



General Assembly

Amendment

January Session, 2001

LCO No. 8513

Offered by:

SEN. PRAGUE, 19th Dist.

SEN. HARP, 10th Dist.

SEN. HARTLEY, 15th Dist.

REP. EBERLE, 15th Dist.

To: Senate Bill No. 861

File No. 456

Cal. No. 326

"AN ACT CONCERNING NURSING HOME INSPECTIONS."

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- 1 In line 1, before "Section" insert "Section 1."
- 2 After line 13, insert the following and renumber the remaining
3 section accordingly:
- 4 "Sec. 2. (NEW) As used in sections 2 to 6, inclusive, of 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 service agency, home health

12 agency, ambulatory surgical or out-patient facility, home for the aged
13 or disabled, group home, adult foster care home, adult day care center
14 and any other health or resident care related facility or home, whether
15 publicly or privately funded.

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

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

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

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

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

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

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

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

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

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

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

50 Sec. 3. (NEW) (a) A person is guilty of patient or resident abuse in
51 the first degree when such person knowingly commits abuse of a
52 patient or resident and causes serious physical injury to such patient or
53 resident.

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

55 Sec. 4. (NEW) (a) A person is guilty of patient or resident abuse in
56 the second degree when such person: (1) Knowingly commits abuse of
57 a patient or resident and causes physical injury to such patient or
58 resident, or (2) recklessly commits abuse of a patient or resident and
59 causes serious physical injury to such patient or resident.

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

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

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

65 Sec. 6. (NEW) Any high managerial agent that knows that a patient
66 or resident of the care facility is being abused and subsequently fails to
67 promptly take corrective action shall be guilty of a class B felony.

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

70 (a) Any physician or surgeon licensed under the provisions of
71 chapter 370, any resident physician or intern in any hospital in this
72 state, whether or not so licensed, any registered nurse, any nursing
73 home administrator, nurse's aide or orderly in a nursing home facility,
74 any person paid for caring for a patient in a nursing home facility, any
75 staff person employed by a nursing home facility, any patients'
76 advocate and any licensed practical nurse, medical examiner, dentist,
77 optometrist, chiropractor, podiatrist, social worker, clergyman, police
78 officer, pharmacist, psychologist or physical therapist, who has
79 reasonable cause to suspect or believe that any elderly person or
80 resident, as defined in section 2 of this act, has been abused, neglected,
81 exploited or abandoned, or is in a condition which is the result of such
82 abuse, neglect, exploitation or abandonment, or who is in need of
83 protective services, shall within five calendar days report such
84 information or cause a report to be made in any reasonable manner to
85 the Commissioner of Social Services or to the person or persons
86 designated by the commissioner to receive such reports. [Any person
87 required to report under the provisions of this section who fails to
88 make such report shall be fined not more than five hundred dollars.]

89 (b) Such report shall contain the name and address of the involved
90 elderly person or resident, as defined in section 2 of this act,
91 information regarding the nature and extent of the abuse, neglect,
92 exploitation or abandonment, and any other information [which] that
93 the reporter believes might be helpful in an investigation of the case
94 and the protection of such elderly person or resident.

95 (c) Any other person having reasonable cause to believe that an
96 elderly person or resident, as defined in section 2 of this act, is being,
97 or has been, abused, neglected, exploited or abandoned, or who is in
98 need of protective services may report such information in any
99 reasonable manner to the commissioner or [his] the commissioner's
100 designee.

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

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

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

112 (f) No person shall terminate, demote, reject for promotion or
113 otherwise punish an employee who, acting in good faith, makes any
114 report pursuant to sections 17b-450 to 17b-461, inclusive, or who
115 testifies in any administrative or judicial proceeding arising from such
116 report, except an employee who abuses a patient or resident, as
117 defined in section 2 of this act.

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

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

125 Sec. 8. (NEW) (a) For purposes of this section, "license" means a
126 license, certification or permit to engage in a profession or occupation
127 regulated pursuant to the general statutes and issued by the
128 Department of Public Health and "licensing authority" means the
129 Department of Public Health.

130 (b) Whenever a person holding a license is convicted of a violation
131 of section 3, 4, 5, or 6 of this act, the clerk of the court shall transmit a
132 certificate of conviction to the appropriate licensing 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 2 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."