



General Assembly

January Session, 2001

Amendment

LCO No. 7582

Offered by:

SEN. PRAGUE, 19th Dist.

To: Senate Bill No. 861

File No. 456

Cal. No. 326

"AN ACT CONCERNING NURSING HOME INSPECTIONS."

1 In line 1, before "Section", insert "Section 1."

2 After line 13, insert the following:

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

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

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

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

15 adult day care center and any other health or resident care related
16 facility or home, whether publicly or privately funded.

17 (4) "Abuse" means any acts or omissions that constitute:

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

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

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

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

34 (5) "Knowingly" means "knowingly", as defined in subdivision (12)
35 of section 53a-3 of the general statutes.

36 (6) "Recklessly" means "recklessly", as defined in subdivision (13) of
37 section 53a-3 of the general statutes.

38 (7) "Physical injury" means impairment of physical condition or
39 pain.

40 (8) "Psychological injury" means psychological harm that causes
41 mental or emotional incapacitation for a prolonged period of time or
42 that causes extreme behavioral change or severe physical symptoms

43 that require psychological or psychiatric care.

44 (9) "Serious physical injury" means physical injury which creates a
45 substantial risk of death, or which causes serious disfigurement,
46 serious impairment of health or serious loss or impairment of the
47 function of any bodily organ.

48 (10) "Person" means any natural person, corporation, partnership,
49 limited liability company, unincorporated association, other business
50 entity or labor organization.

51 (11) "High managerial agent" means a member of the board of
52 directors of a care facility, an officer of a care facility, the administrator
53 and assistant administrator of a care facility, the director and assistant
54 director of nursing services of a care facility, or any other agent in a
55 position of comparable authority with respect to the formulation of the
56 policies of a care facility or the supervision in a managerial capacity of
57 subordinate employees.

58 Sec. 3. (NEW) (a) A person is guilty of patient or resident abuse in
59 the first degree when such person knowingly commits abuse of a
60 patient or resident and causes serious physical injury to such patient or
61 resident.

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

63 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in
64 the second degree when such person: (1) Knowingly commits abuse of
65 a patient or resident and causes physical injury or psychological injury
66 to such patient or resident, or (2) recklessly commits abuse of a patient
67 or resident and causes serious physical injury to such patient or
68 resident.

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

70 Sec. 5. (NEW) (a) A person is guilty of patient or resident abuse in
71 the third degree when such person recklessly commits abuse of a
72 patient or resident and causes physical injury or psychological injury

73 to such patient or resident.

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

75 Sec. 6. (NEW) Any member of the board of directors or a high
76 managerial agent that knows that a patient or resident of the care
77 facility is being abused and subsequently fails to promptly take
78 corrective action shall be guilty of a class D felony.

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

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

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

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

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

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

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

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

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

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

133 (1) Attempt, with or without threats or promises of benefit, to

134 induce a person to fail to report an incident of abuse, as defined in
135 section 1 of this act, exploitation, neglect, abandonment or other
136 criminal offense pursuant to section 17b-451 of the general statutes, as
137 amended by this act;

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

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

145 (b) A violation of this section shall be a class B misdemeanor.

146 Sec. 9. (NEW) (a) For purposes of this section, "license" means a
147 license, certification or permit to engage in a profession or occupation
148 regulated pursuant to the general statutes and issued by the
149 Department of Public Health and "licensing authority" means the
150 Department of Public Health.

151 (b) Whenever a person holding a license is convicted of a violation
152 of section 2, 3, 4 or 6 of this act or section 17b-451 of the general
153 statutes, as amended by this act, the clerk of the court shall transmit a
154 certificate of conviction to the appropriate licensing authority.

155 (c) The licensing authority shall suspend or revoke the license of
156 such person for any period or permanently revoke the license of such
157 person, except that: (1) In the case of a person convicted of a violation
158 of section 2, 3 or 4 of this act, the period of suspension shall be not less
159 than three years, (2) in the case of a person convicted of a violation of
160 section 17b-451 of the general statutes, as amended by this act, the
161 period of suspension shall be not less than one year, and (3) in the case
162 of a person convicted of a violation of section 6 of this act, the period of
163 suspension shall be not less than six months.

164 (d) Each care facility, as defined in section 1 of this act, shall post in
165 a prominent location the reporting requirement established by section
166 17b-451 of the general statutes, as amended by this act. All employees,
167 owners, operators and health care providers who provide services in a
168 care facility shall be required to sign a form prescribed by the
169 Department of Public Health acknowledging such reporting
170 requirement. Such care facility shall retain such forms. Any care
171 facility that violates the provisions of this subsection shall be subject to
172 a civil penalty in an amount not exceeding seven thousand five
173 hundred dollars.

174 Sec. 10. Section 53-20 of the general statutes is repealed and the
175 following is substituted in lieu thereof:

176 Any person who tortures, torments, cruelly or unlawfully punishes
177 or wilfully or [negligently] recklessly deprives any person of necessary
178 food, clothing, shelter or proper physical care; and any person who,
179 having the control and custody of any child under the age of sixteen
180 years, in any capacity whatsoever, maltreats, tortures, overworks,
181 cruelly or unlawfully punishes or wilfully or [negligently] recklessly
182 deprives such child of necessary food, clothing, or shelter shall be
183 fined not more than five hundred dollars or imprisoned not more than
184 one year or both."