



MNOSHA Instruction **STD 5-0.4A**

January 12, 2022

SUBJECT: Citation Guidelines for the Enforcement of Minn. Stat. §182.6551 to 182.6554 “Safe Patient Handling Act”

Purpose:

To clarify the citation policy for Minn. Stat. §182.6551 to 182.6554 (Safe Patient Handling Act).

Scope:

This instruction applies MNOSHA-wide.

Cancellation:

This instruction supersedes instruction STD 5-0.4, “Citation Guidelines for the Enforcement of Minn. Stat. §182.6551 to 182.6553, “Safe Patient Handling Act”, dated July 1, 2015.

Background:

Minn. Stat. §182.6551 to 182.6553 (Safe Patient Handling Act) requires that a covered employer must establish a written safe patient handling policy by July 1, 2008, that establishes 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, utilizing safe patient handling equipment. Link:

https://www.revisor.mn.gov/bin/getpub.php?pubtype=STAT_CHAP_SEC&year=2007§ion=182

Minn. Stat. §182.6554 (Safe Patient Handling in Clinical Settings), which became effective July 1, 2009, requires that every clinical setting that moves patients in the state shall develop a written safe patient handling policy by July 1, 2010, that establishes the facility’s plan to achieve, by January 1, 2012, the goal of minimizing manual lifting of patients by nurses and other direct patient care workers, utilizing safe patient handling equipment. Link:

<https://www.revisor.mn.gov/statutes/?id=182.6554>

On July 1, 2015, the definition of health care facility in Minn. Stat. §182.6553 subd. 2, was amended, changing from licensed facilities to those same facilities in their respective NAICS codes.

References:

1. Minn. Stat. 182.6551 to 182.6554
2. Workplace Safety Consultation has ergonomics best practices on its website:
<https://www.dli.mn.gov/business/workplace-safety-and-health/mnosha-wsc-ergonomics>
3. Federal OSHA e-tools for hospitals and nursing homes also address ergonomics and patient handling. These can be accessed through the OSHA web-site: www.osha.gov.

Action:

A. Who Must Comply With the Safe Patient Handling Act (Minn. Stat. §182.6551 to 182.6553)?

Every hospital with a NAICS code of 622110, 622210 or 622310, every outpatient surgical center with a NAICS code of 621493, and every nursing home with a NAICS code of 623110.

B. Who Must Comply With the Safe Patient Handling in Clinical Settings (Minn. Stat. §182.6554)?

“Clinical settings that move patients” means physicians, dental and other outpatient care facilities, except for outpatient surgical settings, where service requires movement of patient from point to point as part of the scope of service.

C. Evaluating Compliance with the Safe Patient Handling Act in health care facilities (Minn. Stat. §182.6553). When an inspection is conducted at a workplace which is a health care facility covered under this statute, the OSHI will use the following guidelines in the determination of the employer's compliance with the Safe Patient Handling Act:

Evaluations of the Safe Patient Handling Program will be made based on a review of the written safe patient handling policy establishing the facility's plan and establishment of an effective safe patient handling committee.

The written policy must describe the steps that will be taken by the company to establish an effective Safe Patient Handling Program. This program must address each of the performance areas outlined in the statutory language of the Safe Patient Handling Act.

The safe patient handling committee must be established to evaluate and provide recommendations on methods and equipment that will minimize manual lifting. OSHIs shall review the recommendations and the annual evaluations. For employers with multiple worksites under their control, a committee may be formed for each site separately or for all sites together, but membership in the committee must include

representation from each facility and at least half of the members of the committee must be non-managerial nurses and other direct patient care workers.

