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State of Wisconsin
Department of Workforce Development
Jim Doyle, Governor
Roberta Gassman, Secretary

September 16, 2010

Art Kerschner, Jr., Chief
Branch of Child Labor and Special Employment Enforcement
Wage and Hour Division
Employment Standards Administration
US Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Kershner:

I am writing to you regarding the restriction issued July 19, 2010, by the Federal Department of Labor, Wage and Hour Division (DOL WHD) on the use of Hoist and Hoisting Apparatus as it applies to mechanical lifts used for lifting and transferring the elderly.

This new rule will have devastating consequences on our most successful youth employment programs. The Wisconsin Youth Apprenticeship work based learning model includes high rigor and training. Students are closely supervised at the worksite. Child labor reviews all of our programs to ensure they are in line with the labor standards for youth. We have worked very hard to ensure the students are well trained and safe at the work site.

This restriction is having a huge negative impact on our program in Health. We already have many employers who are implementing a policy of hiring no one under 18 directly due to the lift restriction. We also have heard from frustrated parents of students who are not able to use their recently earned Certified Nursing Assistant designation.

This ruling also conflicts with our Wisconsin *Safe Lift* Initiative to incorporate mechanical lifting devices in all of our health care settings in an effort to reduce the number of employee back injuries. Additionally, DOL pushed our state Department of Health Services to include extensive training on mechanical lifts in their recently revised nurse aide training program requirements. Using the lifts is actually safer for the employee so prohibiting an age group seems contradictory.

The Federal Register states that the impetus for making the changes to the Child Labor Regulations was based on the National Institution for Occupational Safety and Health recommendations for changes to hazardous occupations. However, we can find no reference to patient lifts as being hazardous to 16 and 17 year olds.

In closing, we are asking for you to please look into this rule and its interpretation involving patient lifts and hopefully reverse the ruling or provide some type of exemption to caregivers under the age of 18.

Your consideration is greatly appreciated.

Sincerely,

Roberta Gassman
Secretary