

## THE MICHIGAN PENAL CODE (EXCERPT)

### Act 328 of 1931

#### CHAPTER XXA

#### VULNERABLE ADULTS

##### **750.145m Definitions.**

Sec. 145m. As used in this chapter:

(a) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, MCL 400.703.

(b) "Adult foster care facility licensing act" means 1979 PA 218, MCL 400.701 to 400.737.

(c) "Caregiver" means an individual who directly cares for or has physical custody of a vulnerable adult.

(d) "Developmental disability" means that term as defined in section 500 of the mental health code, MCL 330.1500.

(e) "Facility" means an adult foster care facility, a home for the aged, or a nursing home.

(f) "Home for the aged" means that term as defined in section 20106 of the public health code, MCL 333.20106.

(g) "Licensee" means that term as defined in section 5 of the adult foster care facility licensing act, MCL 400.705, or as defined in section 20108 of the public health code, MCL 333.20108. Licensee does not include a hospital, as that term is defined in section 20106 of the public health code, MCL 333.20106, except that part of a hospital that is a hospital long-term care unit, as that term is defined in section 20106 of the public health code, MCL 333.20106.

(h) "Mental health code" means 1974 PA 258, MCL 330.1001 to 330.2106.

(i) "Mental illness" means that term as defined in section 400 of the mental health code, MCL 330.1400.

(j) "Nursing home" means that term as defined in section 20109 of the public health code, MCL 333.20109 and a hospital long-term care unit as defined in section 20106 of the public health code, MCL 333.20106.

(k) "Other person with authority over a vulnerable adult" includes, but is not limited to, a person with authority over a vulnerable adult in that part of a hospital that is a hospital long-term care unit, but does not include a person with authority over a vulnerable adult in that part of a hospital that is not a hospital long-term care unit. As used in this subdivision, "hospital" and "hospital long-term care unit" mean those terms as defined in section 20106 of the public health code, MCL 333.20106.

(l) "Part 213, 215, or 217 of the public health code" means MCL 333.21301 to 333.21333, 333.21501 to 333.21568, and 333.21701 to 333.21799e.

(m) "Personal care" means assistance with eating, dressing, personal hygiene, grooming, or maintenance of a medication schedule as directed and supervised by a vulnerable adult's physician.

(n) "Physical harm" means any injury to a vulnerable adult's physical condition.

(o) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

(p) "Reckless act or reckless failure to act" means conduct that demonstrates a deliberate disregard of the likelihood that the natural tendency of the act or failure to act is to cause physical harm, serious physical harm, or serious mental harm.

(q) "Resident" means an individual who resides in a facility.

(r) "Serious physical harm" means a physical injury that threatens the life of a vulnerable adult, that causes substantial bodily disfigurement, or that seriously impairs the functioning or well-being of the vulnerable adult.

(s) "Serious mental harm" means a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner.

(t) "Social welfare act" means 1939 PA 280, MCL 400.1 to 400.119b.

(u) "Vulnerable adult" means 1 or more of the following:

(i) An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.

(ii) An adult as defined in section 3(1)(b) of the adult foster care facility licensing act, MCL 400.703.

(iii) An adult as defined in section 11(b) of the social welfare act, MCL 400.11.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994;—Am. 1998, Act 38, Imd. Eff. Mar. 18, 1998.

##### **750.145n Vulnerable adult abuse; first degree; second degree; third degree; fourth degree; authority to prevent vulnerable adult from being harmed or harming others not prohibited; applicability of section to act carried out by patient advocate.**

Sec. 145n. (1) A caregiver is guilty of vulnerable adult abuse in the first degree if the caregiver intentionally causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the first degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(2) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the second degree if the reckless act or reckless failure to act of the caregiver or other person with authority over the vulnerable adult causes serious physical harm or serious mental harm to a vulnerable adult. Vulnerable adult abuse in the second degree is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(3) A caregiver is guilty of vulnerable adult abuse in the third degree if the caregiver intentionally causes physical harm to a vulnerable adult. Vulnerable adult abuse in the third degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,500.00, or both.

