

REPORTING REQUIREMENT FOR NURSING HOMES

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Senate Bill 462

Sponsor: Sen. Steven Bieda

House Committee: Families, Children, and Seniors

Senate Committee: Families, Seniors, and Human Services

Complete to 4-23-12

A SUMMARY OF SENATE BILL 462 AS PASSED BY THE SENATE 11-3-11

Under the Public Health code, a nursing home employee "who becomes aware" of any physical, mental, or emotional abuse, mistreatment, or harmful neglect of a patient must report the matter to the nursing home administrator or nursing director. Senate Bill 462 would also require the employee to report to the Department of Licensing and Regulatory Affairs. (LARA). Further, the bill removes "becomes aware" and replaces it with "has reasonable suspicion."

The bill is an amendment to Part 217 (Nursing Homes) of the Public Health Code. It would also do the following:

- Require a nursing home administrator or nursing director, and a physician or other licensed health care personnel of a hospital, who had reasonable suspicion of the abuse, mistreatment, or harmful neglect of a patient to report to one or more law enforcement agencies, in addition to LARA.
- Prohibit nursing home employees from evicting, harassing, dismissing, or retaliating against a patient, a patient's representative, or another employee who makes a report described above. Currently, this prohibition applies to licensees or nursing home administrators.
- Delete a requirement that LARA notify the Department of Human Services when a nursing home administrator or nursing director reports a matter described above to LARA.

Under the bill, an individual required to report a reasonable suspicion of a prohibited act would have to report it as follows:

- Immediately, but not more than two hours after forming the suspicion, if the act resulted in serious bodily injury to the patient.
- Not more than 24 hours after forming the suspicion, if the act did not result in serious bodily injury.

Also, an individual would not be required to report an act or suspicion if he or she knew that another person already had done so.

FISCAL IMPACT:

SB 462 could have a negative fiscal impact on the Bureau of Health Systems (BHS) and state and local law enforcement agencies.

By replacing "becomes aware" with "reasonable suspicion," SB 462 may be interpreted by nursing home employees, administrators, and health care licensees to broaden the obligation to report potential abuse, mistreatment, or neglect, increasing the number of reports filed with the BHS and thus increasing expenses.

In compliance with the federal Affordable Care and Patient Protection Act, SB 462 mandates the reporting of suspected abuse, mistreatment, or neglect to law enforcement agencies. Currently, the BHS notifies law enforcement agencies of any criminal actions. Requiring nursing home administrators and health care licensees to report **all** suspected abuse, mistreatment, or neglect to law enforcement agencies would likely increase expenses for these agencies.

In FY 2011, the BHS received 4,571 reports from nursing home employees, administrators, and health care licensees alleging 4,669 incidents of abuse, mistreatment, or neglect. Some 1,564 of these allegations were substantiated through BHS investigation which determined noncompliance with state law and 2,206 were resolved without BHS investigation. For allegations involving immediate jeopardy of serious injury or death, the BHS conducted investigations within an average of 2.2 days. The BHS conducted investigations into allegations not pertaining to serious injury or death within an average of 17.4 days.

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