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DQA Memo 11-022

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**From:** Shari Busse, Director  
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**Via:** Otis Woods, Administrator  
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**U.S. Department of Labor to Allow Limited Participation of Youths in Operation of Power-Driven Patient Lifts**

On July 19, 2010, the U.S. Department of Labor, Wage and Hour Division (DOL WHD) issued a restriction on the use of hoists and hoisting apparatus. Hazardous Order No. 7 prohibits minors under the age of 18 from operating or assisting in the operation of most power-driven hoists, including those designed to lift and move patients.

The purpose of this memo is to share Field Assistance Bulletin No. 2011-3, found at <http://www.dol.gov/whd/FieldBulletins/>, which details the circumstances under which 16- and 17-year-olds will be permitted to assist in the operation of power-driven resident lifts. This memo obsoletes DQA Memo 10-029.

This memo contains important information and guidance on the following topics:

- ♦ U.S. Department of Labor Interpretation,
- ♦ Impact on Nurse Aide Training Programs.

## U.S. Department of Labor Interpretation

Specifically, the WHD states that it will exercise enforcement discretion and not assert child labor violations involving 16- and 17-year olds who assist a trained adult worker in the operation of floor based vertical powered resident lifts, ceiling-mounted vertical powered lifts and sit-to-stand lifts, only when **all** of the following six conditions are met:

1. The teen has successfully completed the 75 clock hours of nurse aide training required by the Federal Nursing Home Reform Act (or a higher state standard where applicable\*) and has successfully completed the nurse aide competency evaluation detailed in 42 C.F.R. § 483.154 (or a higher state standard where applicable). **\*Note that the teen must have successfully completed a minimum of 120 hours of training in Wisconsin.**
2. The teen is not operating by himself or herself the lifting device and the teen is assisting in the use of the device as a junior member of at least a 2-person team that is headed by an employee who is at least 18 years of age. All members of the team must be trained in the safe operation of the lifting device(s) being used.
3. The teen may:
  - set up, move, position and secure unoccupied lifting devices;
  - assist trained adult employees in attaching slings to, and un-attaching slings from lifting devices prior to and after the lift/transfer of the resident is completed;
  - assist the trained adult employees in operating the controls that activate the power to lift/transfer the resident; and
  - act as a spotter/observer and may position items such as a chair, wheelchair, bed or commode under the resident who is being lifted/transferred.
4. The teen may not independently engage in “hands on” physical contact with the resident during the lifting/transferring process (such as placing or removing the sling, including pushing or pulling the sling under/around the resident; adjusting the sling under/around the resident; and manipulating the resident when placing, adjusting or removing a sling)—the teen, however, may assist in these “hands on” activities when assisting a trained adult employee who is manipulating, guiding, rotating, or otherwise maneuvering the resident during the lift/transfer. The teen may similarly assist a trained adult employee who is pushing, pulling or rotating lifting devices when the device is engaged in the process of lifting/transferring a resident.
5. The teen is not injured while operating or assisting in the operation of a lifting device. In the event of an injury, the employer will be subject to the assessment of child labor civil monetary penalties as permitted by Section 16(e)(1) of the Fair Labor Standards Act.
6. The employer has provided to the teen employee a copy of the document that is attached to the Bulletin as Attachment A.

## **Impact on Nurse Aide Training Programs**

DQA has confirmed with the U.S. DOL that these restrictions apply to employees; in order for the FLSA to apply, there must be an employment relationship. Therefore, the restriction on the use of patient lifts does not apply to students enrolled in a nurse aide training program (unless the students are employed during training as nurse aides by the facility providing the training).

Nurse aide training programs are required to train students to transfer clients safely and according to the principles of patient care ergonomics and with proficiency in the use of available equipment that is used to transfer clients. Equipment used to transfer clients includes, but is not limited to, mechanical lifts, friction reducing devices, wheelchairs and gait belts.

Per DQA directive, nurse aide training programs must continue to train all students, regardless of age, on the use of mechanical lifts. It is important to note that a clinical site may refuse to allow a student under the age of 18 in a nurse aide training program to transfer a resident using a lift but the clinical site should allow a student to practice the skill on another student or instructor using the facility equipment.

We recommend that nurse aide training programs provide the 16 or 17 year old student with a copy of the document that is attached to the Bulletin as Attachment A.

## **Questions**

If a nurse aide has any questions about these requirements, is being asked to operate or assist in operating powered patient/resident lift devices in manner that is not in compliance with these requirements, or is injured while operating or assisting in the operation of a patient/resident lift device, call the DOL toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4US-WAGE (1-866-487-9243).

For more information about the safe operation of patient/resident lifts, the federal child labor provisions, or any other labor standards administered by the WHD, please visit the WHD Web site: <http://www.wagehour.dol.gov>.

Attachment:

[U.S. DOL Field Assistance Bulletin No. 2011-3](#)