

FIRST REGULAR SESSION

# HOUSE BILL NO. 856

## 97TH GENERAL ASSEMBLY

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

1626L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **judgment and clinical assessment of the registered nurse acting as a coordinator of care for**  
18 **patients.**

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

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

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

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

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

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

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

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

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

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

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

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

59           **(2) Punitive damages;**

60           **(3) Court costs; and**

61           **(4) Reasonable attorney's fees.**

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

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

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

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

72           **(1) Receive and investigate the complaint;**

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

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

77           **12. (1) No hospital shall discriminate or retaliate in any manner against any**  
78 **patient, employee, or contract employee of the hospital, or any other individual on the basis**  
79 **that such patient, employee, or individual, in good faith, individually or in conjunction**  
80 **with another person or persons, has presented a grievance or complaint, or has initiated**  
81 **or cooperated in any investigation or proceeding of any governmental entity, regulatory**  
82 **agency, or private accreditation body, made a civil claim or demand, or filed an action**  
83 **relating to the care, services, or conditions of a hospital or any affiliated or related**  
84 **facilities.**

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

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

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

89 13. No hospital shall:

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

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

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