

House Bill 2631

Sponsored by Representative VEGA PEDERSON (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires hospital to implement safe patient handling program by February 1, 2017. Specifies requirements for program. Requires hospital to appoint safe patient handling committee to monitor safe patient handling program. Requires committee to annually collect and review workers' compensation claims information regarding disabling compensable injuries. Requires committee to periodically evaluate program and make recommendations for improvements to hospital governing board.

A BILL FOR AN ACT

Relating to the health care workforce; creating new provisions; and amending ORS 657.665.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 654.412 to 654.423.

SECTION 2. (1) As used in this section:

(a) "Claim" has the meaning given that term in ORS 656.005.

(b) "Disabling compensable injury" has the meaning given that term in ORS 656.005.

(c) "Hospital" has the meaning given that term in ORS 442.015.

(d) "Lift equipment" means a mechanical device or transfer aid that is used to lift, transfer or reposition a patient instead of manually lifting, transferring or repositioning the patient.

(e) "Musculoskeletal disorders" means conditions that involve the nerves, tendons, muscles and supporting structures of the body.

(f) "Safe patient handling policy" means a written policy, made available to all hospital staff who provide direct patient care, regarding the appropriate use of lift equipment and other assistive devices for lifting, transferring and repositioning patients.

(g) "Safe patient handling program" means a formal, facility-wide program that includes identification, assessment, mitigation and prevention of risks that contribute to musculoskeletal disorders in hospital staff who perform manual patient handling tasks.

(2) Each hospital in this state must have a safe patient handling committee responsible for the implementation and monitoring of a safe patient handling program. The Department of Consumer and Business Services shall prescribe the membership of the committee by rule, including nurses, certified nursing assistants, patient transporters and others who provide direct care to patients. In developing the program, the committee shall take into account the existing and potential risks to the safe handling of patients, including but not limited to a reduction in the use of manual lifting, the tasks involved in patient handling, the types of hospital units and the patient populations.

(3) A safe patient handling program must include all of the following:

(a) A safe patient handling policy that:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Is implemented for all shifts and in all units of the hospital;

2 (B) Requires that hospital staff lift, transfer or reposition patients using lift equipment
3 and other assistive devices that are appropriate for the specific patient and the specific task,
4 unless the use of the devices can be demonstrated to compromise patient care or are med-
5 ically contraindicated;

6 (C) Includes a plan for ensuring prompt access to and availability of appropriate lift
7 equipment and other assistive devices on all units and during all shifts in which patient
8 handling occurs;

9 (D) Requires that all lift equipment and other assistive devices be stored and maintained
10 in compliance with the manufacturers' recommendations;

11 (E) Requires an assessment of a patient's lifting and handling needs, considering the
12 patient's physical, cognitive and clinical needs, the patient handling tasks to be performed
13 and the appropriate equipment and processes to be used to handle the patient safely; and

14 (F) Includes procedures to address the safety of the staff and the patient if a patient
15 refuses to allow hospital staff to use lift equipment or other assistive devices.

16 (b) A hazard assessment that considers variables such as patient-handling tasks, types
17 of nursing units, patient populations and the physical environment of patient care areas.

18 (c) The purchase of an adequate supply of appropriate lift equipment and other assistive
19 devices to implement the safe patient handling policy. The members of the safe patient
20 handling committee shall be involved in the selection of the lift equipment.

21 (d) A requirement for the assessment, communication and documentation of a patient's
22 lifting and handling needs on admission, periodically during a shift and prior to performing
23 a patient handling task.

24 (e) A requirement for the assignment to a registered nurse, as the coordinator of care,
25 of the responsibility for an assessment and plan of care that meets the specific patient's
26 handling needs and a requirement for the nurse's participation, as needed, in the patient's
27 handling in accordance with the nurse's job description and professional judgment. The del-
28 egation or assignment of a patient handling task must be consistent with state laws gov-
29 erning nursing practices.

30 (f) Initial and ongoing training of hospital staff, provided during work hours, that re-
31 quires staff who lift and move patients to demonstrate competency in safe patient handling,
32 including but not limited to training in:

33 (A) The identification, assessment and control of patient handling risks; and

34 (B) The safe, appropriate use of lift equipment and other assistive devices according to
35 hospital industry standards.