D. Citation Guidance for violations of Minn. Stat. §182.6553, shall be issued for the following:

1. If the employer has **no written policy**, cite Minn. Stat. §182.6553, subd. 1
2. If the employer has a **written policy that does not include the elements of program development set forth in the statute, or has not implemented the elements in §182.6553 subd. 1b**, cite Minn. Stat. §182.6553, subd. 1. In order to evaluate Safe Patient Handling Policy, the OSHI may use the form provided in Appendix A of this directive. The OSHI shall document the information reviewed on the MNOSHD-1A Narrative in the inspection case file. Any deficiencies will be discussed with the employer at the time of the closing conference.
3. **Lack of appropriate safe patient handling equipment.** If the employer has a SPH policy as well as a SPH committee which has made recommendations on SPH equipment, but the employer has not provided equipment, cite Minn. Stat. §182.6553, subd. 1. The availability of appropriate equipment can be assessed through employee interviews. Employees not using lifts because they are not provided or are not available when needed or using equipment that does not effectively minimize manual lifting would be the basis for further investigation. The OSHI should review any reasons why appropriate equipment is available but not used. The Federal OSHA website includes lists of available SPH equipment.
4. If the employer has no **committee fulfilling the duties of the SPH committee, whether it is called “safe patient handling”**, or anything else, cite Minn. Stat. §182.6553, subd. 2.
5. If the employer’s safe patient handling committee, whether it is called “safe patient handling” or anything else, does not have the **appropriate membership make-up as established in the Safe Patient Handling Act**, cite Minn. Stat. §182.6553, subd. 2.
6. If the SPH committee, whether it is called “safe patient handling” or anything else, has **not conducted the activities** required, cite Minn. Stat. §182.6553, subd. 4. The AVD should allege that the *employer* did not ensure that the SPH committee conduct the tasks, provide the recommendations, or conduct an annual evaluation as prescribed.

E. Evaluating Compliance with the Safe Patient Handling Act in Clinical Settings (Minn. Stat. §182.6554).

When an inspection is conducted at a workplace which is a clinical setting covered under this statute, the OSHI will use the following guidelines in the determination of the employer's compliance with the Safe Patient Handling Act in Clinical Settings:

Evaluation of the Safe Patient Handling Program will be made based on a written safe patient handling plan.

The written plan must describe the steps that will be taken by the company to establish an effective Safe Patient Handling Program. This plan must address each of the performance areas outlined in the statutory language of the Safe Patient Handling Act.

F. Citation Guidance for violations of Minn. Stat. §182.6554, shall be issued for the following:

1. If the employer has **no written plan**, cite Minn. Stat. §182.6554, subd. 1

Or

2. If the employer has **a written plan that does not include the elements of program development set forth in the statute, or has not implemented the elements in §182.6554, subd 1b**, cite Minn. Stat. §182.6554, subd. 1 In order to evaluate Safe Patient Handling Policy, the OSHI may use the form provided in Appendix B of this directive. The OSHI shall document the information obtained on the MNOSHD-1A Narrative in the inspection case file. Any deficiencies will be discussed with the employer at the time of the closing conference.

G. Violation Classification and Penalties.

Violations for Minn. Stat. §182.6551-182.6553 should follow CRG entries in the Field Compliance Manual.

Violations for Minn. Stat. §182.6554, clinical settings, should follow CRG entries in the Field Compliance Manual, except that no penalties will be issued for first instance violations.

James Krueger, Director MNOSHA Compliance
For the MNOSHA Management Team

Distribution: OSHA Compliance and WSC Director

Attachment: Appendix A - Safe Patient Handling Policy Checklist for Nursing Homes, Hospitals, Outpatient Surgical Centers
Appendix B – Safe Patient Handling Policy Checklist for Clinical Settings.

NOTICE: Minnesota OSHA Directives are used exclusively by MNOSHA personnel to assist in the administration of the OSHA program and in the proper interpretation and application of occupational safety and health statutes, regulations, and standards. They are not legally binding declarations and they are subject to revision or deletion at any time without notice.

APPENDIX A: Safe Patient Handling Policy Checklist For Nursing Homes, Hospitals And Outpatient Surgical Care Centers

"Health care facility" means a hospital with a NAICS code of 622110, 622210 or 622310; an outpatient surgical center with a NAICS code of 621493; and a nursing home with a NAICS code of 623110.

