
A. Conduct

1. **Neglect**: means the failure by an employee, through action or inaction, to provide a department client with the services necessary to maintain such client's physical and mental health and safety. *Conn. Gen. Stat. §17a-247a(8)*

2. **Abuse**: means the willful infliction by an employee of physical pain or injury or the willful deprivation of services necessary to the physical and mental health and safety of a department client. *Conn. Gen. Stat. §17a-247a(1)*

3. **Substantiated abuse or neglect**: means a determination by an authorized agency, following an investigation conducted or monitored by such agency, that (A) abuse or neglect of a department client has occurred, or (B) there has been a criminal conviction of a felony or misdemeanor involving abuse or neglect. *Conn. Gen. Stat. §17a-247a(11)*

B. Vulnerable Adults

An elderly person shall be deemed to be "in need of protective services" if such person is unable to perform or obtain services which are necessary to maintain physical and mental health. *Conn. Gen. Stat. § 17b-450(2)*

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1. Conn. Gen. Stat. §17b-450 *et seq.* is a separate statute detailing Protective Services for the Elderly, but is not specific to long-term care or nursing facilities.

2. Definitions are provided by the Department of Developmental Services, they do not fall under the Department of Social Services or the Protective Services for the Elderly statute.
C. Persons/Entities Excluded From Statute

Any person who makes a report or complaint pursuant to §17b-407 or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability on account of such report or complaint or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose. §17b-407(e)

D. Reporting Requirements³

1. Any physician or surgeon licensed under the provisions of chapter 370,

2. Any resident physician or intern in any hospital in this state, whether or not so licensed,

3. Any registered nurse, licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, social worker, clergymen, police officer, pharmacist, physical therapist, long-term care facility administrator, nurse's aide or orderly in a long-term care facility,

4. Any person paid for caring for a patient in a long-term care facility,

5. Any staff person employed by a long-term care facility and any person who is a sexual assault counselor or a domestic violence counselor as defined in section 52-146k,

6. Who has reasonable cause to suspect or believe that a resident in a long-term care facility has been abused, neglected, exploited or abandoned, or is in a condition that is the result of such abuse, neglect, exploitation or abandonment,

7. Shall, not later than seventy-two hours after such suspicion or belief arose, report such information or cause a report to be made in any reasonable manner to the Commissioner of Social Services pursuant to chapter 319dd.

8. Such report shall contain the name and address of the long-term care facility, the name of the involved resident, information regarding the nature and extent of the abuse, neglect, exploitation or abandonment and any other information which the reporter believes might be helpful in an investigation of the case and for the protection of the resident.

E. Reporting Requirements for Those Not Addressed in §17b-407(a)

Any other person having reasonable cause to believe that a resident in a long-term care facility is being, or has been, abused, neglected, exploited or abandoned, or any person who wishes to file any other complaint regarding a long-term care

³ Conn. Gen. Stat. §17b-407(a)
facility, shall report such information in accordance with subsection (b) (see item 8 above) in any reasonable manner to the Commissioner of Social Services who shall inform the resident of the services of the Office of the Long-Term Care Ombudsman.  

Conn. Gen. Stat §17b-407(c)

F. Privacy of Reports

Reports or complaints shall not be deemed a public record. Information derived from such reports or complaints for which reasonable grounds are determined to exist after investigation, including the identity of the long-term care facility, the number of complaints received, the number of complaints substantiated and the types of complaints, may be disclosed by the Commissioner of Social Services, except that in no case shall the name of the resident or the complainant be revealed, unless such person specifically requests such disclosure or unless a judicial proceeding results from such report or complaint.  

Conn. Gen. Stat §17b-407(d)

G. Criminal Provision

Any person required to report under § 17b-407 who fails to make such report within the prescribed time period shall be fined not more than five hundred dollars, except that, if such person intentionally fails to make such report within the prescribed time period, such person shall be guilty of a class C misdemeanor for the first offense and a class A misdemeanor for any subsequent offense.  