36 (g) Provision of educational materials to patients and patients' families to help orient
37 them to the hospital's safe patient handling program.

38 (h) Posting visible reminders of the safe patient handling policy in patient care areas.

39 (i) Provision of copies of the safe patient handling policy to hospital staff, patients and
40 visitors, upon request.

41 (4) The safe patient handling committee described in subsection (2) of this section shall
42 annually:

43 (a) Obtain from the Department of Consumer and Business Services the rate of workers'
44 compensation claims approved for disabling compensable injuries for the hospital and the
45 aggregate rate for all hospitals in this state; and

1 (b) Review the claims information for disabling compensable injuries caused by lifting,
2 transferring or repositioning patients.

3 (5)(a) The safe patient handling committee shall periodically evaluate the safe patient
4 handling program and review the claims information under subsection (4) of this section to
5 determine the extent to which the program reduces:

6 (A) The number of incidents reported by hospital staff of musculoskeletal disorders
7 caused by lifting, transferring or repositioning patients; and

8 (B) The number of scheduled work days missed, restricted or rescheduled by hospital
9 staff due to musculoskeletal disorders caused by lifting, transferring or repositioning pa-
10 tients.

11 (b) Following each evaluation performed under this subsection, the safe patient handling
12 committee shall recommend improvements to the safe patient handling program and report
13 the recommendations to the hospital's governing board.

14 (6) In any plans for construction or remodeling, a hospital governing board shall incor-
15 porate recommendations from the safe patient handling committee regarding lift equipment,
16 other assistive devices and the physical space and construction design necessary to install
17 lift equipment and other assistive devices.

18 (7) A hospital staff person refusing to perform a patient handling task due to a reason-
19 able concern about the staff person's or the patient's safety or the lack of appropriate and
20 available lift equipment or other assistive devices shall promptly notify the staff person's
21 supervisor of the refusal and the reason for the refusal.

22 **SECTION 3.** Section 4 of this 2015 Act is added to and made a part of ORS chapter 659A.

23 **SECTION 4.** It is an unlawful employment practice for a hospital to take any retaliatory
24 action against a hospital staff person because the person refuses to perform a patient han-
25 dling task due to a reasonable concern about the staff person's or the patient's safety or the
26 lack of appropriate and available lift equipment, as defined in section 2 of this 2015 Act, or
27 other assistive devices.

28 **SECTION 5.** ORS 657.665, as amended by section 1, chapter 26, Oregon Laws 2014, is amended
29 to read:

30 657.665. (1) Except as provided in subsections (2) to (5) of this section, all information in the
31 records of the Employment Department pertaining to the administration of the unemployment in-
32 surance, employment service and labor market information programs:

33 (a) Is confidential and for the exclusive use and information of the Director of the Employment
34 Department in administering the unemployment insurance, employment service and labor market
35 information programs in Oregon.

36 (b) May not be used in any court action or in any proceeding pending in the court unless the
37 director or the state is a party to the action or proceeding or unless the proceeding concerns the
38 establishment, enforcement or modification of a support obligation and support services are being
39 provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

40 (c) Is exempt from disclosure under ORS 192.410 to 192.505.

41 (2) The Employment Department shall disclose information:

42 (a) To any claimant or legal representative, at a hearing before an administrative law judge, to
43 the extent necessary for the proper presentation of an unemployment insurance claim.

44 (b) Upon request to the United States Secretary of Labor. The Employment Department shall
45 disclose the information in a form and containing the information that the United States Secretary

1 of Labor may require. The information disclosed is confidential and may not be used for any other
2 purpose.

3 (c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the
4 United States charged with the administration of public works or assistance through public em-
5 ployment. Under this paragraph, the Employment Department shall disclose the name, address, or-
6 dinary occupation and employment status of each recipient of unemployment insurance benefits and
7 a statement of the recipient's right to further benefits under this chapter. The information disclosed
8 is confidential and may not be used for any other purpose.

9 (d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board.
10 Under this paragraph, the Employment Department shall disclose unemployment insurance records.
11 The information disclosed is confidential and may not be used for any other purpose. The costs of
12 disclosing information under this paragraph shall be paid by the board.

