

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
SIXTH AMENDMENT TO
11 NYCRR 151
ADDING NEW SUBPART 151-7
(INSURANCE REGULATION 119)**

WORKERS' COMPENSATION SAFE PATIENT HANDLING PROGRAM

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301 and 2304(j) of the Insurance Law, do hereby promulgate, as an emergency measure, the Sixth Amendment to Part 151 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 119) adding new Subpart 151-7, to take effect July 1, 2016, to read as follows:

(ALL MATERIAL IS NEW)

§ 151-7.0 Preamble.

In March 2014, Governor Andrew M. Cuomo signed into law Part A of Chapter 60 of the Laws of 2014, which amended the Public Health Law and Insurance Law with regard to safe patient handling programs. Specifically, Chapter 60 added a new Title 1-A to Public Health Law Article 29-D to require health care facilities to establish safe patient handling programs, and added a new Insurance Law section 2304(j) to require the department to make rules establishing requirements for health care facilities to obtain a reduced workers' compensation insurance rate for safe patient handling programs implemented pursuant to Public Health Law section 2997-(k)(2).

§ 151-7.1 Definitions.

In this Subpart, *health care facility* shall have the meaning set forth in Public Health Law section 2997-(h)(1).

§ 151-7.2 Safe patient handling program credits.

(a) For each workers' compensation insurance policy issued or renewed in this State, an insurer shall provide a credit to a health care facility that implements and maintains a safe patient handling program that meets the requirements of Public Health Law section 2997-(k)(2). The amount of the credit and the manner in which it is applied shall be in accordance with the approved manual filed by the rate service organization of which the insurer is a member.

(b) An insurer shall verify that a health care facility has implemented and maintains a safe patient handling program that meets the requirements of Public Health Law section 2997-(k)(2) before providing a credit.

§ 151-7.3 Reporting requirements.

By June 1 of each year, every workers' compensation rate service organization shall submit a report to the superintendent regarding policies receiving a credit pursuant to this Part, including policy year payrolls, indemnity losses, indemnity claim counts, and medical losses by classification, and such other information as the superintendent may require. Every workers' compensation rate service organization shall report the information, including adjustments, consistent with the comparable classification relativity review.

Statement of the Reasons for Emergency Measure
Sixth Amendment to 11 NYCRR 151 (Insurance Regulation 119)
Adding New Subpart 151-7

Part A of Chapter 60 of the Laws of 2014 added a new Title 1-A to Public Health Law Article 29-D to require health care facilities to establish safe patient handling programs by January 1, 2017. Part A also added a new Insurance Law § 2304(j) to require the Superintendent of Financial Services (“Superintendent”) to make rules, by July 1, 2016, establishing requirements for health care facilities to obtain a reduced workers’ compensation insurance rate for safe patient handling programs implemented pursuant to Public Health Law § 2997-(k)(2). Section 2304(j) further requires the Superintendent to submit reports to the Legislature by December 1, 2018 and December 1, 2020 that evaluate the effects of the reduced rate, including changes in claim frequency and costs.

The regulation states that for each workers’ compensation insurance policy issued or renewed in New York, an insurer must provide a credit to a health care facility that implements and maintains a safe patient handling program that meets the requirements of Public Health Law § 2997-(k)(2). The amount of the credit and the manner in which it is applied must be in accordance with the approved manual filed by the rate service organization of which the insurer is a member. The regulation also requires an insurer to verify that a health care facility has implemented and maintains a safe patient handling program that meets the requirements of Public Health Law § 2997-(k)(2) before providing a credit, and requires every workers’ compensation rate service organization to submit an annual report to the Superintendent regarding policies receiving a credit pursuant to the regulation, including policy year payrolls, indemnity losses, indemnity claim counts, medical losses by classification, and such other information as the Superintendent may require.

Insurance Law § 2304(j) requires that the regulation be in place by July 1, 2016. Therefore, it is necessary to promulgate the regulation on an emergency basis for the furtherance of the general welfare.



Maria T. Vullo
Superintendent of Financial Services

Date: September 28, 2016



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

I, Maria T. Vullo, Superintendent of Financial Services, do hereby certify that the foregoing is the Sixth Amendment to Part 151 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 119), entitled “Workers’ Compensation Safe Patient Handling Program,” signed by me on September 28, 2016, pursuant to the authority granted by Financial Services Law Sections 202 and 302 and Insurance Law Sections 301 and 2304(j), to take effect upon filing with the Secretary of State of New York.

Pursuant to Section 202(6) of the State Administrative Procedure Act, the Sixth Amendment to 11 NYCRR 151 (Insurance Regulation 119) is being promulgated as an emergency measure. This is the second promulgation of this emergency measure, which was first submitted to the Secretary of State as an emergency adoption and proposed rulemaking on July 1, 2016. A statement of the specific reasons for the finding of the need for emergency action is attached.

Maria T. Vullo
Superintendent of Financial Services

Date: September 28, 2016