

Safe Patient Handling and Mobility (SPHM) National Legislation

Proposed Language

We suggest that bills be introduced in both the U.S. House of Representatives and Senate to address the significant harm currently suffered by care providers, care recipients, employers, and the general public arising from care recipient (patient and/or resident) handling and mobility.

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

- a) **SHORT TITLE:** This Act may be cited as “Safe Patient Handling and Mobility (SPHM) Injury Prevention and Quality of Care Act,” a health care worker and care recipient protection Act.
- b) **FINDINGS:**
 - a. In 2020, health care workers had some of the highest numbers of work-related musculoskeletal disorders (WMSD) of workers in any private industry. Their rank and numbers are as follows¹:
 - i. Nursing Assistants – 3rd with 15,090 injuries
 - ii. Registered Nurses – 4th with 11,530 injuries
 - iii. Personal Care Aides – 11th with 5,590 injuries
 - iv. Home Health Aides – 18th with 2,680 injuries
 - v. Licensed Practical and Vocational Nurses – 19th with 2,530 injuries.
 - b. Manual patient handling tasks require health care workers (HCWs) to exert excessive force when lifting/lowering and pushing/pulling, also requiring them to work in extreme awkward positions such as bending forward for long durations, lateral bending, twisting of the trunk and reaching.
 - c. Studies have shown²⁻⁵ that tasks such as manually repositioning a patient in bed and transferring a patient between bed, chair and commode create high compressive and shearing forces, or spinal loading, which significantly increase the risk of low back injuries. Sudden, unexpected forceful exertion (e.g., when patients move unexpectedly during a handling task) further increases the load on the spine.
 - d. There is evidence⁶⁻⁸ to indicate that the annual prevalence of low back pain in nurses has a mean of 50%, and the lifetime prevalence ranges from 35 to 90%. Recurrence rates of low back pain in nurses exceed 70%.
 - e. In the 2018-2019 Healthy Nurse Healthy Nation (HNHN) survey conducted by

the American Nurses Association (ANA), 58% of nurse respondents indicated they had experienced musculoskeletal pain during the past year. In the 2019-2020 HNNH survey, 42% of nurse respondents considered that lifting and repositioning heavy objects, including patients, created a significant level of risk of occupational injury.

- f. Nursing aides (NAs) are reported⁹⁻¹¹ to experience twice the injury rate of nurses related to patient handling. NAs incur WMSDs at 5 times the US national average and account for 8% of all work-related back injuries in the US.
- g. Allied health professionals such as physical therapists (PTs), occupational therapists (OTs), emergency medical technicians and paramedics, radiology technicians, and home care and personal aides, also experience high rates¹²⁻²⁵ of WMSDs associated with performing manual patient lifting, transferring, and mobilization tasks.
- h. A kind term that may be used to describe the US general population is that we have become progressively “deconditioned.” The population has become more obese and older. These factors increase the risk of performing manual handling.
- i. Patient safety is impacted by the ability to handle patients. If HCWs are unable to move and treat patients because of the HCW’s condition, negative outcomes (such as continued or worsening health, health-facility acquired pressure injury, or death) may occur.
- j. These same negative outcomes may result if the HCW is not provided with the tools, training and time to successfully handle the patient.
- k. There is a growing body of evidence to support that SPHM programs are beneficial to patients. A meta-analysis of studies²⁶⁻²⁷ that examined the association between HCW health and safety and patient outcomes reported several key findings to support the positive impact of SPHM programs that include the use of SPHM technology and policies on HCW musculoskeletal health and patient outcomes. These include:
 - i. Reduced risk of health-facility acquired pressure injury by up to 17%
 - ii. Improved patient mobility by 12%
 - iii. Improved patient comfort and safety.
- l. A 43%-50% decrease in pressure injuries and significant reduction in patient falls related to lift and transfer activities have been reported²⁸⁻³¹ by some hospitals and long-term care facilities when implementing a SPHM program.
- m. There is not currently a US Federal standard for SPHM. In lieu of this, 11 states (CA, IL, MD, MN, MO, NJ, NY, OH, RI, TX and WA) have passed SPHM legislation. Unfortunately, the scope of state laws varies. None cover all the program elements and environments of care recommended in this proposed

legislation. However, there is evidence³²⁻⁴² to support that in states with SPHM legislation, patients are more likely to be mobilized with SPHM technology, and there is a decrease in WMSDs associated with patient handling.

