

# WEST VIRGINIA CODE: §61-2-29A

## **§61-2-29a. Death of an incapacitated adult by a caregiver.**

(a) A caregiver who intentionally and maliciously neglects an incapacitated adult causing death is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5000 and be imprisoned in a state correctional facility for a definite term of not less than five nor more than fifteen years.

(b) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to intentionally or maliciously neglect the incapacitated adult is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5000 and be imprisoned in a state correctional facility for a definite term of not less than five nor more than fifteen years.

(c) A caregiver of an incapacitated adult who intentionally and maliciously abuses an incapacitated adult which causes the death of the incapacitated adult is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of not less than five nor more than forty years.

(d) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to intentionally and maliciously abuse an incapacitated adult is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of not less than five nor more than forty years.

(e) The provisions of this section do not apply to any caregiver or health care provider who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply an incapacitated adult with necessary medical care when the medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the incapacitated adult is an adherent member.