

JAN 17 2008

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# A BILL FOR AN ACT

RELATING TO HEALTHCARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4                           **"PART       .   HEALTHCARE WORKER SAFETY**

5           **§321-A Definitions.** As used in this part unless the  
6 context requires otherwise:

7           "Department" means the department of health.

8           "Good faith belief" means the belief by an employee that  
9 the information reported or disclosed is true and that a  
10 violation has occurred or may occur.

11           "Healthcare worker" means an employee, independent  
12 contractor, licensee, or other individual authorized to provide  
13 services in a medical facility.

14           "Hospital" means an institution with an organized medical  
15 staff, regulated under section 321-11(10), which admits patients  
16 for inpatient care, diagnosis, observation, and treatment and a  
17 health facility under chapter 323F.



1 "Lift team" means a team of healthcare workers or nurses  
2 used to lift, transfer, reposition, or move a patient.

3 "Minimal manual lift program" means a program that  
4 identifies, assesses, and develops strategies to control the  
5 risk of injury to patients, nurses, or other healthcare workers  
6 associated with lifting, transferring, repositioning, or moving  
7 a patient.

8 "Minimal-lift philosophy" means, to the greatest extent  
9 possible, minimizing lifting tasks, encouraging a patient to  
10 assist with any lifting or moving activities without  
11 exacerbating his or her condition or putting himself or herself  
12 at risk, and avoiding any handling that involves manually  
13 lifting or moving the whole or a large part of a patient's  
14 weight.

15 "Nurse" means a person licensed under chapter 457 or a  
16 person who holds a license under the laws of another state or  
17 territory of the United States that is equivalent to a license  
18 under chapter 457.

19 **§321-B Department responsibilities.** The department shall:

20 (1) Review patient movement policies and the minimal  
21 manual lift program established by a hospital in  
22 accordance with section 321-D;



- 1 (2) Receive reports on activities related to the
- 2 identification, assessment, and development of
- 3 strategies to control risk of injury to patients,
- 4 nurses, and other healthcare workers associated with
- 5 the lifting, transferring, repositioning, or movement
- 6 of a patient;
- 7 (3) Investigate violations or suspected violations of this
- 8 part; and
- 9 (4) Adopt rules, in accordance with chapter 91, for the
- 10 implementation of this part.

11 **§321-C Program required.** The governing body of a hospital  
12 shall adopt and ensure implementation of a policy and program  
13 that identifies, assesses, and develops strategies to control  
14 the risk of injury to patients and healthcare workers and nurses  
15 associated with the lifting, transferring, repositioning, or  
16 movement of a patient.

17 **§321-D Minimum requirements.** (a) The patient movement  
18 policy adopted by the governing body of a hospital shall be  
19 consistent with a minimal-lift philosophy.

20 (b) The governing body of a hospital shall form a safe  
21 patient handling and movement committee that shall be  
22 responsible for formulating and implementing a minimal manual



1 lift program in the hospital. The committee may be a  
2 subcommittee of an existing hospital committee and shall include  
3 in its membership, representatives of bargaining units that are  
4 associated with patient care and are recognized by the hospital  
5 and members of the nursing staff; provided that members of the  
6 nursing staff serving on the committee shall be chosen from each  
7 of the various medical units within the hospital.

8 (c) The patient movement program adopted by the safe  
9 patient handling and movement committee shall, at a minimum,  
10 include:

- 11 (1) An analysis of the risk of injury to patients, nurses,  
12 and healthcare workers posed by the patient-handling  
13 and moving needs of the patient populations served by  
14 the hospital and the physical environment in which  
15 patient handling and movement occurs and shall  
16 include, but not be limited to variables such as  
17 patient handling tasks and types of nursing units;
- 18 (2) Methodologies that eliminate, to the greatest extent  
19 possible, the manual lifting, moving, and  
20 repositioning of patients, which poses risks of injury  
21 based on current research and practice;



- 1           (3) An evaluation of alternative ways to reduce risks  
2           associated with patient handling and moving, including  
3           evaluations of equipment used to move patients and the  
4           environment in which patient handling and movement  
5           occurs;
- 6           (4) A process for the identification of appropriate uses  
7           for the patient movement program that is based on a  
8           patient's physical and medical condition and the  
9           availability of lifting equipment or lift teams;
- 10          (5) A process for the acquisition and deployment of  
11          equipment to lift, move, or reposition patients to  
12          reduce manual lifting, repositioning, or movement of a  
13          patient to emergency, life-threatening, or otherwise  
14          exceptional circumstances. The process shall also  
15          include appropriate training in the operation of any  
16          of the acquired equipment;
- 17          (6) The adoption of procedures for a nurse or healthcare  
18          worker to employ in cases in which a nurse or  
19          healthcare worker believes in good faith that a nurse,  
20          healthcare worker, or patient is or will be exposed to  
21          an unacceptable risk of injury;



1 (7) Rules for the publication of a hospital's policies on  
2 the movement and handling of patients, the plan for  
3 implementing the patient movement program, and the  
4 results of the annual performance evaluation of a  
5 hospital's patient movement program provided for in  
6 section 321-F; and

7 (8) Considerations of the feasibility of incorporating  
8 patient handling and movement equipment, or the  
9 physical space and construction design needed to  
10 incorporate that equipment at a later date, when  
11 developing architectural plans for constructing or  
12 remodeling a hospital, or a unit of a hospital in  
13 which patient handling and movement occurs.

