
A BILL FOR AN ACT

RELATING TO ELDER ABUSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 28-94, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) For the purposes of this section:

4 "Abuse" means actual or imminent physical injury,
5 psychological abuse or neglect, sexual abuse, financial
6 exploitation, negligent treatment, or maltreatment.

7 Abuse occurs where:

8 (1) Any dependent elder exhibits evidence of:

9 (A) Substantial or multiple skin bruising or any
10 other internal bleeding;

11 (B) Any injury to skin causing substantial bleeding;

12 (C) Malnutrition;

13 (D) A burn or burns;

14 (E) Poisoning;

15 (F) The fracture of any bone;

16 (G) A subdural hematoma;

17 (H) Soft tissue swelling;

18 (I) Extreme physical pain; or



H.B. NO. 233

- 1 (J) Extreme mental distress, which includes a
2 consistent pattern of actions or verbalizations,
3 including threats, insults, or harassment[7] that
4 humiliates, provokes, intimidates, confuses, and
5 frightens the dependent elder;
6 and the injury is not justifiably explained, or where
7 the history given is at variance with the degree or
8 type of injury, or circumstances indicate that the
9 injury is not the product of an accidental occurrence;
- 10 (2) Any dependent elder has been the victim of
11 nonconsensual sexual contact or conduct by a
12 caregiver, including but not limited to:
- 13 (A) Sexual assault, molestation, sexual fondling,
14 incest, or prostitution;
- 15 (B) Obscene or pornographic photographing, filming,
16 or depiction; or
- 17 (C) Other similar forms of sexual exploitation;
- 18 (3) Any dependent elder is provided with dangerous,
19 harmful, or detrimental drugs as defined by section
20 712-1240; however, this paragraph shall not apply when
21 such drugs are provided to the dependent elder



pursuant to the direction or prescription of a practitioner, as defined in section 712-1240;

(4) Any dependent elder is subject to neglect;

(5) Any dependent elder appears to lack sufficient understanding or capacity to make or communicate responsible decisions concerning the dependent elder's person, and appears to be exposed to a situation or condition which poses an imminent risk of death or risk of serious physical harm; or

(6) There is financial and economic exploitation.

"Caregiver" means ~~any~~:

(1) Any person who has undertaken the care, custody, or physical control of ~~a dependent elder, including but not limited to compensated or uncompensated family members or other relatives;~~ or

(2) Any person who has a legal or contractual duty to care for the health, safety, and welfare of a dependent elder, including ~~but not limited to~~ owners, operators, employees, or staff of:

~~(1)~~ (A) Hospitals;

~~(2)~~ (B) Hospices;

~~(3)~~ (C) Adult residential care homes;



1 dependent elder's money, real property, or personal property.

2 "Financial and economic exploitation" may include but is not
3 limited to:

4 (1) Breaches of fiduciary relationships such as the misuse
5 of a power of attorney or the abuse of guardianship
6 privileges, resulting in the unauthorized
7 appropriation, sale, or transfer of property;

8 (2) The unauthorized taking of personal assets;

9 (3) The misappropriation, misuse, or unauthorized transfer
10 of moneys belonging to the dependent elder from a
11 personal or joint account; or

12 (4) The intentional or negligent failure to effectively
13 use a dependent elder's income and assets for the
14 necessities required for the elder's support and
15 maintenance.

16 The exploitations may involve coercion, manipulation, threats,
17 intimidation, misrepresentation, or exertion of undue influence.

18 "Neglect" means the reckless disregard for the health,
19 safety or welfare of a dependent elder, that results in injury,
20 loss, or damage. "Neglect" includes[7] but is not limited to:

21 (1) Failure to assist in personal hygiene, or in the
22 provision of food, clothing, or shelter;



- 1 (2) Failure to provide or arrange for necessary
- 2 psychological, physical, or health care; except when
- 3 such failure is in accordance with the dependent
- 4 elder's directive;
- 5 (3) Failure to protect a dependent elder from known health
- 6 or safety hazards; and
- 7 (4) Failure to protect against known acts of abuse by
- 8 third parties."

9 SECTION 2. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

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JAN 18 2007

Report Title:

Caregiver; Definition

Description:

Amends the definition of "caregiver."

