

Section 1. Section 36.48.090, chapter 4, Laws of 1963 as last amended by section 1, chapter 63, Laws of 1977 and RCW 36.48.090 are each amended to read as follows:

Whenever ~~((any person has in his custody as))~~ the clerk of the superior court ~~((any))~~ has funds held in trust for any litigant or for any purpose, they shall be deposited in a separate fund designated "clerk's trust fund," and shall not be commingled with any public funds~~((, and in case any interest is paid upon any such "clerk's trust fund" so deposited, it shall be paid to the beneficiary of such trust upon the termination thereof))~~. ~~((However)),~~ The clerk may invest the funds in any of the investments authorized by RCW 36.29.020. The clerk shall place the income from such investments in the county current expense fund to be used by the county for general county purposes unless (1) the funds being held in trust in a particular matter are two thousand dollars or more, and (2) a litigant in the matter has filed a written request that such investment be made of the funds being held in trust and the income be paid to the beneficiary. In such an event, any income from such investment shall be paid to the beneficiary of such trust upon the termination thereof: **PROVIDED**, That five percent of the income shall be deducted by the clerk as an investment service fee and placed in the county current expense fund to be used by the county for general county purposes.

~~((Litigants who have appeared in matters where funds being held in trust are two thousand dollars or more shall be entitled to written notice of the provisions of this section from the clerk, if they have made no written request as stated in this section within thirty days of receipt of the funds by the clerk, and if such litigants have not previously received such notice:))~~ In any matter where funds are held in the clerk's trust fund, any litigant who is not represented by an attorney and who has appeared in matters where the funds held are two thousand dollars or more shall receive written notice of the provisions of this section from the clerk.

Passed the Senate May 30, 1979.

Passed the House May 29, 1979.

Approved by the Governor June 15, 1979.

Filed in Office of Secretary of State June 15, 1979.

CHAPTER 228

[Engrossed Senate Bill No. 2338]

NURSING HOME PATIENTS—ABUSE OR NEGLECT—REPORTS

AN ACT Relating to nursing homes; amending section 7, chapter 117, Laws of 1951 as last amended by section 2, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.060; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. Section 1. (1) The Washington state legislature finds and declares that a reporting system is needed to protect nursing home patients from abuse. Instances of nonaccidental injury, neglect, death, sexual abuse, and cruelty to nursing home patients have occurred, and in the instance where 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.

NEW SECTION. Sec. 2. 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 physical injury or condition, sexual abuse, or negligent treatment of a nursing home 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.

NEW SECTION. Sec. 3. (1) When any practitioner, social worker, psychologist, pharmacist, employee of a nursing home, or employee of the department has reasonable cause to believe that a nursing home 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 section 4 of this act.

(2) Any other person who has reasonable cause to believe that a nursing home patient has suffered abuse or neglect may report such incident to either a law enforcement agency or to the department as provided in section 4 of this act.

(3) The department or any law enforcement agency receiving a report of an incident of abuse or neglect involving a nursing home 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.

NEW SECTION. Sec. 4. (1) Where a report is deemed warranted under section 3 of this act, 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 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 section 5 of this act, 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.

NEW SECTION. Sec. 5. Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it is the duty of the law enforcement agency and the department to commence an investigation within twenty-four hours of such receipt and, where appropriate, submit a report to the appropriate prosecuting attorney. In all cases investigated by the department a report to the complainant shall be made by the department.

NEW SECTION. Sec. 6. (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 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.

NEW SECTION. Sec. 7. A person who is required to make or to cause to be made a report pursuant to sections 3 or 4 of this act and who knowingly fails to make such report or fails to cause such report to be made is guilty of a misdemeanor.

NEW SECTION. Sec. 8. The department shall forward to the appropriate state licensing authority a copy of any report received pursuant to this chapter which alleges that a person who is professionally licensed by this state has abused or neglected a patient.

NEW SECTION. Sec. 9. In the adoption of rules under the authority of this chapter, the department shall provide for the publication and dissemination to nursing homes and nursing home employees and the posting where appropriate by nursing homes of informational, educational, or training materials calculated to aid and assist in achieving the objectives of this chapter.

Sec. 10. Section 7, chapter 117, Laws of 1951 as last amended by section 2, chapter 99, Laws of 1975 1st ex. sess. and RCW 18.51.060 are each amended to read as follows:

The department is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary

penalties of a civil nature not to exceed (~~five hundred~~) one thousand dollars per violation in any case in which it finds that the applicant, or licensee, or any partner, officer, director, owner of (~~ten~~) five percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the standards, rules and regulations established hereunder; or

(2) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled; or

(3) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department; or

(4) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or the standards, rules, and regulations promulgated hereunder; or

(7) Failed to report patient abuse or neglect in violation of chapter ... RCW (sections 1 through 9 of this act); or

(8) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final: PROVIDED, That in no event shall the department assess a civil monetary penalty authorized pursuant to this section or post the said premises as provided in RCW 18.51.260 or include in the report required pursuant to RCW 18.51.270 during any period in which it has not (~~fully~~) reasonably implemented and funded its cost-related reimbursement system for public patients.

NEW SECTION. Sec. 11. Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 12. If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate May 25, 1979.

Passed the House May 23, 1979.

Approved by the Governor June 15, 1979.

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