14 **§321-E Annual report.** The safe patient handling and  
15 movement committee shall submit an annual report to the  
16 governing body of a hospital and to the department on activities  
17 related to the identification, assessment, and development of  
18 strategies to control risk of injury to patients, nurses, and  
19 other healthcare workers associated with the lifting,  
20 transferring, repositioning, or moving of a patient.

21 **§321-F Annual performance evaluation.** An annual  
22 performance evaluation of the patient movement program to



1 determine its effectiveness shall be conducted in a method  
2 determined by each hospital's governing body. The results of  
3 the performance evaluation shall be reported to the safe patient  
4 handling committee and the hospital's governing body. The  
5 performance evaluation shall, at a minimum:

- 6 (1) Use data analysis to measure the success of a patient  
7 movement program including the extent to which  
8 implementation of the program has resulted in a  
9 reduction in claims of musculoskeletal disorders and  
10 lost work attributable to musculoskeletal disorders  
11 caused by patient movement and handling; and  
12 (2) Include any recommendations to increase the patient  
13 movement program's effectiveness.

14 **§321-G Employee protections.** A hospital may not  
15 penalize, discriminate against, or retaliate in any manner  
16 against an employee with respect to compensation for, or terms,  
17 conditions, or privileges of, employment if such an employee in  
18 good faith, individually or in conjunction with another person  
19 or persons:

- 20 (1) Reports a violation or suspected violation of this  
21 part to the department, a private accrediting body, or  
22 management personnel of the hospital;



1 (2) Initiates, cooperates in, or otherwise participates in  
2 an investigation or proceeding brought by the  
3 department or private accrediting body concerning  
4 matters covered by this part;

5 (3) Informs or discusses violations or suspected  
6 violations of this part with any other employee, with  
7 any representative of an employee, with a patient or  
8 patient representative, or with the public; or

9 (4) Otherwise avails himself or herself of the rights set  
10 forth in this part.

11 **§321-H Penalties for violations.** (a) A hospital that  
12 violates this part shall be fined by the department not less  
13 than \$500 nor more than \$5,000 for each violation.

14 (b) A fine which is ordered by the department pursuant to  
15 this part shall be deposited with the director of finance to the  
16 credit of the general fund of the State.

17 **§321-I Tax credit.** A hospital that purchases equipment  
18 for lifting, moving, or repositioning patients specifically for  
19 the purpose of reducing the manual lifting, repositioning, or  
20 moving of a patient shall be eligible for a tax credit  
21 established under 235- ."





1 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§235- Medical lifting equipment; tax deduction. (a)

5 For taxable years beginning after December 31, 2008, but not  
6 after December 31, 2014, there shall be allowed as a deduction  
7 from gross income the amount paid, excluding interest paid or  
8 accrued thereon, during the taxable year by any hospital to  
9 purchase mechanical lifting devices and other equipment  
10 primarily used to minimize patient handling by healthcare  
11 providers, consistent with a patient handling program developed  
12 and implemented by the hospital.

13 (b) Deductions shall be allowed for up to one hundred per  
14 cent of the cost of the mechanical lifting devices or other  
15 equipment. No deduction shall exceed \$1,000 per available acute  
16 care inpatient bed.

17 (c) The director of taxation shall prepare such forms as  
18 may be necessary to claim a tax deduction under this section,  
19 may require proof of the claim for the tax deduction, including  
20 records and receipts required to verify eligibility for the  
21 deduction under this section, and may adopt rules pursuant to  
22 chapter 91.



1        (d) For the purposes of this section, "acute care  
2 inpatient bed" means a bed used by a patient located in a  
3 hospital, as defined in section 327-1."

4        SECTION 3. In codifying the new part added to Chapter 321,  
5 Hawaii Revised Statutes, by section 1 of this Act, the revisor  
6 of statutes shall substitute appropriate section numbers for the  
7 letters used in designating the new sections in this Act.

8        SECTION 4. New statutory material is underscored.

9        SECTION 5. This Act shall take effect upon its approval;  
10 provided that every hospital shall submit a report detailing the  
11 hospital's development of a patient handling policy to the  
12 department of health by January 1, 2009, and a report detailing  
13 the full implementation of the minimal manual lift program to  
14 the department of health by July 1, 2009.

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INTRODUCED BY: *Erzanne Chun Oakland*



**Report Title:**

Health and safety; nursing; healthcare.

**Description:**

Requires hospitals to establish a policy and program that identifies, assesses, and develops strategies to control the risk of injury to patients and healthcare workers and nurses associated with lifting and moving patients. Provides tax deduction for hospitals that purchase equipment for the moving of patients.