13 (e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees
14 of the United States Department of Agriculture and to officers or employees of any state Supple-
15 mental Nutrition Assistance Program agency for the purpose of determining an individual's eligibil-
16 ity for or the amount of supplemental nutrition assistance. The information disclosed is confidential
17 and may not be used for any other purpose. The costs of disclosing information under this paragraph
18 shall be paid by the United States Department of Agriculture.

19 (f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child
20 support enforcement agencies enforcing child support obligations under Title IV-D of the Social Se-
21 curity Act for the purposes of establishing child support obligations, locating individuals owing child
22 support obligations and collecting child support obligations from those individuals. The information
23 disclosed is confidential and may not be used for any other purpose. The costs of disclosing infor-
24 mation under this paragraph shall be paid by the child support enforcement agency.

25 (g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in
26 the income and eligibility verification system for the purpose of verifying an individual's eligibility
27 for benefits, or the amount of benefits, under unemployment insurance, temporary assistance for
28 needy families, Medicaid, the Supplemental Nutrition Assistance Program, Supplemental Security
29 Income, child support enforcement or Social Security programs. The information disclosed is confi-
30 dential and may not be used for any other purpose. The costs of disclosing information under this
31 paragraph shall be paid by the requesting agency.

32 (h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal
33 Unemployment Tax Act, to the United States Department of Health and Human Services National
34 Directory of New Hires. The information disclosed is confidential and may not be used for any other
35 purpose. The costs of disclosing information under this paragraph shall be paid by the United States
36 Department of Health and Human Services.

37 (i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United
38 States Department of Housing and Urban Development and to representatives of a public housing
39 agency for the purpose of determining an individual's eligibility for benefits, or the amount of ben-
40 efits, under a housing assistance program of the United States Department of Housing and Urban
41 Development. The information disclosed is confidential and may not be used for any other purpose.
42 The costs of disclosing information under this paragraph shall be paid by the United States De-
43 partment of Housing and Urban Development or the public housing agency.

44 (j) Pursuant to regulations of the United States Secretary of Health and Human Services issued
45 under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by sec-

1 tion 303 of the Social Security Act, to the state, a political subdivision or a federally recognized
2 Indian tribe that has signed an agreement with the Department of Human Services to administer
3 Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility
4 for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the
5 Social Security Act. The information disclosed is confidential and may not be used for any other
6 purpose.

7 (k) Upon request, to the United States Attorney's Office. Under this paragraph, the Employment
8 Department may disclose an individual's employment and wage information in response to a federal
9 grand jury subpoena or for the purpose of collecting civil and criminal judgments, including
10 restitution and special assessment fees. The information disclosed is confidential and may not be
11 used for any other purpose. The costs of disclosing information under this paragraph shall be paid
12 by the United States Attorney's Office.

13 (3) The Employment Department may disclose information secured from employing units:

14 (a) To agencies of this state, federal agencies and local government agencies to the extent nec-
15 essary to properly carry out governmental planning, performance measurement, program analysis,
16 socioeconomic analysis and policy analysis functions performed under applicable law. The informa-
17 tion disclosed is confidential and may not be disclosed by the agencies in any manner that would
18 identify individuals, claimants, employees or employing units. If the information disclosed under this
19 paragraph is not prepared for the use of the Employment Department, the costs of disclosing the
20 information shall be paid by the agency requesting the information.

21 (b) As part of a geographic information system. Points on a map may be used to represent eco-
22 nomic data, including the location, employment size class and industrial classification of businesses
23 in Oregon. Information presented as part of a geographic information system may not give specific
24 details regarding a business's address, actual employment or proprietary information. If the infor-
25 mation disclosed under this paragraph is not prepared for the use of the Employment Department,
26 the costs of disclosing the information shall be paid by the party requesting the information.

27 (c) In accordance with ORS 657.673.

28 (4) The Employment Department may:

29 (a) Disclose information to public employees in the performance of their duties under state or
30 federal laws relating to the payment of unemployment insurance benefits, the provision of employ-
31 ment services and the provision of labor market information.

32 (b) At the discretion of the Director of the Employment Department and subject to an intera-
33 gency agreement, disclose information to public officials in the performance of their official duties
34 administering or enforcing laws within their authority and to the agents or contractors of public
35 officials. The public official shall agree to assume responsibility for misuse of the information by
36 the official's agent or contractor.

37 (c) Disclose information pursuant to an informed consent, received from an employer or claim-
38 ant, to disclose the information.