Conn. Gen. Stat §17b-407(a)

H. Retaliation

Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report or complaint shall be entitled to all remedies available under law.  

Conn. Gen. Stat §17b-407(f)

I. Notification and Maintenance of Reports

1. The person filing a report or complaint shall be notified of the findings of any investigation conducted by the Commissioner of Social Services, upon request.

2. The Commissioner of Social Services shall maintain a registry of the reports received, the investigations made, the findings and the actions recommended and taken.

J. Statute of Limitations:

1. For negligence, misconduct, and malpractice: 2 years –  

Conn. Gen. Stat. §52-584

4 Conn. Gen. Stat. §17b-407(g,h)
2. For intentional torts: 3 years - *Conn. Gen. Stat. §52-577*

3. For injuries that result in death – 5 years - *Conn. Gen. Stat. §52-555*


**L. Can Regulations Establish Standard of Care:**

*Yes.* In Connecticut, “if a plaintiff alleges that a statute, ordinance or regulation has been violated, thereby relying on negligence per se, and also alleges that there is a causal connection between such negligence and the injuries sustained, a cause of action has been stated.” *Parker by Yerkes v. Nelson*, 1997 Conn. Super. LEXIS 1638 (Conn. Super. Ct. June 13, 1997).

Furthermore, although there is reluctance on the part of courts to imply private causes of action in federal statutes, the federal principles do not preclude a state common law negligence action premised on a breach of statute. In *Hebert v. Frontier of Northeast Conn., Inc.*, the regulations cited all pertained to the minimum standard of care a Medicare nursing home is required to provide. The decedent was a patient in the defendant's nursing home. The regulations cited by the plaintiff were intended to prevent the injuries allegedly suffered by the decedent. The decedent was, therefore, a member of the class protected by the statute and the statute was intended to prevent the type of injuries she allegedly suffered. 2004 Conn. Super. LEXIS 229 (Conn. Super. Ct. Jan. 29, 2004).

**II. DAMAGES**

**A. Damages Available**

1. Compensatory Damages

2. Punitive Damages (aka Exemplary Damages)

3. Injunctive Relief

4. Costs of Suit

**B. Does Pain and Suffering of Decedent/Resident Survive Death:** Yes.

“*In actions for injuries resulting in death, a plaintiff is entitled to just damages together with the cost of reasonably necessary medical, hospital and nursing services, and including funeral expenses.*” *Conn. Gen. Stat. § 52-555.* "Just damages" include (1) the value of the decedent's lost earning capacity less deductions for her necessary living expenses and taking into consideration that a present cash payment will be made, (2) compensation for the destruction of her capacity to carry on and enjoy life's activities in a way she would have done had..."
she lived, and (3) compensation for **conscious pain and suffering**. Conn. Gen. Stat. § 52-555 allows for the action to survive death or to be brought by an administrator or executor after death.

C. **Attorney’s Fees Available:** Yes.

Generally, attorney’s fees may not be recovered, either as costs or damages, absent contractual or statutory authorization. Attorney’s fees may be awarded, however, as a component of punitive damages. To furnish a basis for recovery of such damages, the pleadings must allege and the evidence must show wanton or willful malicious misconduct, and the language contained in the pleadings must be sufficiently explicit to inform the court and opposing counsel that such damages are being sought. *Russo v. Brock’s Hospitality Group*, 1997 Conn. Super. LEXIS 561, 1997 WL 120078 (Conn. Super. Ct. Feb. 28, 1997)

**III. LEGISLATION AFFECTING STATUTE**

A. **Pending:**

1. **Conn. Gen Stat. §17b – 407:** will be amended effective October 1, 2013. Changes are administrative in nature and do not affect the substantive law.

2. **Conn. Gen. Stat. §52 – 584:** Senate Bill 97 was introduced on January 10, 2013 proposing to extend the statute of limitations for medical malpractice to 10 years from the date of act or omission which serves as the basis for the action.

B. **Anticipated:** None