

SENATE, No. 1542

STATE OF NEW JERSEY

INTRODUCED OCTOBER 3, 1996

By Senators BASSANO, CODEY, Martin and MacInnes

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

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

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8 1. For the purposes of this act:

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

13 "Employee" means a person employed by the State to work at a
14 State psychiatric hospital or a person employed by a private entity
15 under contract with the State to provide contracted services at a State
16 psychiatric hospital.

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

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

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23 2. a. Any employee of a State psychiatric hospital, who, as a result
24 of information obtained in the course of his employment, has
25 reasonable cause to suspect or believe that a patient is being or has
26 been abused by any other employee of the hospital, by another patient
27 in the hospital or by any other person, shall report the information in
28 a timely manner to the person designated by the Commissioner of
29 Human Services pursuant to this act to receive the report.

30 b. Any other person having reasonable cause to suspect or believe
31 that a patient is being or has been abused may report the information
32 to the person designated by the Commissioner of Human Services
33 pursuant to this act to receive the report.

34 c. The report shall contain the name of the patient, the name of the
35 psychiatric hospital and the unit to which the patient is assigned, if
36 known, information regarding the nature of the suspected abuse and

1 any other information which might be helpful in an investigation of the
2 case and the protection of the patient.

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4 3. Any employee of a State psychiatric hospital who, as a result of
5 information obtained in the course of his employment, has reasonable
6 cause to suspect or believe that a clinical treatment staff or nursing
7 direct care staff member working at the hospital has or is engaging in
8 professional misconduct shall report the information to the person
9 designated by the Commissioner of Human Services pursuant to this
10 act to receive the report.

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

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

20 a. The program shall provide, at a minimum, that State psychiatric
21 hospital employees are:

22 (1) trained in recognizing probable incidents of or behavior that
23 constitutes patient abuse or professional misconduct and other abuse
24 prevention activities pursuant to P.L. , c. (C.)(pending before the
25 Legislature as Senate, No. of 1996);

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

28 (3) provided with the name and phone number of the person
29 designated by the commissioner who shall be notified of any suspected
30 patient abuse or professional misconduct.

31 b. The commissioner shall designate one or more employees of the
32 Department of Human Services who are not employees of any of the
33 State psychiatric hospitals to serve as a contact person for employees
34 of State psychiatric hospitals to notify in the event an employee has
35 reasonable cause to suspect that a patient is being or has been abused
36 by any other employee of the hospital, by another patient in the
37 hospital or by any other person, or has any information concerning
38 suspected professional misconduct by a clinical treatment staff or
39 nursing direct care staff member working at the hospital.

40 c. The designated contact person shall report all reported incidents
41 or allegations of patient abuse and professional misconduct to the
42 Director of the Division of Mental Health Services. The director shall
43 cause a prompt investigation of any report of patient abuse or
44 professional misconduct and notify the Commissioner of Human
45 Services of the results of the investigation.

46 d. The Director of the Division of Mental Health Services, in a case

1 in which professional misconduct is suspected, shall promptly notify
2 the appropriate State licensing or certifying authority or professional
3 board, if any, having jurisdiction over the person who has been
4 reported, of the report by the hospital employee and the results of the
5 director's investigation of the report.

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

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

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18 5. a. The name of any person who reports suspected patient abuse
19 or professional misconduct pursuant to this act shall not be disclosed,
20 unless the person who reported the abuse or misconduct specifically
21 requests the disclosure or a judicial proceeding results from the report.

22 b. A person who reports suspected abuse or professional
23 misconduct pursuant to this act or who testifies in any administrative
24 or judicial proceeding arising from the report or testimony shall have
25 immunity from any civil or criminal liability on account of the report
26 or testimony, unless the person has acted in bad faith or with malicious
27 purpose.

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29 6. Any person required to report suspected patient abuse or
30 professional misconduct pursuant to this act who fails to make the
31 report shall be liable to a penalty of not more than \$5,000. The
32 penalty shall be collected and enforced by summary proceedings
33 pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.
34 Each violation of this act shall constitute a separate offense.

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

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

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STATEMENT

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45 This bill requires any employee of a State psychiatric hospital, who,
46 as a result of information obtained in the course of his employment,

1 has reasonable cause to suspect or believe that a patient is being or has
2 been abused by any other employee of the hospital, by another patient
3 in the hospital or by any other person, to report the information in a
4 timely manner to a person designated by the Commissioner of Human
5 Services. The bill also provides that any other person having
6 reasonable cause to suspect or believe that a patient is being or has
7 been abused may report the information to the person designated by
8 the Commissioner of Human Services. Under the bill, employee
9 includes a person employed by the State to work at a State psychiatric
10 hospital or a person employed by a private entity under contract with
11 the State to provide contracted services at a State psychiatric hospital.

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

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

23 (1) trained in recognizing probable incidents of or behavior that
24 constitutes patient abuse or professional misconduct and other abuse
25 prevention activities;

26 (2) informed of their duty to report the suspected patient abuse or
27 professional misconduct; and

28 (3) provided with the name and phone number of the person
29 designated by the commissioner who shall be notified of any suspected
30 patient abuse or professional misconduct.

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

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

43 The Director of the Division of Mental Health Services also will be
44 required to promptly notify the appropriate State licensing or
45 certifying authority or professional board, if any, having jurisdiction
46 over a person who has been reported for professional misconduct, of

1 the report by the hospital employee and the results of the director's
2 investigation of the report.

3 The Director of the Division of Mental Health Services also shall
4 promptly report all instances of suspected patient abuse, as determined
5 by the director's investigation, to the county prosecutor of the county
6 in which the hospital is located. The county prosecutor is directed to
7 conduct his own review of the suspected patient abuse and take any
8 appropriate action.

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

19 The bill provides that the penalty for failure to report in accordance
20 with the bill shall be a fine of not more than \$5,000 for each violation.

21 The provisions of this bill are intended to address problems cited in
22 the report of the Senate Task Force on Greystone Park Psychiatric
23 Hospital (June 1996) regarding the reporting of incidents of patient
24 abuse. The report noted that there is an apparent reluctance by staff
25 and patients "to report instances of abuse for fear of retaliation. There
26 appear to be practices of intimidation and fear of reprisals for initiating
27 reports of abuse. It also appears that all allegations of sexual abuse at
28 the hospital are not investigated in a prompt, independent manner."
29 The reporting requirements in this bill are similar to those required of
30 staff working with institutionalized elderly persons.

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36 Requires reporting of patient abuse and professional misconduct by
37 employees of State psychiatric hospitals and establishes reporting and
investigation program in DHS.