retaliatory actions

(a) As used in this section, "retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, in accordance with section 2 of P.L. 1986, c. 105 (N.J.S.A. 34:19-2).

(b) A covered health care facility shall not take any retaliatory action against a health care worker because the worker refuses to perform a patient handling task due to a reasonable concern about worker or patient safety, or the lack of appropriate and available patient handling equipment.

1. A health care worker who refuses to perform a patient handling task pursuant to this section shall promptly notify her or his supervisor of the refusal and the reason for refusing.

8:43E-12.17 Enforcement and penalties

A covered health care facility licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), that is in violation of the provisions of this subchapter shall be subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.