39 (d) Disclose information to partners under the federal Workforce Investment Act of 1998 for the
40 purpose of administering state workforce programs under the Act. The information disclosed is
41 confidential and may not be used for any other purpose. The costs of disclosing information under
42 this paragraph shall be paid by the requesting partner.

43 (e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries
44 for the purpose of disseminating information to employing units. The names and addresses disclosed
45 are confidential and may not be used for any other purpose. If the information disclosed under this

1 paragraph is not prepared for the use of the Employment Department, the costs of disclosing the
2 information shall be paid by the bureau.

3 (f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the
4 purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to
5 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and ad-
6 dresses of employers and employees and payroll data of employers and employees. The information
7 disclosed is confidential and may not be used for any other purpose. If the information disclosed
8 under this paragraph is not prepared for the use of the Employment Department, the costs of dis-
9 closing the information shall be paid by the bureau.

10 (g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Re-
11 tirement System for the purpose of determining the eligibility of members of the retirement system
12 for disability retirement allowances under ORS chapter 238. The information disclosed is confiden-
13 tial and may not be used for any other purpose. The costs of disclosing information under this par-
14 agraph shall be paid by the Public Employees Retirement System.

15 (h) Disclose to the Oregon Business Development Commission information required by the com-
16 mission in performing its duty under ORS 285A.050 to verify changes in employment levels following
17 direct employer participation in Oregon Business Development Department programs or indirect
18 participation through municipalities under ORS 285B.410 to 285B.482. The information disclosed to
19 the commission may include an employer's employment level, total subject wages payroll and whole
20 hours worked. The information disclosed is confidential and may not be used for any other purpose.
21 The commission may not disclose the information in any manner that would identify an employing
22 unit or employee except to the extent necessary to carry out the commission's duty under ORS
23 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Em-
24 ployment Department, the costs of disclosing the information shall be paid by the commission.

25 (i) Disclose information to the Department of Revenue for the purpose of performing its duties
26 under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may
27 include the names and addresses of employers and employees and payroll data of employers and
28 employees. The information disclosed is confidential and may not be disclosed by the Department
29 of Revenue in any manner that would identify an employing unit or employee except to the extent
30 necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any
31 report or return required or permitted to be filed under the revenue and tax laws administered by
32 the department. The Department of Revenue may not disclose any information received to any pri-
33 vate collection agency or for any other purpose. If the information disclosed under this paragraph
34 is not prepared for the use of the Employment Department, the costs of disclosing the information
35 shall be paid by the Department of Revenue.

36 (j) Disclose information to the Department of Consumer and Business Services for the purpose
37 of performing its duties under ORS chapters 654 and 656 **and section 2 of this 2015 Act**. The in-
38 formation disclosed may include the name, address, number of employees and industrial classification
39 code of an employer and payroll data of employers and employees. The information disclosed is
40 confidential and may not be disclosed by the Department of Consumer and Business Services in any
41 manner that would identify an employing unit or employee except to the extent necessary to carry
42 out the department's duties under ORS chapters 654 and 656 **and section 2 of this 2015 Act**, in-
43 cluding administrative hearings and court proceedings in which the Department of Consumer and
44 Business Services is a party. If the information disclosed under this paragraph is not prepared for
45 the use of the Employment Department, the costs of disclosing the information shall be paid by the

1 Department of Consumer and Business Services.

2 (k) Disclose information to the Construction Contractors Board for the purpose of performing
3 its duties under ORS chapter 701. The information disclosed to the board may include the names and
4 addresses of employers and status of their compliance with this chapter. If the information disclosed
5 under this paragraph is not prepared for the use of the Employment Department, the costs of dis-
6 closing the information shall be paid by the board.

7 (L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying
8 out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address,
9 telephone number and industrial classification code of an employer. The information disclosed is
10 confidential and may not be disclosed by the State Fire Marshal in any manner that would identify
11 an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414.
12 If the information disclosed under this paragraph is not prepared for the use of the Employment
13 Department, the costs of disclosing the information shall be paid by the office of the State Fire
14 Marshal.

