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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R.

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes

IN THE HOUSE OF REPRESENTATIVES

Mr. CONYERS introduced the following bill; which was referred to the Committee on _____

A BILL

To direct the Secretary of Labor to issue an occupational safety and health standard to reduce injuries to patients, nurses, and all other health care workers by establishing a safe patient handling, mobility, and injury prevention standard, and for other purposes

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Nurse and Health Care Worker Protection Act of 2015”.

6 (b) FINDINGS.—Congress finds the following:

1 (1) In 2014, registered nurses ranked sixth
2 among all occupations for the number of cases of
3 musculoskeletal disorders resulting in days away
4 from work, with 11,360 total cases. Nursing assist-
5 ants reported 20,020 cases in 2014, the second high-
6 est of any profession. The leading cause of these
7 health care employees' injuries is patient lifting,
8 transferring, and repositioning injuries, which con-
9 stitute a significant risk to the health and welfare of
10 those employees under the Occupational Safety and
11 Health Act of 1970.

12 (2) The physical demands of the nursing pro-
13 fession lead many nurses to leave the profession.
14 Fifty-two percent of nurses complain of chronic back
15 pain and 38 percent suffer from pain severe enough
16 to require leave from work. Many nurses and other
17 health care workers suffering back injury do not re-
18 turn to work. These consequences constitute a mate-
19 rial impairment of health for these employees under
20 the Occupational Safety and Health Act of 1970.

21 (3) Patients are not at optimum levels of safety
22 while being lifted, transferred, or repositioned manu-
23 ally. Appropriate mechanical lifts can substantially
24 reduce skin tears and pressure ulcers suffered by pa-
25 tients and the frequency of patients being dropped,

1 thus allowing patients a safer means to progress
2 through their care and avoid disabling injuries due
3 to unsafe practices.

4 (4) The development of assistive patient han-
5 dling technology, equipment, and devices has essen-
6 tially rendered the act of strict manual patient han-
7 dling outdated and typically unnecessary as a func-
8 tion of nursing care.

9 (5) A growing number of health care facilities
10 that have incorporated patient handling technology
11 and practices have reported positive results. Injuries
12 among nursing staff and health care workers have
13 dramatically declined at health care facilities imple-
14 menting safe patient handling technology, equip-
15 ment, devices, and practices. As a result, the number
16 of lost work days due to injury and staff turnover
17 has declined. Studies have also shown that assistive
18 patient handling technology successfully reduces
19 workers' compensation costs for musculoskeletal dis-
20 orders.

21 (6) A number of States have implemented safe
22 patient handling, mobility and injury prevention
23 standards. The success of these programs at the fa-
24 cility and State level demonstrates the technological
25 and economical feasibility of such standards.

1 (7) Establishing a safe patient handling, mobil-
 2 ity, and injury prevention standard for direct-care
 3 registered nurses and other health care workers is a
 4 critical component reasonably necessary for pro-
 5 tecting the health and safety of nurses and other
 6 health care workers, addressing the nursing short-
 7 age, and increasing patient safety.

8 (c) TABLE OF CONTENTS.—The table of contents of
 9 this Act is as follows:

- Sec. 1. Short title; findings; table of contents.
- Sec. 2. Safe patient handling, mobility, and injury prevention standard.
- Sec. 3. Application of safe patient handling, mobility, and injury prevention
 standard to facilities receiving Medicare and Medicaid funds.
- Sec. 4. Nonpreemption.
- Sec. 5. Definitions.

10 **SEC. 2. SAFE PATIENT HANDLING, MOBILITY, AND INJURY**
 11 **PREVENTION STANDARD.**

12 (a) RULEMAKING.—Notwithstanding any other provi-
 13 sion of law, not later than 1 year after the date of enact-
 14 ment of this Act, the Secretary of Labor shall, pursuant
 15 to section 6 of the Occupational Safety and Health Act
 16 of 1970 (29 U.S.C. 655), promulgate an interim final
 17 standard on safe patient handling, mobility, and injury
 18 prevention (in this section such standard is referred to as
 19 the “safe patient handling, mobility, and injury prevention
 20 standard”) to prevent musculoskeletal disorders for direct-
 21 care registered nurses and all other health care workers
 22 handling patients. The interim final standard shall remain

1 in effect until it is replaced by a final safe patient han-
2 dling, mobility, and injury prevention standard.