SECTION 2. SAFE PATIENT HANDLING AND MOBILITY (SPHM) INJURY PREVENTION AND QUALITY OF CARE ACT

- a) **RULEMAKING:** Notwithstanding other provisions of the law, not later than 1 year after the date of enactment of this Act, the Secretary of Labor shall, pursuant to Section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), promulgate an interim final standard regarding safe patient handling and mobility (SPHM). This standard shall address employer's requirements in all the environments of care (acute, long-term, out-patient, residential, emergency response, residential and other) in which they provide care. A final safe patient handling and mobility injury prevention and quality of care standard shall be promulgated not later than 2 years after the date of enactment of this Act.

This standard shall be patterned after the currently existing national and international guidelines and standards, including the Safe Patient Handling and Mobility Interprofessional National Standards: Across the Continuum of Care, 2nd Edition, 2021. The standards should be different for and specific to each environment of care, reflecting the levels of control and other obstacles each environment provides. The USDOL/OSHA shall work collaboratively with the Center for Medicare and Medicaid Services (CMS) to ensure that the standards effectively promote improvement in the quality of medical care while protecting care providers, a term describing nurses and all other health care workers performing care recipient handling and mobility.

- b) **REQUIREMENTS:** The safe patient handling, mobility, injury prevention and quality of care standard shall require the use of engineering and safety controls to perform handling of patients and the elimination of injuries from manual handling of patients by direct care registered nurses and all other health care workers, through the development of a comprehensive program, to include the use of mechanical technology and devices to the greatest degree feasible. The standard shall apply to all health care employers, shall generally align with interprofessional national safe patient handling, mobility, and injury prevention standards, and shall include the following:

(1) **PROGRAM DEVELOPMENT:** A requirement that each health care employer involved in patient handling and mobility shall develop and implement a safe patient handling, mobility, injury prevention and quality of care program within 6 months of the date of promulgation of the final standard. This program shall include hazard identification, risk assessments, and control measures in relation to patient care and handling.

(2) **TECHNOLOGY AND EQUIPMENT PURCHASE AND MANAGEMENT:** A requirement that within 2 years from the date of promulgation of the final standard each health care employer involved in patient handling and mobility shall purchase,

use, maintain and make accessible to health care workers such safe patient handling equipment, technology and accessories as the Secretary deems appropriate.

