

## CHAPTER 70

AN ACT establishing a system for reporting patient abuse and professional misconduct at State psychiatric hospitals and supplementing Title 30 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.30:4-3.15 Definitions relative to reporting patient abuse, professional misconduct.

1. For the purposes of this act:

"Clinical treatment staff" means a physician, psychiatrist, psychologist, physical therapist or social worker licensed pursuant to Title 45 of the Revised Statutes, an occupational, recreation, art or music therapist or a substance abuse counselor.

"Employee" means 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.

"Nursing direct care staff" means a Human Services Assistant, Human Services Technician, or a nurse licensed pursuant to Title 45 of the Revised Statutes.

"State psychiatric hospital" means a psychiatric hospital listed in R.S.30:1-7.

C.30:4-3.16 Report of abuse of patient.

2. a. 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, shall report the information in a timely manner to the person designated by the Commissioner of Human Services pursuant to this act to receive the report.

b. 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 pursuant to this act to receive the report.

c. The report shall contain the name of the patient, the name of the psychiatric hospital and the unit to which the patient is assigned, if known, information regarding the nature of the suspected abuse and any other information which might be helpful in an investigation of the case and the protection of the patient.

C.30:4-3.17 Report of professional misconduct.

3. 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 shall report the information to the person designated by the Commissioner of Human Services pursuant to this act to receive the report.

The report shall contain the name of the staff member, the name of the psychiatric hospital and the unit to which the staff member is assigned, information regarding the nature of the suspected professional misconduct and any other information which might be helpful in an investigation of the case.

C.30:4-3.18 Patient abuse, professional misconduct reporting program.

4. The Commissioner of Human Services shall establish a patient abuse and professional misconduct reporting program for the State psychiatric hospitals.

a. 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 P.L. , c. (C. )(pending before the Legislature as Senate Bill No.1543 or Assembly Bill No. 2427 of 1996);

(2) informed of the duty to report the suspected patient abuse or professional misconduct pursuant to this act; 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.

b. The commissioner shall 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 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, or has any information concerning suspected professional misconduct by a clinical treatment staff or nursing direct care staff member working at the hospital.

c. The designated contact person shall 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 cause 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.

d. The Director of the Division of Mental Health Services, in a case in which professional misconduct is suspected, shall promptly notify the appropriate State licensing or certifying authority or professional board, if any, having jurisdiction over the person who has been reported, of the report by the hospital employee and the results of the director's investigation of the report.

e. The Director of the Division of Mental Health Services shall promptly report all instances of suspected patient abuse, as determined by the director's investigation of a report by an employee of a State psychiatric hospital, to the county prosecutor of the county in which the hospital is located. The report to the county prosecutor shall be in accordance with regulations adopted by the Commissioner of Human Services in consultation with the County Prosecutors Association of New Jersey and the Attorney General.

f. Upon receipt of a report pursuant to subsection e. of this section, the county prosecutor may conduct his own review of the suspected patient abuse and take any appropriate action.

g. Nothing in this section shall preclude the Human Services police officers from conducting an investigation.

C.30:4-3.19 Disclosure of name of person reporting patient abuse, professional misconduct; prohibited; immunity.

5. a. The name of any person who reports suspected patient abuse or professional misconduct pursuant to this act 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.

b. A person who reports suspected abuse or professional misconduct pursuant to this act 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.

C.30:4-3.20 Failure to report, penalty.

6. Any person required to report suspected patient abuse or professional misconduct pursuant to this act who fails to make the report shall be liable to a penalty of not more than \$5,000, after that person has completed the abuse prevention program pursuant to paragraph (2) of subsection c. of section 2 of P.L. , c. (C. )(pending before the Legislature as Senate Bill No. 1543 or Assembly Bill No. 2427 of 1996. The penalty shall be collected and enforced pursuant to Title 11A of the New Jersey Statutes. Each violation of this act shall constitute a separate offense.

C.30:4-3.21 Regulations.

7. The Commissioner of Human Services shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

8. This act shall take effect 60 days after the date of enactment.

Approved April 16, 1997.