3 (b) REQUIREMENTS.—The safe patient handling, mo-
4 bility, and injury prevention standard shall require the use
5 of engineering and safety controls to perform handling of
6 patients and to reduce the incidence of injuries from man-
7 ual handling of patients by direct-care registered nurses
8 and all other health care workers, through the develop-
9 ment of a comprehensive program, to include the use of
10 mechanical technology and devices to the greatest degree
11 feasible. Where the use of mechanical technology and de-
12 vices is not feasible, the standards shall require the use
13 of alternative controls and measures to minimize the risk
14 of injury to nurses and health care workers resulting from
15 the manual handling of patients. The standard shall apply
16 to all health care employers, shall generally align with
17 interprofessional national safe patient handling, mobility,
18 and injury prevention standards, and shall include the fol-
19 lowing:

20 (1) PROGRAM DEVELOPMENT.—A requirement
21 that each health care employer shall develop and im-
22 plement a safe patient handling, mobility, and injury
23 prevention program within 6 months of the date of
24 promulgation of the interim final standard, which
25 program shall include hazard identification, risk as-

1 assessments, and control measures in relation to pa-
2 tient care duties and patient handling.

3 (2) TECHNOLOGY AND EQUIPMENT PURCHASE
4 AND MANAGEMENT.—A requirement that, within 2
5 years of the date of issuance by the Secretary of an
6 interim final standard, each health care employer
7 shall purchase, use, maintain, and make accessible
8 to health care workers, such safe patient handling
9 equipment, technology, and accessories as the Sec-
10 retary determines appropriate.

11 (3) HEALTH CARE WORKER PARTICIPATION.—A
12 requirement that each health care employer shall ob-
13 tain input from health care workers, to include di-
14 rect care registered nurses, health care workers,
15 their representatives, and their collective bargaining
16 agents, in developing and implementing the safe pa-
17 tient handling, mobility, and injury prevention pro-
18 gram, including training and education and the pur-
19 chase of technology and equipment and necessary
20 accessories.

21 (4) DATA TRACKING AND REVIEW.—A require-
22 ment that each health care employer shall establish
23 a review program to analyze data relevant to the im-
24 plementation of the employers' safe patient handling,
25 mobility, and injury prevention program, and shall

1 account for circumstances where safe patient han-
2 dling technology or equipment were not utilized in
3 accordance with the health care employers safe pa-
4 tient handling, mobility, and injury prevention
5 standard. Each health care employer shall upon re-
6 quest, make available their findings and data used
7 in such review, to health care workers, their rep-
8 resentatives, their collective bargaining agents, and
9 the Secretary or other Federal agency. Each health
10 care employer shall maintain the data and findings
11 from their review for at least 5 years

12 (5) INCORPORATION OF TECHNOLOGY INTO FA-
13 CILITIES.—A requirement that each health care em-
14 ployer shall consider the feasibility of incorporating
15 safe patient handling technology as part of process
16 of new facility design and construction, or facility re-
17 modeling.

18 (6) EDUCATION AND TRAINING.—A require-
19 ment that each health care employer shall train
20 health care workers on safe patient handling, mobil-
21 ity, and injury prevention policies, technology, equip-
22 ment, and devices, initially, and on a continuing an-
23 nual basis, and as necessary. Such training shall
24 prepare health care workers, to identify, assess, and
25 control musculoskeletal hazards of a general nature,

1 and those specific to particular patient care areas,
2 and shall be conducted by an individual with knowl-
3 edge in the subject matter, and delivered, at least in
4 part, in an interactive simulated point-of-care train-
5 ing and hands-on format that reflects the specific
6 demands of a health care workers' duties.

7 (7) NOTICE OF SAFE PATIENT HANDLING AND
8 RIGHTS UNDER THIS ACT.—A requirement that each
9 health care employer shall post a uniform notice in
10 a form specified by the Secretary that—

11 (A) explains the safe patient handling, mo-
12 bility, and injury prevention standard;

13 (B) includes information regarding safe
14 patient handling, mobility, and injury preven-
15 tion policies and training;

16 (C) explains procedures to report patient
17 handling-related injuries; and

18 (D) explains health care workers' rights
19 under this Act, including any whistleblower pro-
20 tections.

21 (8) ANNUAL EVALUATION.—A requirement that
22 each health care employer shall conduct an annual
23 written evaluation of the implementation of the safe
24 patient handling, mobility, and injury prevention
25 program, including handling procedures, selection of

1 technology, equipment, and engineering controls, as-
2 sessment of injuries, and new safe patient handling,
3 mobility, and injury prevention technology and de-
4 vices that have been developed. The evaluation shall
5 be conducted with the involvement of nurses, other
6 health care workers, their representatives, and their
7 collective bargaining agents, and their input shall be
8 documented in the evaluation. Health care employers
9 shall take corrective action as recommended in the
10 written evaluation.

11 (9) RIGHT TO REFUSE UNSAFE ASSIGNMENT.—

12 A requirement that each health care employer shall
13 provide procedures under which a health care worker
14 or employee may refuse to perform the employee's
15 duties if the employee has a reasonable apprehension
16 that performing such duties would violate the safe
17 patient handling, mobility, and injury prevention
18 standard, and would result in injury or impairment
19 of health to the health care worker, other health
20 care workers, or patients. Where practicable, the
21 health care worker must have communicated the
22 health or safety concern to the health care employer
23 and have not been able to obtain a correction of the
24 violation.

