

## CHAPTER 186

AN ACT concerning the Ombudsman for the Institutionalized Elderly and amending P.L.1977, c.239 and P.L.1983, c.43.

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

1. Section 7 of P.L.1977, c.239 (C.52:27G-7) is amended to read as follows:

C.52:27G-7 Procedures for receiving, responding to complaints.

7. a. The office shall establish and implement procedures for eliciting, receiving, processing, responding to, and resolving complaints from patients, residents, or clients of facilities, the relatives or guardians of such persons, or from interested citizens, public officials, or government agencies having an interest in the matter. The office shall ensure that a system is in place to receive complaints 24 hours per day, seven days per week, whether or not live staff members are available to receive the complaint.

b. When the office receives a complaint or otherwise encounters a deficiency that pertains to a violation of a resident's rights or compliance with State or federal laws or regulations or rules administered by any government agency, it shall make referral thereof directly to the appropriate government agency for action pursuant to applicable federal law and regulations.

c. When the complaint received or the investigation conducted by the office discloses facts that it determines constitute a violation of a resident's rights or warrant the institution of civil proceedings by a government agency against any person or government agency, the matter shall be referred to the government agency with authority to institute such proceedings pursuant to applicable federal law and regulations.

d. When the complaint received or the investigation conducted by the office reveals information in relation to a violation of a resident's rights or the misconduct or breach of duty of any officer or employee of a facility or a government agency, it shall refer the matter to the appropriate authorities for such action as may be necessary pursuant to applicable federal law and regulations.

e. When the complaint received or the investigation conducted by the office discloses information or facts indicating the commission of criminal offenses or violations of standards of professional conduct, it shall refer the matter, as appropriate, to the Attorney General, county prosecutor, or any other law enforcement official that has jurisdiction to prosecute the crime, or to the professional licensing board concerned.

f. The government agency, prosecuting agency, or professional licensing board, as the case may be in this section, shall report to the office on its findings and actions with respect to all such referrals within 30 days after receipt thereof and every 30 days thereafter until final action on each such referral. The office shall monitor all such referrals and responses and maintain a record thereof. The office shall be authorized to make disclosure of such information as appropriate and as may be necessary to resolve the matter referred.

g. In the event that the complaint of a patient, resident, or client or class of patients, residents, or clients of a facility or facilities cannot be resolved satisfactorily through negotiation with the facility or the appropriate government agency or that an act, practice, policy, or procedure of a facility or government agency does or may adversely affect the health, safety, welfare, or civil or human rights of a patient, resident, or client or class of patients, residents, or clients of a facility or facilities the office may recommend to the appropriate authorities civil litigation on behalf of such patient, resident, or client or class of

patients, residents, or clients as it deems appropriate. The office may institute actions for injunctive relief or civil damages.

2. Section 2 of P.L.1983, c.43 (C.52:27G-7.1) is amended to read as follows:

C.52:27G-7.1 Report of suspected abuse.

2. a. Any caretaker, social worker, physician, registered or licensed practical nurse, or other professional or staff member employed at a facility, and any representative of a managed care entity, who, as a result of information obtained in the course of that individual's employment, has reasonable cause to suspect or believe that an institutionalized elderly person is being or has been abused or exploited, shall report such information to the ombudsman or to the person designated by the ombudsman to receive such report. If an individual reporting suspected abuse or exploitation pursuant to this subsection has reasonable cause to suspect or believe that the institutionalized elderly person is or has been the victim of a crime, the individual shall additionally report such information to the local law enforcement agency and to the health administrator of the facility.

(1) If the events that cause the suspicion or belief result in serious bodily injury, the individual shall report the suspicion or belief immediately, but not later than two hours after forming the suspicion or belief.

(2) If the events that cause the suspicion or belief do not result in serious bodily injury, the individual shall report the suspicion or belief immediately, but not later than 24 hours after forming the suspicion or belief.

b. Such report shall contain the name and address of the elderly person, information regarding the nature of the suspected abuse or exploitation and any other information which might be helpful in an investigation of the case and the protection of such elderly person.

c. Any other person having reasonable cause to suspect or believe that an elderly person is being or has been abused or exploited may report such information to the local law enforcement agency and to the ombudsman or the person designated by the ombudsman to receive such report.

d. The name of any person who reports suspected abuse or exploitation pursuant to this act shall not be disclosed, unless the person who reported the abuse or exploitation specifically requests such disclosure or a judicial proceeding results from such report.

e. Any person who reports suspected abuse or exploitation pursuant to this act or who testifies in any administrative or judicial proceeding arising from such report or testimony shall have immunity from any civil or criminal liability on account of such report or testimony, unless such person has acted in bad faith or with malicious purpose.

f. Any person required to report suspected abuse or exploitation pursuant to this act who fails to make such report shall be fined not more than \$500, and the facility employing the individual shall be fined not more than \$2,500. Such penalty shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Each violation of this act shall constitute a separate offense.

g. No provision of this act shall be deemed to require the disclosure of, or penalize the failure to disclose, any information which would be privileged pursuant to the provisions of sections 18 through 23 inclusive of P.L.1960, c.52 (C.2A:84A-18 through 2A:84A-23).

h. When a person has been penalized under this section, a letter making note of the penalty shall immediately be sent by the court to the licensing authority or the professional board, if any, having jurisdiction over the person who has been penalized.

i. The office may bring suit in a court of competent jurisdiction to enforce any of the powers enumerated in this section.

3. Section 11 of P.L.1977, c.239 (C.52:27G-11) is amended to read as follows:

C.52:27G-11 Procedure for handling correspondence; written notice, information relative to rights, entitlements.

11. a. Any correspondence or written communication from any patient, resident, or client of a facility to the office shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to the office. Any correspondence or written communication from the office to any patient, resident, or client of a facility shall, if delivered to or received by the facility, be promptly forwarded, unopened, by the facility to such patient, resident, or client.

b. The office shall prepare and distribute to each facility written notices, in English and Spanish, which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint, and other pertinent information. The notice shall also indicate the option to call 9-1-1.

The administrator of each facility shall ensure that such written notice is given to every patient, resident, or client or the patient's, resident's, or client's guardian upon admission to the facility and to every person already in residence or the person's guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the guidelines adopted by the office.

c. The facility shall inform patients, residents, or clients, and their guardians, resident representatives, or families, of their rights and entitlements under State and federal laws and rules and regulations in a format and language that the recipient understands, by means of the distribution of educational materials as provided in subsection b. of this section.

d. The office shall facilitate the filing of complaints with the office concerning matters within the authority of the office. The measures taken in connection therewith shall include, but need not be limited to, maintenance of a toll-free telephone, either by the office or in conjunction with another appropriate State agency, at least during regular working hours of the office for the filing of complaints.

e. The administrator of each facility shall annually provide all caretakers, social workers, physicians, registered or licensed practical nurses, and other professionals and staff members employed at the facility with a notice explaining the requirements of section 2 of P.L.1983, c.43 (C.52:27G-7.1) concerning the reporting of suspected abuse or exploitation of an institutionalized elderly person, and require, as a condition of employment at the facility, that the employee acknowledge in writing receipt of the notice. The signed acknowledgement shall be retained in the employee's personnel file.

4. This act shall take effect on the 60th day following enactment.

Approved August 7, 2017.