

HB 963 -- 2015 SAFE PATIENT HANDLING AND MOVEMENT ACT

SPONSOR: Morgan

This bill establishes the 2015 Safe Patient Handling and Movement Act that changes the laws regarding patient protection and hospital worker injury prevention. In its provisions, the bill:

(1) Requires each hospital to adopt a patient protection and health care worker back and musculoskeletal injury prevention plan as part of injury and illness prevention programs. The plan must include a safe patient handling policy component reflected in professional occupational safety guidelines for the protection of patients and health care workers in hospitals;

(2) Requires each hospital to maintain a safe patient handling policy at all times for all patient care units within the hospital and to provide designated lift teams trained in safe lifting techniques. Each hospital must provide training to designated health care workers and the training must include the appropriate use of lifting devices and equipment, the five areas of body exposure, and the use of lifting devices to handle patients safely;

(3) Allows a registered nurse to be designated as a coordinator of care and be responsible for the observation and direction of patient lifts and mobilization and to participate as needed in patient handling in accordance with his or her professional judgment;

(4) Prohibits a health care worker who refuses to lift, reposition, or transfer a patient due to concerns about patient or worker safety or a lack of designated trained lift team personnel or equipment from being disciplined for the refusal by the hospital or an employee of the hospital;

(5) Allows the Department of Health and Senior Services to make any inspection, survey, or investigation that it deems necessary. The department or a representative of the department must have access to all books, records, or other documents maintained by or on behalf of the hospital to the extent necessary to enforce the provisions of the bill, the rules adopted under the provisions of the bill, a court order granting injunctive relief, or other enforcement procedures;

(6) Requires all information and materials obtained or compiled by the department relating to a complaint and investigation to be transparent and available to the public;

(7) Requires a hospital that violates the provisions of the bill

to be subject to a civil penalty of up to \$5,000 a day for each violation and for each day a violation continues. If a hospital fails to comply with the provisions of the bill within five consecutive days of a violation citation, the penalty must increase to \$10,000 a day for each day of continued violation;

(8) Allows any person who is discharged, discriminated against, retaliated against, or otherwise harmed by a violation of the provisions of the bill, including any nurse, patient, or other person who is adversely affected, exposed to risk of harm, or suffers actual harm as a result of a violation to file a civil action for appropriate injunctive relief or recover actual damages, including medical care, hospitalization, rehabilitation, and reimbursement of lost wages and benefits damages; punitive damages; court costs; and reasonable attorney fees. In addition to the amount recovered, a nurse who is suspended or terminated as a result of a violation of the provisions of the bill must be entitled to:

(a) Reinstatement in his or her former position or severance pay in an amount equal to three months of his or her most recent salary; and

(b) Compensation for wages and benefits lost during the period of suspension or termination;

(9) Allows a licensed nurse, patient, or other individual to file a complaint with the department against a hospital that violates the provisions of the bill and requires the department to receive and investigate the complaint; determine whether the alleged violation occurred; and if a violation occurred, to issue an order that the complaining nurse, patient, or other individual must not suffer any retaliation;

(10) Prohibits a hospital from discriminating or retaliating against a patient, employee, contract employee, or other individual on the basis that the person, in good faith, 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. An individual must be deemed to be acting in good faith if the individual reasonably believes the information reported or disclosed is true and a violation of the provisions of the bill has occurred or may occur; and

(11) Prohibits a hospital from interfering with, restraining, or denying the exercise or attempt to exercise a right provided or

protected in the bill by any person and from coercing or intimidating any person regarding the exercise or attempt to exercise the right.