

SENATE No. 1757

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Improve Nurse Safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 13 I of chapter 265 of the general laws, as appearing in the 2006
2 Official Edition, is hereby amended by adding at the end thereof, the following additional
3 sentence:

4 Whoever commits an assault or assault and battery on a nurse, nurse's, or other health
5 care worker while said nurse, nurse's, or other health care worker is treating or providing care in
6 the line of duty, said person, shall be punished by imprisonment in the house of correction for
7 not less than ninety days nor more than two and one-half years, or by a fine of not less than five
8 hundred nor more than five thousand dollars, or both.

9 SECTION 2: Section 80B of Chapter 112 of the general laws, as so appearing, is hereby
10 amended by adding at the end of the Section, the following new paragraph:

11 Each individual licensed to practice as a registered nurse or as a licensed practical nurse
12 in the commonwealth, shall not work more than 12 hours in any given shift and shall not work in
13 excess of 16 hours in a 24 hour period. Such registered or licensed practical nurse that works 12

consecutive hours in a shift must take at least 10 hours off between shifts. Provided further, that the provisions of this paragraph shall not apply to on-call time, so defined under Chapter 111, section 56A, while the nurse is not on the hospital premises.

SECTION 3. Chapter 111 of the general laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 220, the following new section:

Section 221. Safe Patient Handling and Movement

Definitions: As used in this section, the following words shall, unless the context clearly requires otherwise, shall have the following meanings:-

“Department” shall mean the Massachusetts Department of Public Health.

“Health care facility”, an individual, partnership, association, corporation or trust or any person or group of persons that employs health care providers, including any hospital, clinic, convalescent or nursing home, charitable home for the aged, community health agency or other provider of health care services licensed, or subject to licensing by, or operated by, the department of public health; any facility as defined in section 3 of chapter 111B; any private, county or municipal facility, department or unit which is licensed or subject to licensing by the department of mental health pursuant to section 19 of chapter 19, or by the department of mental retardation pursuant to section 15 of chapter 19B; any facility as defined in section 1 of chapter 123; the Soldiers’ Home in Holyoke, the Soldiers’ Home in Massachusetts; or any facility as set forth in section 1 of chapter 19 or section 1 of chapter 19B.

“Safe patient handling,” a process, based on scientific evidence on causes of injuries, that uses safe patient handling equipment rather than people to transfer, move, and reposition patients

in all health care facilities to reduce workplace injuries. This process also reduces the risk of injury to patients.

“Safe patient handling equipment,” engineering controls, lifting and transfer aids, or mechanical assistive devices used by nurses and other direct patient care workers instead of manual lifting to perform the acts of lifting, transferring, and repositioning health care facility patients and residents.

By January 1, 2010, every licensed health care facility shall establish a safe patient handling committee, which shall be responsible for adopting a written safe patient handling policy. Said policy will establish the facility’s plan to achieve, by January 1, 2011, the goal of minimizing manual lifting of patients by nurses and other direct patient care workers by utilizing safe patient handling equipment.

Membership of said committee shall meet the following requirements:

(a) At least half the members shall be nonmanagerial nurses and other direct patient care workers; and

(b) In a health care facility where nurses and other direct patient care workers are covered by a collective bargaining agreement, the union shall select the committee members proportionate to its representation of nonmanagerial workers, nurses, and other direct care patient workers; and

(c) Employees who serve on a safe patient handling committee must be compensated by their employer for all hours spent on committee business.

A safe patient handling committee shall:

- 1) Adopt a safe patient handling policy that includes:
 - a. Assessment of hazards with regard to patient handling;
 - b. The acquisition of an adequate supply of appropriate safe patient handling equipment;
 - c. Initial and ongoing training of nurses and other direct patient care workers on the use of this equipment;
 - d. Factors that act as barriers to the use of equipment;
 - e. Periodic evaluations of the safe patient handling program.

The Department shall promulgate regulations to ensure that inspections of health care facilities determine the existence of a policy for safe handling and movement of patients for all shifts, that personnel are trained in that policy and in the use of appropriate evidence based techniques and equipment use, that equipment is available and in adequate supply as well as convenient to each units. Said regulations shall include penalties for failure to develop and implement said policy.

SECTION 5. Nursing Education.

Notwithstanding any other general or special law to the contrary, the board of higher education, established pursuant to section 4 of chapter 15A of the general laws, shall institute a review of nursing education in the Commonwealth focused on needs to address evidence-based strategies and expose the nursing student to technologies available to reduce risk in the workplace with a goal of modifying how student nurses are taught patient handling considering

emerging scientific research, technologic innovation, and exemplary application in real work settings, methods that make patient handling safe and ergonomically sound.

SECTION 6. Nursing Licensure.

The board of registration of nursing, established pursuant to the provisions of section 13 of chapter 13 of the general laws, shall promulgate regulations to ensure that any holder of a license issued pursuant to the provisions of sections 74, 74A of chapter 112 of the general laws, and that, pursuant to the provisions of section 81A graduates of any nursing school have been trained in evidence-based strategies that expose the nursing student to technologies available to reduce risk in the workplace with a goal of ensuring that applicants for a license or renewal of license have been taught patient handling considering emerging scientific research, technologic innovation, and exemplary application in real work settings, methods that make patient handling safe and ergonomically sound.

SECTION 7. Nursing Home Administrators.

The board of registration of nursing home administrators, established pursuant to the provisions of sections 108 - 117 of chapter 112, shall require that applicants for a license or renewal of a license under these section shall require that certified nursing assistants or other staff providing patient care who are, or will be, employed by said administrator, shall have been trained in evidence-based strategies that expose the nursing student to technologies available to reduce risk in the workplace with a goal of ensuring that applicants for a license or renewal of license have been taught patient handling considering emerging scientific research, technologic innovation, and exemplary application in real work settings, methods that make patient handling safe and ergonomically sound.

SECTION 8. This act shall take effect one year from the date of passage.