

## CHAPTER 276

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

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

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

C.52:27D-407 Definitions.

2. As used in this act:

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

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

"Commissioner" means the Commissioner of Health and Senior Services.

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

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

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

"Department" means the Department of Health and Senior Services.

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

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

"Firefighter" means a paid or volunteer firefighter.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee, and the State Board of Polysomnography. "Health care professional" also means a nurse aide or personal care assistant who is certified by the

Department of Health and Senior Services.

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

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

"Vulnerable adult" means a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his well-being and is the subject of abuse, neglect or exploitation. A person shall not be deemed to be the subject of abuse, neglect or exploitation or in need of protective services for the sole reason that the person is being furnished nonmedical remedial treatment by spiritual means through prayer alone or in accordance with a recognized religious method of healing in lieu of medical treatment, and in accordance with the tenets and practices of the person's established religious tradition.

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

C.52:27D-409 Report of suspected abuse, neglect, exploitation.

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

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

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

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

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

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

malice, or willful misconduct.

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

Approved January 17, 2010.