

2019 -- H 5573 AS AMENDED

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LC001788
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO HEALTH AND SAFETY -- ABUSE IN HEALTH CARE FACILITIES

Introduced By: Representatives Bennett, Jacquard, Edwards, Diaz, and Shanley

Date Introduced: February 27, 2019

Referred To: House Health, Education & Welfare

(Dept. of Elderly Affairs)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17.8-2 of the General Laws in Chapter 23-17.8 entitled "Abuse
2 in Health Care Facilities" is hereby amended to read as follows:

3 **23-17.8-2. Duty to report.**

4 (a) Any physician, [physician assistant](#), medical intern, registered nurse, licensed practical
5 nurse, nurse's aide, orderly, certified nursing assistant, medical examiner, dentist, optometrist,
6 optician, chiropractor, podiatrist, coroner, police officer, [probation officer](#), emergency medical
7 technician, fire-fighter, speech pathologist, audiologist, social worker, pharmacist, physical or
8 occupational therapist, or health officer, or any person, within the scope of their employment at a
9 facility or in their professional capacity, who has knowledge of or reasonable cause to believe that
10 a patient or resident in a facility has been abused, mistreated, or neglected, [either while in the](#)
11 [facility or prior to being admitted](#), shall make, within twenty-four (24) hours or by the end of the
12 next business day, a telephone report to the director of the department of health or his or her
13 designee for those incidents involving health care facilities, and in addition to the office of the
14 state long-term care ombudsperson for those incidents involving nursing facilities, assisted living
15 residences, home-care and home nursing-care providers, veterans' homes and long-term care units
16 in Eleanor Slater Hospital, or to the director of the department of behavioral healthcare,
17 developmental disabilities and hospitals or his or her designee for those incidents involving
18 community residences for people ~~who are mentally retarded or persons~~ with developmental
19 disabilities [or the director of the division on elderly affairs for individuals aged sixty \(60\) years or](#)

1 older. The report shall contain:

2 (1) The name, address, telephone number, occupation, and employer's address and the
3 phone number of the person reporting;

4 (2) The name and address of the patient or resident who is believed to be the victim of the
5 abuse, mistreatment, or neglect;

6 (3) The details, observations, and beliefs concerning the incident(s);

7 (4) Any statements regarding the incident made by the patient or resident and to whom
8 they were made;

9 (5) The date, time, and place of the incident;

10 (6) The name of any individual(s) believed to have knowledge of the incident;

11 (7) The name of any individual(s) believed to have been responsible for the incident;

12 (8) The name of the individual's caregiver, if known;

13 (9) Any medical treatment being received if immediately required and need to coordinate
14 care, if known;

15 (10) Any other information the reporter believes relevant to the investigation; and

16 (11) The name and address of the reporter and where the reporter can be contacted. The
17 reporter's identity shall remain confidential unless disclosure is consented to by the reporter or by
18 court order.

19 (b) In addition to those persons required to report pursuant to this section, any other
20 person may make a report if that person has reasonable cause to believe that a patient or resident
21 of a facility has been abused, mistreated, or neglected. Additional provisions for the reporting of
22 abuse of individuals regardless of where they reside in the community are set forth in § 42-66-8.

23 (c) Any person required to make a report pursuant to this section shall be deemed to have
24 complied with these requirements if a report is made to a high managerial agent of the facility in
25 which the alleged incident occurred. Once notified, the high managerial agent shall be required to
26 meet all reporting requirements of this section within the time frames specified by this chapter.

27 (d) Telephone reports made pursuant to ~~subsection (a)~~ this section shall be followed-up
28 within three (3) business days with a written report.

29 (e) Individuals required to report pursuant to this section shall, whenever practical and if
30 known, provide the division of elderly affairs twenty-four (24) hour notice of the discharge from
31 a facility, of any person subject to abuse or neglect and shall include any relevant address and
32 telephone number(s).

33 (f) No person required to report pursuant to this section shall be liable in any civil or
34 criminal action by reason of the report; provided, however, that the person did not perpetrate,

1 inflict or cause the abuse. No employer or supervisor may discharge, demote, transfer, reduce
2 pay, benefits or work privileges, prepare a negative work performance evaluation, or take any
3 other action detrimental to an employee or supervisee who files a report in accordance with the
4 provisions of this section by reason of the report.

