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Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
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LeadingAge, representing 6,000 not-for-profit providers of aging services, strongly supports the proposal to remove the current restrictions on the operation of power-driven patient lifts by 16- and 17-year-old nursing home employees.

The 2010 final rule prohibiting teens younger than 18 from operating power-driven lifts was targeted to cherry pickers, fork lifts, and other heavy equipment typically used in industrial settings. Because the definition in the regulation was drafted broadly, it also was applied to patient lifts commonly used in nursing homes.

The regulation has had a serious impact on nursing homes, particularly in rural states where there is a profound staffing shortage. The 2011 modification of the rule contained so many restrictions as to provide no actual relief to our members or the young people they employ.

The teens who would operate the resident lifts in our member facilities have all received extensive training in the use of lifts—the same training that is given to adults—and are certified nursing assistants (CNAs). Our members are particularly burdened by the current requirement that the lifts be operated by an adult with the teen allowed only to provide minimal assistance. In many cases, the “adult” operating the lift is only days or months older than the “teen” providing the assistance, yet they both have received the same CNA training.

The prohibition against using lifts contradicts OSHA recommendations on ergonomics. Since at least 2003, the Occupational Safety and Health Administration (OSHA) has recommended that nursing homes eliminate manual lifting of residents because mechanical lifts are safer for both the resident and the employee than manual lifting. In its Guidelines for Nursing Homes, OSHA “recommends that manual lifting of residents be minimized in all cases and eliminated when feasible,” in order to protect workers against injury.

As the notice of proposed rulemaking indicates, patient lifts used in health care settings are far different from the kinds of industrial equipment the 2010 rule was intended to address. Prohibiting employees younger than 18 from operating patient lifts does not protect these teenaged workers from injury; in fact, by leaving manual lifting as their only alternative, the present rule increases the risk of injury to these young workers.
Many of our nursing home members employ teens aged 16 and 17 as certified nursing assistants. The training and experience these young people receive in our communities gives them a valuable start in the health care field, an area that will continue to generate thousands of new job opportunities. Especially in rural areas, our member nursing homes often are the primary source of employment in a community and working for one of our members is a solid economic opportunity for many young people.

Young workers also play an essential part in the nursing home workforce. As the number of older people needing long-term care continues to escalate, workforce shortages are growing, especially in rural areas. For example, in Wisconsin one in five long-term care providers has a caregiver vacancy rate of 30% or more. The shortage is reaching crisis proportions; many nursing homes have had to limit admissions or close off parts of their operations because there were not enough staff to care for any more people. These measures have made it more difficult for hospitals to discharge patients needing post-acute care and have limited access to nursing home care for individuals with dementia, other intellectual disabilities, serious and chronic physical disabilities, and other conditions.

To provide high-quality nursing home care, our members need adequate numbers of well-trained and qualified staff. Young workers are an important part of this staffing picture and many will go on to become tomorrow’s leaders in the field of aging services.

We appreciate the Department of Labor’s recognition that the present rule on operation of patient lifts restricts employment opportunities for young nursing home workers without enhancing their protection against on-the-job injuries. We support a final rule that will do away with the present restrictions on young workers’ operation of patient lifts in nursing homes.

Sincerely,

Katie Smith Sloan
President and CEO
LeadingAge