

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 254  
Committee Substitute Favorable 4/15/99  
Committee Substitute #2 Favorable 4/26/99

Short Title: Health Care Facility/Patient Abuse/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE ABUSE OR NEGLECT OF A PATIENT AT A HEALTH CARE FACILITY OR A RESIDENTIAL CARE FACILITY THAT DOES NOT RESULT IN SERIOUS BODILY INJURY OR DEATH IS A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-32.2 reads as rewritten:

**"§ 14-32.2. Patient abuse and neglect; punishments.**

(a) It shall be unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse ~~is the result of an intentional or culpable negligent act or omission which causes serious bodily injury or death.~~ results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment,

(1) ~~Any person who violates~~ A violation of subsection (a) above is guilty of a Class C felony where intentional conduct proximately causes the death of the patient or resident;

- 1           (2) ~~Any person who violates~~ A violation of subsection (a) above is guilty of a  
2           Class E felony where culpably negligent conduct proximately causes the  
3           death of the patient or resident;
- 4           (3) ~~Any person who violates~~ A violation of subsection (a) above is guilty of a  
5           Class F felony where such conduct is willful or culpably negligent and  
6           proximately causes serious bodily injury to the patient or resident.
- 7           (4) A violation of subsection (a) is a Class A1 misdemeanor where such  
8           conduct evinces a pattern of conduct and the conduct is willful or  
9           culpably negligent and proximately causes bodily injury to a patient or  
10          resident.

11          (c) 'Health Care Facility' shall include hospitals, skilled nursing facilities,  
12          intermediate care facilities, intermediate care facilities for the mentally retarded,  
13          psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home  
14          health agencies, ambulatory surgical facilities, and any other health care related facility  
15          whether publicly or privately owned.

16          (c1) 'Residential Care Facility' shall include adult care homes and any other  
17          residential care related facility whether publicly or privately owned.

18          (d) 'Person' shall include any natural person, association, corporation, partnership,  
19          or other individual or entity.

20          (e) 'Culpably negligent' shall mean conduct of a willful, gross and flagrant  
21          character, evincing reckless disregard of human life.

22          (e1) 'Abuse' means the willful or culpably negligent infliction of physical injury or  
23          the willful or culpably negligent violation of any law or rule of a State agency designed  
24          for the health, welfare, or comfort of a patient or resident.

25          (f) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant  
26          to compliance with Article 23 of Chapter 90 shall be fully applicable to any prosecution  
27          initiated under this section.

28          (g) Criminal process for a violation of this section may be issued only upon the  
29          request of a District Attorney.

30          (h) The provisions of this section shall not supersede any other applicable statutory  
31          or common law offenses."

32          Section 2. This act becomes effective December 1, 1999, and applies to  
33          offenses committed on or after that date.