1 (c) INSPECTIONS.—The Secretary of Labor shall con-
2 duct unscheduled inspections under section 8 of the Occu-
3 pational Safety and Health Act of 1970 (29 U.S.C. 657)
4 to ensure implementation of and compliance with the safe
5 patient handling, mobility, and injury prevention stand-
6 ard.

7 **SEC. 3. APPLICATION OF SAFE PATIENT HANDLING, MOBIL-**
8 **ITY, AND INJURY PREVENTION STANDARD TO**
9 **FACILITIES RECEIVING MEDICARE AND MED-**
10 **ICAID FUNDS.**

11 (a) IN GENERAL.—Section 1866 of the Social Secu-
12 rity Act (42 U.S.C. 1395cc) is amended—

13 (1) in subsection (a)(1)(V), by inserting “and
14 safe patient handling, mobility, and injury preven-
15 tion standard (as initially promulgated under section
16 2 of the Nurse and Health Care Worker Protection
17 Act of 2015)” before the period at the end; and

18 (2) in subsection (b)(4)—

19 (A) in subparagraph (A), inserting “and
20 the safe patient handling, mobility, and injury
21 prevention standard” after “Bloodborne Patho-
22 gens standard”; and

23 (B) in subparagraph (B), inserting “or the
24 safe patient handling, mobility, and injury pre-

1 vention standard” after “Bloodborne Pathogens
2 standard”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall apply to health care facilities 1 year
5 after date of issuance of the final safe patient handling,
6 mobility, and injury prevention standard required under
7 section 2.

8 **SEC. 4. NONPREEMPTION.**

9 (a) **EFFECT ON OTHER LAWS.**—Nothing in this Act
10 shall be construed to—

11 (1) preempt any law, rule, or regulation of a
12 State or political subdivision of a State, unless such
13 law, rule, or regulation is in conflict with this Act
14 or a regulation or order issued under this Act;

15 (2) impair or diminish in any way the authority
16 of any State to enact and enforce any law which pro-
17 vides equivalent or greater protections for employees
18 engaging in conduct protected under this Act;

19 (3) curtail or limit in any way the right of peo-
20 ple with disabilities under the Americans with Dis-
21 abilities Act (42 12101 et seq.) or section 504 of the
22 Rehabilitation Act of 1973 (29 U.S.C. 794) to those
23 reasonable modifications needed to receive equal ac-
24 cess to health care, including the requirement that
25 healthcare employees give priority consideration to

1 the lifting, movement, or transfer needs and pref-
2 erences of people with disabilities; or

3 (4) curtail or limit in any way consideration as
4 an expenditure to acquire or modify equipment for
5 use by or to benefit individuals with disabilities that
6 is specified in section 44 of the Internal Revenue
7 Code of 1986, which is available to eligible small
8 businesses.

9 (b) RIGHTS RETAINED BY HEALTH CARE WORK-
10 ERS.—Nothing in this Act shall be construed to diminish
11 the rights, privileges, or remedies of any health care work-
12 er or employee under any Federal or State law, or under
13 any collective bargaining agreement.

14 **SEC. 5. DEFINITIONS.**

15 For purposes of this Act:

16 (1) DIRECT-CARE REGISTERED NURSE.—The
17 term “direct-care registered nurse” means an indi-
18 vidual who has been granted a license by at least
19 one State to practice as a registered nurse and who
20 provides bedside care or outpatient services for one
21 or more patients or residents.

22 (2) EMPLOYEE.—The term “employee” means
23 any individual employed by a health care employer,
24 to include health care workers, as well as employees

1 who do not qualify as health care workers, including
2 independent contractors.

3 (3) EMPLOYMENT.—The term “employment”
4 includes the provision of services under a contract or
5 other arrangement.

6 (4) HANDLING.—The term “handling” includes
7 actions such as lifting, transferring, repositioning,
8 mobilizing, moving, or any other action involving the
9 physical movement, manipulation, or support of a
10 patient by a health care worker, or any direct pa-
11 tient care action which presents a risk of musculo-
12 skeletal injury.

13 (5) HEALTH CARE EMPLOYER.—The term
14 “health care employer” means an outpatient health
15 care facility, hospital, nursing home, home health
16 care agency, social assistance facility or program,
17 hospice, federally qualified health center, nurse man-
18 aged health center, rural health clinic or rehabilita-
19 tive center, or any similar health care facility that
20 employs direct-care registered nurses or other health
21 care workers.

22 (6) HEALTH CARE WORKER.—The term “health
23 care worker” means an individual who has been as-
24 signed by a health care employer to engage in pa-
25 tient handling, including direct-care registered

- 1 nurses, independent contractors, or individuals who
- 2 perform the duties of health care workers.