



General Assembly

Amendment

January Session, 2001

LCO No. 8456

Offered by:

SEN. PRAGUE, 19th Dist.

SEN. HARP, 10th Dist.

SEN. HARTLEY, 15th Dist.

REP. EBERLE, 15th Dist.

To: Subst. Senate Bill No. 1437

File No. 586

Cal. No. 382

**"AN ACT CONCERNING STATE AND NATIONAL CRIMINAL
HISTORY RECORDS CHECKS."**

1 After line 808, insert the following and renumber the remaining
2 section accordingly:

3 "Sec. 30. (NEW) As used in sections 31 to 36, inclusive, 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, assisted living service agency, home health
11 agency, ambulatory surgical or out-patient facility, home for the aged

12 or disabled, group home, adult foster care home, adult day care center
13 and any other health or resident care related facility or home, whether
14 publicly or privately funded.

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

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

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

22 (C) The failure to provide treatment, care, goods or services
23 necessary to the health or safety of a patient or resident, except when
24 such failure is the direct result of insufficient staffing levels that have
25 been reported to a high managerial agent; or

26 (D) The use of a physical or chemical restraint, medication or
27 isolation as punishment, out of convenience, as a substitute for
28 treatment, in conflict with a physician's order or in quantities that
29 preclude or inhibit the effective care of a patient or resident.

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

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

34 (7) "Physical injury" means impairment of physical condition or
35 pain.

36 (8) "Serious physical injury" means physical injury which creates a
37 substantial risk of death, or which causes serious disfigurement,
38 serious impairment of health or serious loss or impairment of the
39 function of any bodily organ.

40 (9) "Person" means any natural person, corporation, partnership,
41 limited liability company, unincorporated business or other business
42 entity.

43 (10) "High managerial agent" means an officer of a care facility, the
44 administrator and assistant administrator of a care facility, the director
45 and assistant director of nursing services of a care facility, or any other
46 agent in a position of comparable authority with respect to the
47 formulation of the policies of a care facility or the supervision in a
48 managerial capacity of subordinate employees.

49 Sec. 31. (NEW) (a) A person is guilty of patient or resident abuse in
50 the first degree when such person knowingly commits abuse of a
51 patient or resident and causes serious physical injury to such patient or
52 resident.

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

54 Sec. 32. (NEW) (a) A person is guilty of patient or resident abuse in
55 the second degree when such person: (1) Knowingly commits abuse of
56 a patient or resident and causes physical injury to such patient or
57 resident, or (2) recklessly commits abuse of a patient or resident and
58 causes serious physical injury to such patient or resident.

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

60 Sec. 33. (NEW) (a) A person is guilty of patient or resident abuse in
61 the third degree when such person recklessly commits abuse of a
62 patient or resident and causes physical injury.

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

64 Sec. 34. (NEW) Any high managerial agent that knows that a patient
65 or resident of the care facility is being abused and subsequently fails to
66 promptly take corrective action shall be guilty of a class B felony.

67 Sec. 35. Section 17b-451 of the general statutes is repealed and the
68 following is substituted in lieu thereof:

69 (a) Any physician or surgeon licensed under the provisions of
70 chapter 370, any resident physician or intern in any hospital in this
71 state, whether or not so licensed, any registered nurse, any nursing
72 home administrator, nurse's aide or orderly in a nursing home facility,
73 any person paid for caring for a patient in a nursing home facility, any
74 staff person employed by a nursing home facility, any patients'
75 advocate and any licensed practical nurse, medical examiner, dentist,
76 optometrist, chiropractor, podiatrist, social worker, clergyman, police
77 officer, pharmacist, psychologist or physical therapist, who has
78 reasonable cause to suspect or believe that any elderly person or
79 resident, as defined in section 30 of this act, has been abused,
80 neglected, exploited or abandoned, or is in a condition which is the
81 result of such abuse, neglect, exploitation or abandonment, or who is
82 in need of protective services, shall within five calendar days report
83 such information or cause a report to be made in any reasonable
84 manner to the Commissioner of Social Services or to the person or
85 persons designated by the commissioner to receive such reports. [Any
86 person required to report under the provisions of this section who fails
87 to make such report shall be fined not more than five hundred dollars.]

88 (b) Such report shall contain the name and address of the involved
89 elderly person or resident, as defined in section 30 of this act,
90 information regarding the nature and extent of the abuse, neglect,
91 exploitation or abandonment, and any other information [which] that
92 the reporter believes might be helpful in an investigation of the case
93 and the protection of such elderly person or resident.

94 (c) Any other person having reasonable cause to believe that an
95 elderly person or resident, as defined in section 30 of this act, is being,
96 or has been, abused, neglected, exploited or abandoned, or who is in
97 need of protective services may report such information in any
98 reasonable manner to the commissioner or [his] the commissioner's
99 designee.

100 (d) Any person who makes any report pursuant to sections 17b-450
101 to 17b-461, inclusive, or who testifies in any administrative or judicial

102 proceeding arising from such report shall be immune from any civil or
103 criminal liability on account of such report or testimony, except for
104 liability for perjury, unless such person acted in bad faith or with
105 malicious purpose.

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

111 (f) No person shall terminate, demote, reject for promotion or
112 otherwise punish an employee who, acting in good faith, makes any
113 report pursuant to sections 17b-450 to 17b-461, inclusive, or who
114 testifies in any administrative or judicial proceeding arising from such
115 report, except an employee who abuses a patient or resident, as
116 defined in section 30 of this act.

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

121 (h) Any person required to report under the provisions of this
122 section who fails to make such report shall be fined not more than five
123 hundred dollars.

124 Sec. 36. (NEW) (a) For purposes of this section, "license" means a
125 license, certification or permit to engage in a profession or occupation
126 regulated pursuant to the general statutes and issued by the
127 Department of Public Health and "licensing authority" means the
128 Department of Public Health.

129 (b) Whenever a person holding a license is convicted of a violation
130 of section 31, 32, 33, or 34 of this act, the clerk of the court shall
131 transmit a certificate of conviction to the appropriate licensing
132 authority.

133 (c) The licensing authority shall suspend or revoke the license of
134 such person for any period or permanently revoke the license of such
135 person.

136 (d) Each care facility, as defined in section 30 of this act, shall post in
137 a prominent location the reporting requirement established by section
138 17b-451 of the general statutes, as amended by this act. All employees,
139 owners, operators and health care providers who provide services in a
140 care facility shall be required to sign a form prescribed by the
141 Department of Public Health acknowledging such reporting
142 requirement. Such care facility shall retain such forms. Any care
143 facility that violates the provisions of this subsection shall be subject to
144 a civil penalty in an amount not exceeding seven thousand five
145 hundred dollars."