

ASSEMBLY COMMUNITY SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2426

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 9, 1997

The Assembly Community Services Committee reports favorably Assembly Bill No. 2426 with committee amendments.

As amended by the committee, this bill requires any employee of a State psychiatric hospital, who, as a result of information obtained in the course of his employment, has reasonable cause to suspect or believe that a patient is being or has been abused by any other employee of the hospital, by another patient in the hospital or by any other person, to report the information in a timely manner to a person designated by the Commissioner of Human Services. The bill also provides that any other person having reasonable cause to suspect or believe that a patient is being or has been abused may report the information to the person designated by the Commissioner of Human Services. Under the bill, employee includes a person employed by the State to work at a State psychiatric hospital or a person employed by a private entity under contract with the State to provide contracted services at a State psychiatric hospital.

The bill also requires any employee of a State psychiatric hospital who, as a result of information obtained in the course of his employment, has reasonable cause to suspect or believe that a clinical treatment staff or nursing direct care staff member working at the hospital has or is engaging in professional misconduct to report the information to a person designated by the Commissioner of Human Services.

The bill directs the Commissioner of Human Services to establish a patient abuse and professional misconduct reporting program for the State psychiatric hospitals. The program shall provide, at a minimum, that State psychiatric hospital employees are:

- (1) trained in recognizing probable incidents of or behavior that constitutes patient abuse or professional misconduct and other abuse prevention activities pursuant to Senate Bill No. 1543 (Codey/Martin) or Assembly Bill No. 2427 (DeCroce/Murphy) of 1996;
- (2) informed of their duty to report the suspected patient abuse or professional misconduct; and
- (3) provided with the name and phone number of the person

designated by the commissioner who shall be notified of any suspected patient abuse or professional misconduct.

The bill directs the commissioner to designate one or more employees of the Department of Human Services who are not employees of any of the State psychiatric hospitals to serve as a contact person for employees of State psychiatric hospitals to notify in the event an employee has reasonable cause to suspect patient abuse or professional misconduct.

The designated contact person will be required to report all reported incidents or allegations of patient abuse and professional misconduct to the Director of the Division of Mental Health Services, the Commissioner of Human Services, or their designees. The director shall conduct a prompt investigation of any report of patient abuse or professional misconduct and notify the Commissioner of Human Services of the results of the investigation.

The Director of the Division of Mental Health Services also will be required to promptly notify the appropriate State licensing or certifying authority or professional board, if any, having jurisdiction over a person who has been reported for professional misconduct, of the report by the hospital employee and the results of the director's investigation of the report.

The Director of the Division of Mental Health Services also shall promptly report all instances of suspected patient abuse, as determined by the director's investigation, to the county prosecutor of the county in which the hospital is located. The county prosecutor may conduct his own review of the suspected patient abuse and take any appropriate action. Also, the Human Services police officers may conduct their own investigation.

The bill provides that the name of any person who reports suspected patient abuse or professional misconduct shall not be disclosed, unless the person who reported the abuse or misconduct specifically requests the disclosure or a judicial proceeding results from the report. Also, a person who reports suspected abuse or professional misconduct or who testifies in any administrative or judicial proceeding arising from the report or testimony shall have immunity from any civil or criminal liability on account of the report or testimony, unless the person has acted in bad faith or with malicious purpose.

The bill provides that the penalty for failure to report in accordance with the bill shall be a fine of not more than \$5,000 for each violation and shall be enforced pursuant to Title 11A of the New Jersey Statutes, the "Civil Service Act." The penalty provision applies to persons who have completed the abuse prevention program pursuant to paragraph (2) of subsection c. of section 2 of Senate Bill No. 1543 (Codey/Martin) or Assembly Bill No. 2427 (DeCroce/Murphy) of 1996.

The provisions of this bill are intended to address problems cited in the report of the Senate Task Force on Greystone Park Psychiatric

Hospital (June 1996) regarding the reporting of incidents of patient abuse. The report noted that there is an apparent reluctance by staff and patients "to report instances of abuse for fear of retaliation. There appear to be practices of intimidation and fear of reprisals for initiating reports of abuse. It also appears that all allegations of sexual abuse at the hospital are not investigated in a prompt, independent manner." The reporting requirements in this bill are similar to those required of staff working with institutionalized elderly persons.

The committee amended the bill to allow the designated contact person to report patient abuse or professional misconduct to the Director of the Division of Mental Health Services, the Commissioner of Human Services, or their designees. Also, the committee amendments allow the county prosecutor the discretion to conduct his own review of suspected patient abuse, and clarify that the Human Services police officers may still conduct their own investigation.

In addition, the committee amended the penalty provision of the bill by requiring enforcement pursuant to Title 11A of the New Jersey Statutes, and by providing that the penalty is applicable to persons after they have completed the abuse prevention program.

Lastly, the bill includes a technical amendment to reflect the bill numbers for the legislation concerning abuse prevention training which is pending before the Legislature as Senate Bill No. 1543 (Codey/Martin) or Assembly Bill No. 2427 (DeCroce/Murphy) of 1996.

This bill is identical to Senate Bill No. 1542 (1R), which was released by this committee on this date.