5 SECTION 2. Section 42-66-8 of the General Laws in Chapter 42-66 entitled "Elderly
6 Affairs Department" is hereby amended to read as follows:

7 **42-66-8. Abuse, neglect, exploitation and self-neglect of elderly persons -- Duty to**
8 **report.**

9 (a) Any person who has reasonable cause to believe that any person sixty (60) years of
10 age or older has been abused, neglected, or exploited, or is self-neglecting, shall make an
11 immediate report to the director of the ~~department~~ division of elderly affairs, or his or her
12 designee, ~~or appropriate law enforcement personnel.~~ The division of elderly affairs may then
13 notify law enforcement if appropriate. This section applies to any person sixty (60) years of age
14 or older regardless of where he or she lives in the community.

15 (b) Any physician, physician assistant, medical intern, registered nurse, licensed practical
16 nurse, nurse's aide, orderly, certified nursing assistant, medical examiner, dentist, optometrist,
17 optician, chiropractor, podiatrist, coroner, police officer, probation officer, emergency medical
18 technician, firefighter, speech pathologist, audiologist, social worker, pharmacist, physical or
19 occupational therapist, or health officer, who has reasonable cause to believe that any person sixty
20 (60) years of age or older has been abused, neglected, or exploited, or is self-neglecting, shall
21 make an immediate report to the director of the division of elderly affairs, or his or her designee.
22 The division of elderly affairs may then notify law enforcement if appropriate. This section
23 applies to any person sixty (60) years of age or older regardless of where he or she lives in the
24 community. Reporting requirements relating to individuals in health care facilities are further set
25 forth in § 23-17.8-2. The report pursuant to this section shall contain:

26 (1) The name, address, telephone number, occupation, and employer's address and the
27 phone number of the person reporting;

28 (2) The name and address of the patient or resident who is believed to be the victim of the
29 abuse, mistreatment, or neglect;

30 (3) The details, observations, and beliefs concerning the incident(s);

31 (4) Any statements regarding the incident made by the patient or resident and to whom
32 they were made;

33 (5) The date, time, and place of the incident;

34 (6) The name of any individual(s) believed to have knowledge of the incident;

- 1 (7) The name of any individual(s) believed to have been responsible for the incident;
2 (8) The name of the individual's caretaker, if known;
3 (9) Any medical treatment being received if immediately required and need to coordinate
4 care, if known;
5 (10) Any other information the reporter believes relevant to the investigation; and
6 (11) The name and address of the reporter and where the reporter can be contacted.
7 Reporter's identity shall remain confidential unless disclosure is consented to by the reporter or
8 by court order.

9 (c) Individuals required to report pursuant to the provisions of subsection (b) of this
10 section shall, whenever practical and if known, provide twenty-four (24) hour notice of discharge
11 to the department and shall include the address and telephone number of the individual being
12 discharged.

13 (d) In cases of abuse, neglect, or exploitation, any person who fails to make the report
14 shall be punished by a fine of not more than one thousand dollars (\$1,000). Nothing in this
15 section shall require an elder who is a victim of abuse, neglect, exploitation or who is self-
16 neglecting, to make a report regarding such abuse, neglect, exploitation, or self-neglect to the
17 director ~~or his or her designee or appropriate law enforcement personnel.~~ of the division of
18 elderly affairs, or his or her designee. The division of elderly affairs may then notify law
19 enforcement if appropriate.

20 (e) No person required to report pursuant to the provisions of this section shall be liable
21 in any civil or criminal action by reason of the report; provided, however, that such person did not
22 perpetrate, inflict or cause said abuse. No employer or supervisor may discharge, demote,
23 transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation,
24 or take any other action detrimental to an employee or supervisee who files a report in accordance
25 with the provisions of this section by reason of such report.

26 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- ABUSE IN HEALTH CARE FACILITIES

1 This act would expand the duty to report abuse in health care facilities to physician
2 assistants and probation officers. It would expand the contents of any report to include additional
3 relevant information and would include certain reporting requirements in the elderly affairs
4 departments duty to report abuse of elderly requirement.

5 This act would take effect upon passage.

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