

## CHAPTER 174

[Engrossed Senate Bill No. 3131]  
PATIENT ABUSE, STATE HOSPITALS

AN ACT Relating to patient abuse; amending section 1, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.010; amending section 2, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.020; amending section 3, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.030; amending section 4, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.040; amending section 6, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.060; and amending section 9, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.090.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.010 are each amended to read as follows:

(1) The Washington state legislature finds and declares that a reporting system is needed to protect nursing home and state hospital patients from abuse. Instances of nonaccidental injury, neglect, death, sexual abuse, and cruelty to ~~((nursing home))~~ such patients have occurred, and in the instance where such a ~~((nursing home))~~ patient is deprived of his or her right to conditions of minimal health and safety, the state is justified in emergency intervention based upon verified information. Therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities.

(2) It is the intent of the legislature that: (a) As a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of the patients; and (b) such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious, or erroneous information or actions.

Sec. 2. Section 2, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.020 are each amended to read as follows:

Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Court" means the superior court of the state of Washington.

(2) "Law enforcement agency" means the police department, ~~((the prosecuting attorney,))~~ the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, pharmacy, physical therapy, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a nurses aide, a nursing home administrator licensed under chapter 18.52 RCW, and a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home patient who is being furnished Christian Science treatment

by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected patient for the purposes of this chapter.

(4) "Department" means the state department of social and health services.

(5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

(6) "Social worker" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of nursing home patients, or providing social services to nursing home patients, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(7) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(8) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Abuse or neglect" or "patient abuse or neglect" means the nonaccidental physical injury or condition, sexual abuse, or negligent treatment of a nursing home or state hospital patient under circumstances which indicate that the patient's health, welfare, and safety is harmed thereby.

(10) "Negligent treatment" means an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the patient's health, welfare, and safety.

(11) "State hospital" means any hospital operated and maintained by the state for the care of the mentally ill under chapter 72.23 RCW.

Sec. 3. Section 3, chapter 228, Laws of 1979 ex. sess. and RCW 70.124.030 are each amended to read as follows:

(1) When any practitioner, social worker, psychologist, pharmacist, employee of a nursing home, employee of a state hospital, or employee of the department has reasonable cause to believe that a nursing home or state hospital patient has suffered abuse or neglect, the person shall report such incident, or cause a report to be made, to either a law enforcement agency or to the department as provided in RCW 70.124.040.

(2) Any other person who has reasonable cause to believe that a nursing home or state hospital patient has suffered abuse or neglect may report such incident to either a law enforcement agency or to the department as provided in RCW 70.124.040.

(3) The department or any law enforcement agency receiving a report of an incident of abuse or neglect involving a nursing home or state hospital patient who has died or has had physical injury or injuries inflicted other than by accidental means or who has been subjected to sexual abuse shall report the incident to the proper county prosecutor for appropriate action.

Sec. 4. Section 4, chapter 228, Laws of 1979 ex. sess. and RCW 70-124.040 are each amended to read as follows:

(1) Where a report is deemed warranted under RCW 70.124.030, an immediate oral report shall be made by telephone or otherwise to either a law enforcement agency or to the department and, upon request, shall be followed by a report in writing. The reports shall contain the following information, if known:

- (a) The name and address of the person making the report;
  - (b) The name and address of the nursing home or state hospital patient;
  - (c) The name and address of the ((nursing-home)) patient's relatives having responsibility for the patient;
  - (d) The nature and extent of the injury or injuries;
  - (e) The nature and extent of the neglect;
  - (f) The nature and extent of the sexual abuse;
  - (g) Any evidence of previous injuries, including their nature and extent;
- and

(h) Any other information which may be helpful in establishing the cause of the ((nursing-home)) patient's death, injury, or injuries, and the identity of the perpetrator or perpetrators.

(2) Each law enforcement agency receiving such a report shall, in addition to taking the action required by RCW 70.124.050, immediately relay the report to the department and to other law enforcement agencies, as appropriate. For any report it receives, the department shall likewise take the required action and in addition relay the report to the appropriate law enforcement agency or agencies. The appropriate law enforcement agency or agencies shall receive immediate notification when the department, upon receipt of such report, has reasonable cause to believe that a criminal act has been committed.

Sec. 5. Section 6, chapter 228, Laws of 1979 ex. sess. and RCW 70-124.060 are each amended to read as follows:

(1) A person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged patient abuse or neglect in a judicial proceeding shall in so doing be immune from any liability, civil or criminal, arising out of such reporting or testifying under any law of this state or its political subdivisions, and if such person is an employee of a nursing home or state hospital it shall be an unfair practice under chapter 49.60 RCW for the employer to dismiss said employee for such activity.

(2) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) or (4) or 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

Sec. 6. Section 9, chapter 228, Laws of 1979 ex. sess. and RCW 70-124.090 are each amended to read as follows:

In the adoption of rules under the authority of this chapter, the department shall provide for the publication and dissemination to nursing homes, state hospitals, and nursing home and state hospital employees and the posting where appropriate by nursing homes and state hospitals of informational, educational, or training materials calculated to aid and assist in achieving the objectives of this chapter.

Passed the Senate April 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

## CHAPTER 175

[Substitute Senate Bill No. 3415]

### HEALTH CARE SERVICE CONTRACTS, REGISTERED NURSES' SERVICES

AN ACT Relating to health care contracts; and adding a new section to chapter 48.44 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 48.44 RCW a new section to read as follows:

Notwithstanding any provision of this chapter, for any health care service contract thereunder which is entered into or renewed after the effective date of this act, benefits shall not be denied under such contract for any health care service performed by a holder of a license issued pursuant to chapter 18.88 RCW if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: **PROVIDED, HOWEVER,** That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section: **AND PROVIDED FURTHER,** That no part of this section shall apply to agreements entered into or renewed by a health maintenance organization which provides comprehensive health care services directly to enrolled participants of such organization on a group practice per capita prepayment basis, and which is a health maintenance organization registered under chapter 48.46 RCW or a federally qualified health maintenance organization.

The provisions of this section are intended to be remedial and procedural to the extent that they do not impair the obligation of any existing contract.

Passed the Senate March 18, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.