WEST VIRGINIA CODE: §9-6-1

§9-6-1. Definitions.

As used in this article:

(1) "Adult protective services agency" means any public or nonprofit private agency, corporation, board, or organization furnishing protective services to adults;

(2) "Adult protective services" means services provided to vulnerable adults as the secretary may specify and may include, but are not limited to, services such as:

(A) Receiving reports of adult abuse, neglect, or exploitation;

(B) Investigating the reports of abuse, neglect, or exploitation;

(C) Case planning, monitoring, evaluation, and other case work and services; and

(D) Providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services;

(3) "Abuse" means the infliction or threat of physical or psychological harm, including the use of undue influence or the imprisonment of any vulnerable adult or facility resident;

(4) "Neglect" means the unreasonable failure by a caregiver to provide the care necessary to maintain the safety or health of a vulnerable adult or self-neglect by a vulnerable adult, including the use of undue influence by a caregiver to cause self-neglect;

(5) "Vulnerable adult" means any person over the age of 18, or an emancipated minor, who by reason of physical or mental condition is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection;

(6) "Emergency" or "emergency situation" means a situation or set of circumstances which presents a substantial and immediate risk of death or serious injury to a vulnerable adult;

(7) "Financial exploitation" means the intentional misappropriation, misuse, or use of undue influence to cause the misuse of funds or assets of a vulnerable adult or facility resident, but does not apply to a transaction or disposition of funds or assets where a person made a good-faith effort to assist the vulnerable adult or facility resident with the management of his or her money or other things of value;

(8) "Legal representative" means a person lawfully invested with the power, and charged with the duty, of taking care of another person or with managing the property and rights of another person, including, but not limited to, a guardian, conservator, durable power of

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attorney representative, springing power of attorney representative, financial power of attorney representative, medical power of attorney representative, trustee, or other duly appointed person;

(9) "Nursing home" or "facility" means any institution, residence, intermediate care facility for individuals with an intellectual disability, care home, or any other adult residential facility, or any part or unit thereof, that is subject to the provisions of §16-5C-1 *et seq.*, §16-5D-1 *et seq.*, §16-5E-1 *et seq.*, or §16-5H-1 *et seq*. of this code;

(10) "Regional long-term care ombudsman" means any paid staff of a designated regional long-term care ombudsman program who has obtained appropriate certification from the Bureau of Senior Services and meets the qualifications set forth in §16-5L-7 of this code;

(11) "Facility resident" means an individual living in a nursing home or other facility, as that term is defined in subdivision (9) of this section;

(12) "State long-term care ombudsman" means an individual who meets the qualifications of §16-5L-5 of this code and who is employed by the State Bureau of Senior Services to implement the State Long-term Care Ombudsman Program;

(13) "Secretary" means the Secretary of the Department of Human Services;

(14) "Caregiver" means an individual who is responsible for the care of a vulnerable adult or a facility resident, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an adult with disabilities or a facility resident who needs supportive services in any setting; and

(15) "Fiduciary" means a person or entity with the legal responsibility to make decisions on behalf of and for the benefit of another person; to act in good faith and with fairness; and includes a trustee, a guardian, a conservator, an executor or an agent under a financial power of attorney.

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