

106TH CONGRESS
1ST SESSION

S. 750

To protect the rights of residents of certain federally funded hospitals.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 1999

Mr. DODD (for himself and Mr. LIEBERMAN) introduced the following bill;
which was read twice and referred to the Committee on Health, Edu-
cation, Labor, and Pensions

A BILL

To protect the rights of residents of certain federally funded
hospitals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Compassionate Care
5 Act of 1999”.

6 **SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE**
7 **ACT.**

8 Title V of the Public Health Service Act (42 U.S.C.
9 290aa et seq.) is amended by adding at the end the fol-
10 lowing:

1 **“PART G—REQUIREMENT RELATING TO THE**
 2 **RIGHTS OF RESIDENTS OF CERTAIN FACILITIES**
 3 **“SEC. 581. REQUIREMENT RELATING TO THE RIGHTS OF**
 4 **RESIDENTS OF CERTAIN FACILITIES.**

5 “(a) IN GENERAL.—A public or private general hos-
 6 pital, nursing facility, intermediate care facility, residen-
 7 tial treatment center, or other health care facility, that
 8 receives assistance in any form from any program sup-
 9 ported in whole or in part with Federal funds shall protect
 10 and promote the rights of each resident of the facility, in-
 11 cluding the right to be free from physical or mental abuse,
 12 corporal punishment, involuntary seclusion, and any phys-
 13 ical or chemical restraints imposed for purposes of dis-
 14 cipline or convenience.

15 “(b) REQUIREMENTS.—Physical or chemical re-
 16 straints may only be imposed on a resident of a facility
 17 described in subsection (a) if—

18 “(1) the imposition of the restraints are to en-
 19 sure the physical safety of the resident or others;
 20 and

21 “(2) the restraints and seclusion are imposed
 22 only upon the written order of a physician that
 23 specifies the duration and circumstances under
 24 which the restraints are to be used (except in emer-
 25 gency circumstances specified by the Secretary until
 26 such an order could reasonably be obtained).

1 “(c) DEFINITIONS.—In this section:

2 “(1) CHEMICAL RESTRAINT.—The term ‘chem-
3 ical restraint’ means the use of a
4 psychopharmacologic drug that is imposed for pur-
5 poses of discipline or convenience and is not required
6 to treat a medical symptom.

7 “(2) PHYSICAL RESTRAINT.—The term ‘phys-
8 ical restraint’ means any mechanical or personal re-
9 striction that immobilizes or reduces the ability of
10 an individual to move his or her arms, legs, or head
11 freely, that is imposed for purposes of discipline or
12 convenience, and that is not required to treat a med-
13 ical symptom. Such term does not include devices,
14 such as orthopedically prescribed devices, surgical
15 dressings or bandages, protective helmets, and other
16 methods involving the physical holding of a resident
17 for the purpose of conducting routine physical ex-
18 aminations or tests or to protect the patient from
19 falling out of bed or to permit a patient to partici-
20 pate in activities without the risk of physical harm
21 to the patient.

22 “(3) SECLUSION.—The term ‘seclusion’ means
23 any separation of the resident from the general pop-
24 ulation of the facility that prevents the resident from
25 returning to such population when he or she desires,

1 that is imposed for purposes of discipline or conven-
 2 ience, and that is not required to treat a medical
 3 symptom.

4 **“SEC. 582. REPORTING REQUIREMENT.**

5 “(a) IN GENERAL.—Each facility to which the Pro-
 6 tection and Advocacy for Mentally Ill Individuals Act of
 7 1986 (42 U.S.C. 10801 et seq.) applies shall notify the
 8 appropriate Protection and Advocacy system of each death
 9 that occurs at each such facility. A notification under this
 10 subsection shall include the name of the resident and a
 11 general description of the circumstances of his or her
 12 death, and shall be provided not later than 7 days after
 13 the date of the death of the individual involved.

14 “(b) DEFINITIONS.—In subsection (a):

15 “(1) FACILITY.—The term ‘facility’ has the
 16 meaning given the term ‘facilities’ in section 102(3)
 17 of the Protection and Advocacy for Mentally Ill Indi-
 18 viduals Act of 1986 (42 U.S.C. 10802(3)).

19 “(2) PROTECTION AND ADVOCACY SYSTEM.—
 20 The term ‘Protection and Advocacy system’ means a
 21 system established under part C of title I of the De-
 22 velopmental Disabilities Assistance and Bill of
 23 Rights Act (42 U.S.C. 6041 et seq.).”.

1 **SEC. 3. INVESTIGATIONS OF CERTAIN DEATHS AND INJU-**
2 **RIES.**

3 Section 105(a)(1) of the Protection and Advocacy for
4 Mentally Ill Individuals Act of 1986 (42 U.S.C.
5 10805(a)(1)) is amended—

6 (1) in subparagraph (B), by striking “and” at
7 the end;

8 (2) in subparagraph (C), by striking the semi-
9 colon at the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(D) investigate the death or serious in-
12 jury (any significant impairment of the physical
13 condition of the individual, including any burn,
14 laceration, internal injury, or any injury that
15 occurs as a result of repeated harm to any
16 organ) of an individual with a mental illness if
17 the death or serious injury occurred at a facility
18 to which this Act applies;”.

19 **SEC. 4. REGULATIONS AND ENFORCEMENT.**

20 (a) TRAINING.—Not later than 1 year after the date
21 of enactment of this Act, the Secretary of Health and
22 Human Services, after consultation with appropriate State
23 and local protection and advocacy organizations, shall pro-
24 mulgate regulations that require facilities to which the
25 Protection and Advocacy for Mentally Ill Individuals Act

1 of 1986 (42 U.S.C. 10801 et seq.) applies, to meet the
2 requirements of subsection (b).

3 (b) REQUIREMENTS.—The regulations promulgated
4 under subsection (a) shall require that—

5 (1) facilities described in subsection (a) ensure
6 that appropriate staff levels are maintained within
7 such facilities;

8 (2) appropriate training be provided for the
9 staff of such facilities in the use of restraints and
10 any alternatives to the use of restraints; and

11 (3) such facilities provide complete and accu-
12 rate notification of deaths, as required under section
13 582(a) of the Public Health Service Act (as added
14 by section 2).

15 (c) ENFORCEMENT.—A facility to which this Act (or
16 an amendment made by this Act) applies, that fails to
17 comply with any requirement of this Act (or such an
18 amendment), including a failure to provide appropriate
19 training, shall not be eligible for participation in any Fed-
20 erally funded program.

○