

By Mr. Minahan of Wakefield, petition of Alfred A. Minahan, Jr., Doris Bunte, James R. Miceli, Richard L. Walsh and others relative to the reporting of abuse of persons in rest homes and similar institutions. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT PROVIDING FOR THE REPORTING OF ABUSE OF PERSONS IN NURSING INSTITUTIONS NAMELY LONG TERM CARE FACILITIES, SKILLED NURSING FACILITIES, INTERMEDIATE CARE FACILITIES, AND REST HOMES.

Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by inserting
2 after section 73A the following sections: —

3 *Section 73B.* Any physician, nurse, medical intern, social
4 worker, dentist, podiatrist, optometrist, psychologist, or psychia-
5 trist, who, in his professional capacity, shall have reasonable cause
6 to believe that a person residing in a nursing facility is suffering from
7 dehydration, malnutrition, physical, emotional, mental or sexual
8 abuse or neglect shall report such condition to the Department of
9 Public Health within 24 hours. Any nursing home administrator,
10 nurse, aide, or any non-professional staff member shall report
11 abuse, maltreatment or neglect as listed above to the Department of
12 Public Health. Any person who fails to report injury, abuse, mal-
13 treatment or neglect or previous injury, etc., shall be punished by a
14 fine of not more than \$1,000.00.

15 *Section 73C.* Said report shall contain name, age, and sex of
16 resident, the nature and extent of injury including evidence of any
17 prior injury and whatever action was taken to treat or otherwise
18 assist the person. No person, so required to report, shall be liable in
19 any civil or criminal action by reason of such report to the Depart-
20 ment of Public Health.

21 Whatever action is necessary will be taken by the Department of
22 Public Health as soon as possible after receipt of a report. The
23 Department of Public Health shall investigate and evaluate the
24 information reported within twenty-four hours if the Department
25 has reasonable cause to believe the resident's health or safety is in
26 danger from further abuse or neglect. In all other cases report must
27 be made within five days.

28 Such investigations shall include determinations and evaluations
29 in writing, which shall be forwarded to the attorney general within a
30 reasonable time. The attorney general shall give precedence to cases
31 of residents suffering physical or emotional damage and promulgate
32 regulations to implement the provisions of sections seventy-three B
33 through seventy-three E, inclusive.

34 *Section 73D.* The department shall maintain a file of the written
35 reports prepared pursuant to this section and sections seventy-three
36 B to seventy-three E, inclusive. Such written reports shall be confi-
37 dential. The resident, or counsel, the reporting person or agency, the
38 appropriate review board, or a social worker assigned to the case,
39 may, upon request, and upon the approval of the commissioner,
40 receive a copy of the written report of the initial investigation. No
41 such report shall be made available to any persons other than those
42 enumerated in this section without the written and informed consent
43 of the resident, the written approval of the commissioner, or an
44 order of a court of competent jurisdiction.

45 The name and all other identifying information relating to any
46 resident, or to his facility, shall be removed from said reports ninety
47 days after the department determines that the allegation of serious
48 physical or emotional injury resulting from an abuse or neglect cannot
49 be substantiated.

50 Any person employed in the central registry who permits the data
51 and information stored in the registry to be released without
52 authorization to persons or agencies other than those specified in the
53 rules and regulations shall be punished by a fine of not more than one
54 thousand dollars or by imprisonment for not more than two and one
55 half years, or both.

56 *Section 73E.* The department shall maintain a central registry of
57 information sufficient to identify residents whose names are report-
58 ed pursuant to section seventy-three B or seventy-three C. Data and

59 information relating to individual cases in the central registry shall
60 be confidential and shall be made available only with the approval of
61 the commissioner or upon court order. The commissioner shall
62 establish rules and regulations governing the availability of such
63 data and information. The name and all other identifying character-
64 istics relating to any resident which is contained in the central
65 registry, or to his facility, shall be removed ninety days after the
66 department determines, after investigation, that the allegations of
67 serious physical or emotional injury resulting from abuse or neglect
68 cannot be substantiated.

69 Any person who permits any information in the files to be released
70 to persons or agencies other than those specified in this section shall
71 be punished by a fine of not more than one thousand dollars or by
72 imprisonment for not more than two and one half years, or both.