(4) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult causes physical harm to the vulnerable adult or the caregiver or other person with authority over the vulnerable adult knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a vulnerable adult, regardless of whether physical harm results. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A caregiver or other person with authority over the vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the caregiver or other person with authority over the vulnerable adult violates subsection (4) and 1 or more of the following circumstances apply:

(a) The caregiver or other person with authority over the vulnerable adult is the spouse or former spouse of the victim.

(b) The caregiver or other person with authority over the vulnerable adult is an individual with whom the victim has or has had a dating relationship.

(c) The caregiver or other person with authority over the vulnerable adult is an individual with whom the victim has or has had a child in common.

(d) The caregiver or other person with authority over the vulnerable adult is a resident or former resident of the victim's household.

(6) A violation of subsection (5) is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(7) This section does not prohibit a caregiver or other person with authority over a vulnerable adult from taking reasonable action to prevent a vulnerable adult from being harmed or from harming others.

(8) This section does not apply to an act or failure to act that is carried out as directed by a patient advocate under a patient advocate designation executed in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(9) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994;—Am. 2000, Act 66, Eff. Apr. 1, 2000;—Am. 2004, Act 559, Imd. Eff. Jan. 3, 2005;—Am. 2016, Act 480, Eff. Apr. 6, 2017;—Am. 2023, Act 199, Eff. Feb. 13, 2024.

#### **750.145o Violation of act by operator or employee of unlicensed facility; violation as felony; penalty.**

Sec. 145o. An operator of an unlicensed facility that is subject to licensure, or an employee or an individual acting on behalf of an unlicensed facility that is subject to licensure, who violates the adult foster care facility licensing act or part 213, 215, or 217 of the public health code or rules promulgated pursuant to the adult foster care facility licensing act or part 213, 215, or 217 of the public health code and whose violation is a proximate cause of the death of a vulnerable adult is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994.

#### **750.145p Caregiver, other person with authority over vulnerable adult, or licensee; certain conduct as misdemeanor; penalty; certain disciplinary action not precluded by subsection (3); certain conduct as felony; penalty.**

Sec. 145p. (1) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not

more than 2 years or a fine of not more than \$25,000.00, or both:

(a) Commingles, borrows, or pledges funds of a resident that are required by law or administrative rule to be held in a separate trust account.

(b) Interferes with or obstructs an investigation under the adult foster care facility licensing act, part 213, 215, or 217 of the public health code, or section 11b of the social welfare act, being section 400.11b of the Michigan Compiled Laws.

(c) Files information required by the adult foster care facility licensing act or part 213, 215, or 217 of the public health code that is false or misleading.

(2) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally retaliates or discriminates against a resident because the resident does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$25,000.00, or both:

(a) Provides information to a state or local official enforcing the adult foster care facility licensing act or part 213, 215, or 217 of the public health code.

(b) Makes a complaint against a facility.

(c) Initiates, participates in, or testifies in an administrative or criminal action against a facility or a civil suit related to the criminal action.

(3) A caregiver, other person with authority over a vulnerable adult, or a licensee who intentionally retaliates or discriminates against an employee because the employee does 1 or more of the following is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both:

(a) Provides information to a state or local official enforcing the adult foster care facility licensing act or part 213, 215, or 217 of the public health code.

(b) Makes a complaint against a facility.

(c) Initiates, participates in, or testifies in an administrative or criminal action against a facility or a civil suit related to the criminal action.

(4) Subsection (3) does not preclude an employer from taking reasonable and appropriate disciplinary action against an employee.

(5) A caregiver, other person with authority over a vulnerable adult, or a licensee who has been convicted of violating this section who commits a second or subsequent violation of this section is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994.

#### **750.145q Violation of other applicable laws.**

Sec. 145q. A conviction or sentence imposed for a violation of this chapter does not preclude a conviction or sentence for a violation of any other applicable law.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994.

#### **750.145r Sentence to perform community service.**

Sec. 145r. (1) In addition to or as an alternative to imposing a term of imprisonment under this chapter, the court may sentence the person to perform community service as follows:

(a) If the person is convicted of a felony, community service for not more than 160 days.

(b) If the person is convicted of a misdemeanor, community service for not more than 80 days.

(2) For purposes of this section, community service shall not include activities involving interaction with or care of vulnerable adults.

(3) A person sentenced to perform community service under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that community service.

**History:** Add. 1994, Act 149, Eff. Oct. 1, 1994.