- (3) **HEALTH CARE WORKER PARTICIPATION:** A requirement that each health care employer involved in patient handling and mobility shall obtain input from health care workers, their representatives and their collective bargaining units in developing and administering SPHM programs, including the purchase of technology, equipment and necessary accessories.
- (4) **DATA TRACKING AND REVIEW:** A requirement that each health care employer involved in patient handling and mobility shall establish a program to collect and analyze data relevant to the SPHM program. This shall include facility design and renovations, equipment provision and use, mobility assessment, training, risk assessments, incident investigations and response. Each such employer shall, upon request, make available their findings and data used in such review to health care workers, their representatives, their collective bargaining agents, and the Secretary or other Federal agency.
- (5) **INCORPORATION OF TECHNOLOGY INTO FACILITIES:** A requirement that each health care employer involved in patient handling and mobility shall consider the feasibility of incorporating safe patient handling technology as part of facility design, construction, or renovation for facilities under their control.
- (6) **EDUCATION AND TRAINING:** A requirement that each health care employer involved in patient handling and mobility shall train health care workers regarding overall SPHM program requirements, mobility assessments, equipment and support material use, incident investigation and response. This training shall be performed annually at a minimum and include competency evaluation. The training shall be delivered, at least in part, in an interactive simulated point-of-care training and hands-on format that reflects the specific demands of the health care worker's duties.
- (7) **NOTICE OF SAFE PATIENT HANDLING RIGHTS UNDER THE ACT:** A requirement that each health care employer involved in patient handling and mobility shall post and/or email a uniform notice in a form specified by the Secretary that:
 - a. Explains the SPHM Injury Prevention and Quality of Care standard;
 - b. Includes information regarding SPHM policies and training;
 - c. Provides procedures to report patient handling related injuries; and
 - d. Explains health care workers rights under the act.
- (8) **ANNUAL EVALUATION:** Requirement that each health care employer involved in patient handling and mobility shall conduct an annual written evaluation of the performance of the SPHM, including handling procedures, selection of technology, equipment and engineering controls, assessment of injuries/incidents, and new SPHM advances. Health care employers shall take corrective action based upon the evaluation.

- (9) **RIGHT TO REFUSE UNSAFE ASSIGNMENT:** A health care employer involved in patient handling and mobility shall provide procedures under which a health care worker or employee may refuse to perform the employer’s desired duties if the employee has a reasonable apprehension that doing so would violate the SPHM standard and/or result in impairment to the employee. Where practicable, the employee must have communicated these concerns to the employer.

SECTION 3: APPLICATION OF SPHM INJURY PREVENTION AND QUALITY OF CARE STANDARD TO FACILITIES RECEIVING CMS FUNDS

- a) IN GENERAL Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended:

(1) In subsection (a)(1)(V), by inserting “and the safe patient handling mobility injury prevention and quality of care standard” before the period at the end of the encl; and

(2) In subsection (b)(4):

- i. In subparagraph (A), inserting “and the safe patient handling mobility injury prevention and quality of care standard” after “Bloodborne Pathogens standard” and
- ii. In subparagraph (B) inserting “and the safe patient handling mobility injury prevention and quality of care standard” after Bloodborne Pathogens standard”.

SECTION 4. NONPREEMPTIONS

- a) Nothing in this Act should be construed to:

(1) Preempt any law, rule, or regulation of a State or a political subdivision of a state, unless such law, rule, or regulation is in conflict with this Act; or

(2) Impair or diminish in any way the authority of any State to enact any law which provides equivalent or greater protections for employees engaging in conduct protected under this Act.

- b) **Rights Retained by Health Care Workers** – Nothing in this Act shall be construed to diminish the rights, privileges, or remedies of any health care worker or employee under any Federal or State law, or under any collective bargaining agreement.

SECTION 5. DEFINITIONS

For the purpose of this Act:

- a) **Employee** – The term means any individual employed by a health care employer, to include health care workers, as well as ~~employees~~ those who do not qualify as health care workers, including independent contractors.
- b) **Employment** – The term includes the provision of services under a contract or other

arrangement.

- c) Handling – The term “handling” includes actions such as lifting/lowering, holding, pushing/pulling, transferring, repositioning, mobilizing, moving, or any other action involving physical movement, manipulation, or support by a health care worker, or any direct patient care action which presents a risk of musculoskeletal injury.
- d) Health Care Employer – The term “health care employer” means an outpatient health care facility, hospital, nursing home, home health care agency, social assistance facility or program, hospice, federally qualified health center, nurse manager health center, rural health clinic, emergency medical technician services or any similar health care facility or provider that employs health care workers.
- e) Health Care Worker – For the purpose of this Act means an individual who has been assigned by a health care employer to perform duties including patient handling and mobility.
- f) Patient – Means a person who is receiving medical care in any of the potential environments of care including care facilities, other public or private spaces, and living quarters. Patients in living quarters are often termed Residents.

SECTION 6. REFERENCES

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