I. Written Program

- A. Does the facility have a written SPH program?
- B. Does the written program address the following?
 - 1. Assessment of hazards with regard to patient handling
 - 2. The acquisition of an adequate supply of appropriate safe patient handling equipment
 - 3. Initial and ongoing training of nurses and other direct patient care workers on the use of the equipment
 - 4. Procedures to ensure that physical plant modifications and major construction projects are consistent with program goals (plant modifications and major construction projects do not negatively impact the use of safe patient handling equipment nor the ability of direct patient care workers to perform their duties in a safe manner)
 - 5. Periodic evaluations of the safe patient handling program (annual evaluation conducted by the safe patient handling committee)

II. SPH Committee

- A. Has a safe patient handling committee been established?
 - 1. Is the membership of this committee composed of at least half non-managerial nurses and other direct patient care workers?
 - 2. If the facility is covered by a collective bargaining agreement, did the union select the committee members proportionate to its representation of non-managerial workers, nurses, and other direct patient care workers?
 - 3. Are committee members compensated for all hours spent on committee business?

III. Committee Duties

- A. Has the SPH committee completed a hazard assessment that includes the following:
 - 1. Patient handling tasks - Identify the tasks being performed

2. Types of nursing units - Are the various different types of patient care areas being identified? i.e. Transitional care, Rehabilitation, Long term care, operating room, emergency department etc.
 3. Patient population - Are specific characteristics of the different patient populations (mobility needs, ability to understand directions, behavioral issues, etc. being identified as they relate to increased lifting risks to caregivers?
 4. Physical environment of patient care areas - Are the existing physical environments of the facility being considered in regards to lifting hazard risks (enough room to maneuver a patient lift?
 5. Identifies problems and solutions - Are recommendations being made by the committee as to the types and amounts of lifting equipment needed? There are many possible problems but many can be broadly described as economic, availability of equipment, obtaining of equipment, use of equipment, support from management, enforcement of policy, conducting assessments.
 6. Identifies areas of highest risk for injuries - Are areas and tasks at risk for lifting injuries being identified and prioritized for further action?
 7. Did the SPH Committee recommend a mechanism to report, track, and analyze injury trends? Is there a method in place for reviewing injuries to identify methods of preventing injury during the lifting task involved from re-occurring?
- B. Make recommendations on the purchase, use, and maintenance of an adequate supply of appropriate safe patient handling equipment. The availability of appropriate equipment can be assessed through employee interviews. Employees using equipment that does not effectively minimize manual lifting, or employees not using lifts because they are not provided or are not available when needed would be 'negative' indicators for availability of appropriate equipment). Can employees get the piece of equipment they need to perform the lift in a reasonable amount of time?
- C. Make recommendations on training of nurses and other direct patient care workers on use of safe handling equipment, initially when the equipment arrives at the facility and periodically afterwards.
- D. Conduct annual evaluations of the safe patient handling program to evaluate the employer's progress in implementing the program.
- E. Recommend procedures to ensure that, when remodeling of patient care areas occurs, the construction plans incorporate the physical space needed to accommodate safe patient handling equipment.

APPENDIX B: Safe Patient Handling Policy Checklist For Clinical Settings

Have the following elements been detailed in the written program with the intent of having an effective Safe Patient Handling Program implemented?

Assessment of lifting tasks:

1. Is a patient handling hazard assessment being done that considers patient handling tasks?
2. Are the various different types of patient care areas being identified?
3. Are specific characteristics of the different patient populations (mobility needs, ability to understand directions, behavioral issues, etc.) being identified as they relate to increased lifting risks to caregivers?
4. Are the existing physical environments of the facility being considered in regards to lifting hazard risks (enough room to maneuver a patient lift?)
 - a. Is there a method in place to address physical issues of the building for future remodeling?

Equipment needs:

1. Do nurses and other patient care providers have timely access to the types and amounts of lifting equipment needed?

Education and Training:

1. Is there a training program being developed that addresses training on patient handling methods and equipment upon hire, when new equipment is introduced, and periodically?

Annual Review:

1. Is there a plan to conduct an annual review on progress?