

Executive Summary of The Nurse and Health Care Worker Protection Act of 2015

Sec. 1. Short Title; Findings; Table of Contents

The Nurse and Health Care Worker Protection Act of 2015 (“the Act”) would require the Occupational Safety and Health Administration (“OSHA”) to issue a standard that protects nurses and other health care workers from manual patient lifting practices that lead to musculoskeletal disorders (“MSDs”). In the absence of such a standard, MSDs have racked the nursing profession, contributing to a nursing shortage that undermines patients’ safety and drives up the cost of health care. In 2014, registered nurses were ranked sixth in cases of MSDs causing days away from work (11,360 cases); nursing assistants were number two (20,920 cases).

The findings in this bill would help OSHA satisfy their evidentiary burden under the Occupational Safety and Health Act (“OSH Act”), by explicitly recognizing the significant risk to health posed by manual patient lifting, the impairment those injuries have for health care workers health, and the feasibility and necessity of addressing that threat via a workplace safety standard.

Sec. 2 Safe Patient Handling, Mobility, and Injury Prevention Standard.

Requires OSHA, notwithstanding any other provision of law, to promulgate a safe patient, mobility, and injury prevention standard to protect health care workers from injury related to manual patient lifting. OSHA would have to promulgate an interim final rule within 1 year, which would remain in effect until a final rule is in place.

The standard would require the use of safe patient handling technology (i.e, mechanical lifts) wherever feasible, and where not feasible, would require other actions designed to protect health care workers from injury due to manual patient handling. Under the bill, each health care employer would have to: 1) develop a safe patient handling program; 2) purchase and maintain for use equipment that eliminates safe patient handling; 3) obtain input from health care workers regarding their program; 4) review and analyze data pertaining to the efficacy of the program; 5) evaluate safe patient handling as part of facility construction and remodeling; 6) educate and train workers on the standard, and safe patient technology and practices; 7) provide notice of rights under the standard; 8) perform an annual evaluation and respond to shortcomings; and 9) provide a right for nurses to refuse unsafe lifting assignments.

Sec. 3. Application of Safe Patient Handling, Mobility, and Injury Prevention Standard to Medicare and Medicaid Participants.

Ensures that facilities that aren’t subject to the OSH Act must still comply with the safe patient handling standard, if those facilities participate in Medicare and Medicaid. It tracks a blood borne pathogen standard that is enforced by HHS with penalties for non-compliance.

Sec. 4. Nonpreemption

This section clarifies that this standard will not preempt any state or local law or rule, or collective bargaining right, which offers protection to nurses unless that provision directly contradicts this Act. Nor will it preempt any law protecting and promoting access to persons covered under the Americans with Disabilities Act.

Sec. 4. Definitions.

This section defines “direct-care registered nurse,” “employee,” “employment,” “handling,” “health care employer,” and “health care worker.”