



General Assembly

Amendment

January Session, 2001

LCO No. 8469

Offered by:

SEN. PRAGUE, 19th Dist.

SEN. HARP, 10th Dist.

SEN. HARTLEY, 15th Dist.

REP. EBERLE, 15th Dist.

To: Subst. Senate Bill No. 312

File No. 801

Cal. No. 295

"AN ACT CONCERNING NURSING HOME CLOSURES."

1 After line 25, insert the following:

2 "Sec. 3. (NEW) As used in sections 31 to 36, inclusive, of this act:

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

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

6 (3) "Care facility" means any hospital, skilled nursing facility,
7 intermediate care facility, chronic and convalescent care facility, rest
8 home, care facility for the mentally retarded, psychiatric facility,
9 rehabilitation facility, assisted living service agency, home health
10 agency, ambulatory surgical or out-patient facility, home for the aged
11 or disabled, group home, adult foster care home, adult day care center
12 and any other health or resident care related facility or home, whether

13 publicly or privately funded.

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

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

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

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

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

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

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

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

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

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

41 entity.

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

48 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in
49 the first degree when such person knowingly commits abuse of a
50 patient or resident and causes serious physical injury to such patient or
51 resident.

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

53 Sec. 5. (NEW) (a) A person is guilty of patient or resident abuse in
54 the second degree when such person: (1) Knowingly commits abuse of
55 a patient or resident and causes physical injury to such patient or
56 resident, or (2) recklessly commits abuse of a patient or resident and
57 causes serious physical injury to such patient or resident.

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

59 Sec. 6. (NEW) (a) A person is guilty of patient or resident abuse in
60 the third degree when such person recklessly commits abuse of a
61 patient or resident and causes physical injury.

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

63 Sec. 7. (NEW) Any high managerial agent that knows that a patient
64 or resident of the care facility is being abused and subsequently fails to
65 promptly take corrective action shall be guilty of a class B felony.

66 Sec. 8. Section 17b-451 of the general statutes is repealed and the
67 following is substituted in lieu thereof:

68 (a) Any physician or surgeon licensed under the provisions of

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

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

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

99 (d) Any person who makes any report pursuant to sections 17b-450
100 to 17b-461, inclusive, or who testifies in any administrative or judicial
101 proceeding arising from such report shall be immune from any civil or

102 criminal liability on account of such report or testimony, except for
103 liability for perjury, unless such person acted in bad faith or with
104 malicious purpose.

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

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

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

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

123 Sec. 9. (NEW) (a) For purposes of this section, "license" means a
124 license, certification or permit to engage in a profession or occupation
125 regulated pursuant to the general statutes and issued by the
126 Department of Public Health and "licensing authority" means the
127 Department of Public Health.

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

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

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