



General Assembly

January Session, 2001

Raised Bill No. 1341

LCO No. 4399

Referred to Committee on Select Committee on Aging

Introduced by:
(AGE)

AN ACT CONCERNING PATIENT AND RESIDENT ABUSE IN HEALTH CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) As used in sections 1 to 6, inclusive, of this act,
2 section 17b-451 of the general statutes, as amended by this act, and
3 sections 8 and 9 of this act:

4 (1) "Resident" means any person who resides in a care facility.

5 (2) "Patient" means any person who receives treatment from a care
6 facility.

7 (3) "Care facility" means any hospital, skilled nursing facility,
8 intermediate care facility, chronic and convalescent care facility, rest
9 home, care facility for the mentally retarded, psychiatric facility,
10 rehabilitation facility, kidney disease treatment center, home health
11 agency, ambulatory surgical or out-patient facility, home for the aged
12 or disabled, group home, adult foster care home, private home that
13 provides personal, sheltered or nursing care for one or more persons,
14 adult day care center and any other health or resident care related

15 facility or home, whether public or privately funded.

16 (4) "Abuse" means any act or omission that causes or is likely to
17 cause harm to a resident or patient, including, but not limited to:

18 (A) Any assault, as defined in sections 53a-59 to 53a-61a, inclusive,
19 of the general statutes;

20 (B) Conduct that causes or that is likely to cause physical injury or
21 serious physical injury to a patient or resident, except when such
22 conduct is a part of the treatment and care and in furtherance of the
23 health and safety of the patient or resident;

24 (C) Conduct that causes or is likely to cause psychological injury to
25 a patient or resident, except when such conduct is a part of the
26 treatment and care, and in furtherance of the health and safety of the
27 patient or resident;

28 (D) The failure to provide treatment, care, goods or services
29 necessary to the health, safety or welfare of a patient or resident;

30 (E) Failure to carry out a plan of treatment or care prescribed by the
31 physician of a patient or resident; or

32 (F) The use of a physical or chemical restraint, medication or
33 isolation as punishment, out of convenience, as a substitute for
34 treatment, in conflict with a physician's order or in quantities that
35 preclude or inhibit the effective care of a patient or resident.

36 (5) "Exploit" means to spend, diminish or use the property or assets
37 of a patient or resident without the express, voluntary consent of the
38 patient or resident, or the consent of a legally authorized
39 representative of an incompetent patient or resident.

40 (6) "Knowingly" means "knowingly", as defined in subdivision (12)
41 of section 53a-3 of the general statutes.

42 (7) "Recklessly" means "recklessly", as defined in subdivision (13) of

43 section 53a-3 of the general statutes.

44 (8) "Physical injury" means impairment of physical condition or
45 pain.

46 (9) "Psychological injury" means psychological harm that causes
47 mental or emotional incapacitation for a prolonged period of time or
48 that causes extreme behavioral change or severe physical symptoms
49 that require psychological or psychiatric care.

50 (10) "Serious physical injury" means physical injury which creates a
51 substantial risk of death, or which causes serious disfigurement,
52 serious impairment of health or serious loss or impairment of the
53 function of any bodily organ.

54 (11) "Person" means any natural person, corporation, partnership,
55 limited liability company, unincorporated association or other business
56 entity.

57 Sec. 2. (NEW) (a) A person is guilty of patient or resident abuse in
58 the first degree when such person knowingly commits abuse of a
59 patient or resident and causes serious physical injury to such patient or
60 resident.

61 (b) Patient or resident abuse in the first degree is a class B felony.

62 Sec. 3. (NEW) (a) A person is guilty of patient or resident abuse in
63 the second degree when such person: (1) Knowingly commits abuse of
64 a patient or resident and causes physical injury or psychological injury
65 to such patient or resident; or (2) negligently commits abuse of a
66 patient or resident and causes serious physical injury to such patient or
67 resident.

68 (b) Patient or resident abuse in the second degree is a class C felony.

69 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in
70 the third degree when such person negligently commits abuse of a

71 patient or resident and causes physical injury or psychological injury
72 to such patient or resident.

73 (b) Patient or resident abuse in the third degree is a class D felony.

74 Sec. 5. (NEW) (a) A person is guilty of patient or resident abuse in
75 the fourth degree when such person knowingly commits abuse of a
76 patient or resident.

77 (b) Patient or resident abuse in the fourth degree is a class A
78 misdemeanor.

79 Sec. 6. (NEW) (a) A person is guilty of exploitation of a patient or
80 resident when such person exploits a patient or resident.

81 (b) Exploitation of a patient or resident is a class C felony.

