

P.L. 2009, CHAPTER 276, *approved January 17, 2010*
Assembly, No. 853

1 AN ACT concerning the abuse, neglect and exploitation of
2 vulnerable adults and amending P.L.1993, c.249.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1993, c.249 (C.52:27D-407) is amended to
8 read as follows:

9 2. As used in this act:

10 "Abuse" means the willful infliction of physical pain, injury or
11 mental anguish, unreasonable confinement, or the willful
12 deprivation of services which are necessary to maintain a person's
13 physical and mental health.

14 "Caretaker" means a person who has assumed the responsibility
15 for the care of a vulnerable adult as a result of family relationship or
16 who has assumed responsibility for the care of a vulnerable adult
17 voluntarily, by contract, or by order of a court of competent
18 jurisdiction, whether or not they reside together.

19 "Commissioner" means the Commissioner of **[Community**
20 **Affairs]** Health and Senior Services.

21 "Community setting" means a private residence or any
22 noninstitutional setting in which a person may reside alone or with
23 others, but shall not include residential health care facilities,
24 rooming houses or boarding homes or any other facility or living
25 arrangement subject to licensure by, operated by, or under contract
26 with, a State department or agency.

27 "County adult protective services provider" means a county
28 Board of Social Services or other public or nonprofit agency with
29 experience as a New Jersey provider of protective services for
30 adults, designated by the county and approved by the commissioner.
31 The county adult protective services provider receives reports made
32 pursuant to this act, maintains pertinent records and provides,
33 arranges, or recommends protective services.

34 "County director" means the director of a county adult protective
35 services provider.

36 "Department" means the Department of **[Community Affairs]**
37 Health and Senior Services.

38 "Emergency medical technician" means a person trained in basic
39 life support services as defined in section 1 of P.L.1985, c.351
40 (C.26:2K-21) and who is certified by the Department of Health and
41 Senior Services to provide that level of care.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Exploitation" means the act or process of illegally or improperly
2 using a person or his resources for another person's profit or
3 advantage.

4 "Firefighter" means a paid or volunteer firefighter.

5 "Health care professional" means a health care professional who
6 is licensed or otherwise authorized, pursuant to Title 45 or Title 52
7 of the Revised Statutes, to practice a health care profession that is
8 regulated by one of the following boards or by the Director of the
9 Division of Consumer Affairs: the State Board of Medical
10 Examiners, the New Jersey Board of Nursing, the New Jersey State
11 Board of Dentistry, the New Jersey State Board of Optometrists, the
12 New Jersey State Board of Pharmacy, the State Board of
13 Chiropractic Examiners, the Acupuncture Examining Board, the
14 State Board of Physical Therapy, the State Board of Respiratory
15 Care, the Orthotics and Prosthetics Board of Examiners, the State
16 Board of Psychological Examiners, the State Board of Social Work
17 Examiners, the State Board of Examiners of Ophthalmic Dispensers
18 and Ophthalmic Technicians, the Audiology and Speech-Language
19 Pathology Advisory Committee, the State Board of Marriage and
20 Family Therapy Examiners, the Occupational Therapy Advisory
21 Council, the Certified Psychoanalysts Advisory Committee, and the
22 State Board of Polysomnography. "Health care professional" also
23 means a nurse aide or personal care assistant who is certified by the
24 Department of Health and Senior Services.

25 "Neglect" means an act or failure to act by a vulnerable adult or
26 his caretaker which results in the inadequate provision of care or
27 services necessary to maintain the physical and mental health of the
28 vulnerable adult, and which places the vulnerable adult in a
29 situation which can result in serious injury or which is life-
30 threatening.

31 "Protective services" means voluntary or court-ordered social,
32 legal, financial, medical or psychiatric services necessary to
33 safeguard a vulnerable adult's rights and resources, and to protect a
34 vulnerable adult from abuse, neglect or exploitation. Protective
35 services include, but are not limited to: evaluating the need for
36 services, providing or arranging for appropriate services, obtaining
37 financial benefits to which a person is entitled, and arranging for
38 guardianship and other legal actions.

39 "Vulnerable adult" means a person 18 years of age or older who
40 resides in a community setting and who, because of a physical or
41 mental illness, disability or deficiency, lacks sufficient
42 understanding or capacity to make, communicate, or carry out
43 decisions concerning his well-being and is the subject of abuse,
44 neglect or exploitation. A person shall not be deemed to be the
45 subject of abuse, neglect or exploitation or in need of protective
46 services for the sole reason that the person is being furnished
47 nonmedical remedial treatment by spiritual means through prayer
48 alone or in accordance with a recognized religious method of

1 healing in lieu of medical treatment, and in accordance with the
2 tenets and practices of the person's established religious tradition.

3 (cf: P.L.1993, c.249, s.2)

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5 2. Section 4 of P.L.1993, c.249 (C.52:27D-409) is amended to
6 read as follows:

7 4. a. (1) A health care professional, law enforcement officer,
8 firefighter, paramedic or emergency medical technician who has
9 reasonable cause to believe that a vulnerable adult is the subject of
10 abuse, neglect or exploitation shall report the information to the
11 county adult protective services provider.

12 (2) Any other person who has reasonable cause to believe that a
13 vulnerable adult is the subject of abuse, neglect or exploitation may
14 report the information to the county adult protective services
15 provider.

16 b. The report, if possible, shall contain the name and address of
17 the vulnerable adult; the name and address of the caretaker, if any;
18 the nature and possible extent of the vulnerable adult's injury or
19 condition as a result of abuse, neglect or exploitation; and any other
20 information that the person reporting believes may be helpful.

21 c. A person who reports information pursuant to this act, or
22 provides information concerning the abuse of a vulnerable adult to
23 the county adult protective services provider, or testifies at a grand
24 jury, judicial or administrative proceeding resulting from the report,
25 is immune from civil and criminal liability arising from the report,
26 information, or testimony, unless the person acts in bad faith or
27 with malicious purpose.

28 d. An employer or any other person shall not take any
29 discriminatory or retaliatory action against an individual who
30 reports abuse, neglect or exploitation pursuant to this act. An
31 employer or any other person shall not discharge, demote or reduce
32 the salary of an employee because the employee reported
33 information in good faith pursuant to this act. A person who
34 violates this subsection is liable for a fine of up to \$1,000.

35 e. A county adult protective services provider and its employees
36 are immune from criminal and civil liability when acting in the
37 performance of their official duties, unless their conduct is outside
38 the scope of their employment, or constitutes a crime, actual fraud,
39 actual malice, or willful misconduct.

40 (cf: P.L.1993, c.249, s.4)

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42 3. This act shall take effect on the 90th day following
43 enactment.

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48 Requires certain persons to report suspected abuse, neglect or
exploitation against vulnerable adults.