15 (m) Disclose information to the Higher Education Coordinating Commission for the purpose of
16 performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education
17 Act of 1965. The information disclosed may include the names and addresses of employers and em-
18 ployees and payroll data of employers and employees. The information disclosed is confidential and
19 may not be disclosed by the commission in any manner that would identify an employing unit or
20 employee except to the extent necessary to carry out the commission's duties under ORS chapter
21 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this para-
22 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-
23 mation shall be paid by the commission.

24 (n) Disclose information to the Department of Transportation to assist the Department of
25 Transportation in carrying out the duties of the Department of Transportation relating to collection
26 of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733
27 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include
28 the names and addresses of employers and employees and payroll data of employers and employees.
29 The information disclosed is confidential and may not be disclosed by the Department of Transpor-
30 tation in any manner that would identify an employing unit or employee except to the extent nec-
31 essary to carry out the Department of Transportation's duties relating to collection of delinquent
32 and liquidated debts or in auditing or reviewing any report or return required or permitted to be
33 filed under the revenue and tax laws administered by the Department of Transportation. The De-
34 partment of Transportation may not disclose any information received to any private collection
35 agency or for any other purpose. If the information disclosed under this paragraph is not prepared
36 for the use of the Employment Department, the costs of disclosing the information shall be paid by
37 the Department of Transportation.

38 (o) Disclose information to the Department of Human Services and the Oregon Health Authority
39 to assist the Department of Human Services and the Oregon Health Authority in the collection of
40 debts that the Department of Human Services and the Oregon Health Authority are authorized by
41 law to collect. The information disclosed may include the names, addresses and payroll data of em-
42 ployers and employees. The information disclosed is confidential and may not be disclosed by the
43 Department of Human Services or the Oregon Health Authority in a manner that would identify an
44 employing unit or employee except to the extent necessary for the collection of debts as described
45 in this paragraph. The Department of Human Services and the Oregon Health Authority may not

1 disclose information received under this paragraph to a private collection agency or use the infor-
 2 mation for a purpose other than the collection of debts as described in this paragraph. If the infor-
 3 mation disclosed under this paragraph is not prepared for the use of the Employment Department,
 4 the costs of disclosing the information shall be paid by the Department of Human Services or the
 5 Oregon Health Authority.

6 (p) Disclose to the Alcohol and Drug Policy Commission information required by the commission
 7 in evaluating and measuring the performance of alcohol and drug prevention and treatment pro-
 8 grams under ORS 430.242 or the impact of the programs on employment. The information disclosed
 9 to the commission may include total subject wages payroll and whole hours worked. The information
 10 disclosed under this paragraph is confidential and may not be used for any other purpose. The
 11 commission may not disclose the information in any manner that would identify an employing unit
 12 or employee except to the extent necessary to carry out the commission's duties under ORS 430.242.
 13 If the information disclosed under this paragraph is not prepared for the use of the Employment
 14 Department, the costs of disclosing the information shall be paid by the commission.

15 (q) Disclose to any person establishment level information secured pursuant to this chapter from
 16 federal, state and local government employing units. If the information disclosed under this para-
 17 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-
 18 mation shall be paid by the party requesting the information.

19 (r) Disclose to any person the industrial classification code assigned to an employing unit. If the
 20 information disclosed under this paragraph is not prepared for the use of the Employment Depart-
 21 ment, the costs of disclosing the information shall be paid by the party requesting the information.

22 (5) The Employment Department may make public all decisions of the Employment Appeals
 23 Board.

24 (6) Any officer appointed by or any employee of the Director of the Employment Department
 25 who discloses confidential information, except with the authority of the director, pursuant to rules
 26 or as otherwise required by law, may be disqualified from holding any appointment or employment
 27 with the Employment Department.

28 (7) Any person or any officer or employee of an entity to whom information is disclosed by the
 29 Employment Department under this section who divulges or uses the information for any purpose
 30 other than that specified in the provision of law or agreement authorizing the use or disclosure may
 31 be disqualified from performing any service under contract or disqualified from holding any ap-
 32 pointment or employment with the state agency that engaged or employed that person, officer or
 33 employee. The Employment Department may immediately cancel or modify any information sharing
 34 agreement with an entity when a person or an officer or employee of that entity discloses confi-
 35 dential information, other than as specified in law or agreement.

36 **SECTION 6. Each hospital in this state must have in place a safe patient handling policy**
 37 **and a safe patient handling program, both as defined in section 2 of this 2015 Act, no later**
 38 **than February 1, 2017.**