82 Sec. 7. Section 17b-451 of the general statutes is repealed and the
83 following is substituted in lieu thereof:

84 (a) Any physician or surgeon licensed under the provisions of
85 chapter 370, any resident physician or intern in any hospital in this
86 state, whether or not so licensed, any registered nurse, any nursing
87 home administrator, nurse's aide or orderly in a nursing home facility,
88 any person paid for caring for a patient in a nursing home facility, any
89 staff person employed by a nursing home facility, any patients'
90 advocate and any licensed practical nurse, medical examiner, dentist,
91 optometrist, chiropractor, podiatrist, social worker, clergyman, police
92 officer, pharmacist, psychologist or physical therapist, who has
93 reasonable cause to suspect or believe that any elderly person has been
94 abused, neglected, exploited or abandoned, or is in a condition which
95 is the result of such abuse, neglect, exploitation or abandonment, or
96 who is in need of protective services, shall within [five calendar days]
97 twenty-four hours report such information or cause a report to be
98 made in any reasonable manner to the Commissioner of Social Services
99 or to the person or persons designated by the commissioner to receive
100 such reports. [Any person required to report under the provisions of

101 this section who fails to make such report shall be fined not more than
102 five hundred dollars.] The Commissioner of Social Services shall report
103 such information within twenty-four hours to any authorized
104 representative of the Chief State's Attorney.

105 (b) Such report shall contain the name and address of the involved
106 elderly person, information regarding the nature and extent of the
107 abuse, neglect, exploitation or abandonment, and any other
108 information [which] that the reporter believes might be helpful in an
109 investigation of the case and the protection of such elderly person.

110 (c) Any other person having reasonable cause to believe that an
111 elderly person is being, or has been, abused, neglected, exploited or
112 abandoned, or who is in need of protective services may report such
113 information in any reasonable manner to the commissioner or [his] the
114 commissioner's designee.

115 (d) Any person who makes any report pursuant to sections 17b-450
116 to 17b-461, inclusive, or who testifies in any administrative or judicial
117 proceeding arising from such report shall be immune from any civil or
118 criminal liability on account of such report or testimony, except for
119 liability for perjury, unless such person acted in bad faith or with
120 malicious purpose.

121 (e) For the purposes of sections 17b-450 to 17b-461, inclusive, the
122 treatment of any elderly person by a Christian Science practitioner, in
123 lieu of treatment by a licensed practitioner of the healing arts, or the
124 refusal of treatment for religious reasons shall not of itself constitute
125 grounds for the implementation of protective services.

126 (f) No person shall terminate, demote, reject for promotion or
127 otherwise punish an employee who, acting in good faith, makes any
128 report pursuant to sections 17b-450 to 17b-461, inclusive, or who
129 testifies in any administrative or judicial proceeding arising from such
130 report, except an employee that abuses, exploits, neglects or abandons
131 a patient or resident.

132 (g) No patient or resident shall be involuntarily transferred or
133 discharged or otherwise punished for making any report pursuant to
134 sections 17b-450 to 17b-461, inclusive, or for testifying in any
135 administrative or judicial proceeding arising from such report.

136 (h) Any person who violates subsection (a) of this section shall be
137 guilty of a class A misdemeanor.

138 Sec. 8. (NEW) (a) No person shall knowingly:

139 (1) Attempt, with or without threats or promises of benefit, to
140 induce a person to fail to report an incident of abuse, as defined in
141 section 1 of this act, exploitation, as defined in section 1 of this act,
142 neglect, abandonment or other criminal offense pursuant to section
143 17b-451 of the general statutes, as amended by this act;

144 (2) Fail to report an incident of abuse, exploitation, neglect,
145 abandonment or other criminal offense after another person indicates a
146 reliance on such reporting pursuant to section 17b-451 of the general
147 statutes, as amended by this act; or

148 (3) Without authorization, alter, destroy or render unavailable a
149 report made by another person pursuant to section 17b-451 of the
150 general statutes, as amended by this act.

151 (b) Violation of this section shall be a class B misdemeanor.

152 Sec. 9. (NEW) (a) For purposes of this section, "license" means a
153 license, certification or permit to engage in a profession or occupation
154 regulated pursuant to the general statutes and "licensing authority"
155 means any board, commission, department or official with authority to
156 issue a license.

157 (b) Whenever a person holding a license is convicted of a violation
158 of sections 2 to 6, inclusive, of this act, section 17b-451 of the general
159 statutes, as amended by this act, or section 8 of this act, the clerk of the
160 court shall transmit a certificate of conviction to the appropriate

161 licensing authority.

162 (c) The licensing authority shall suspend or revoke the license of
163 such person for any period or permanently revoke the license of such
164 person, except that:

165 (1) In the case of a person convicted of a violation of section 2, 3, 4, 5
166 or 6 of this act, the period of suspension shall be not less than three
167 years, (2) in the case of a person convicted of a violation of section 17b-
168 451 of the general statutes, as amended by this act, the period of
169 suspension shall be not less than one year, and (3) in the case of a
170 violation of section 8 of this act, the period of suspension shall be not
171 less than six months.

172 (d) Each care facility, as defined in section 1 of this act, shall post in
173 a prominent location the reporting requirement established by section
174 17b-451 of the general statutes, as amended by this act. All employees,
175 owners, operators and health care providers who provide services in a
176 care facility shall be required to sign a form prescribed by the
177 Department of Public Health acknowledging such reporting
178 requirement. Such care facility shall retain such forms. Any care
179 facility that violates the provisions of this subsection shall be subject to
180 a civil penalty in an amount not exceeding seven thousand five
181 hundred dollars.

Statement of Purpose:

To encourage responsible care for patients and residents of care facilities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]