

Act on the Prevention of Elder Abuse and Support for Caregivers of Elderly Persons

(Act No. 124 of November 9, 2005)

Chapter I General Provisions (Articles 1 to 5)

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Supplementary Provisions

Chapter I General Provisions

(Purposes)

Article 1 In recognition of the fact that the elder abuse issue has become serious and that it is extremely important to prevent elder abuse so as to ensure the dignity of elderly persons, the purpose of this Act is to contribute to the protection of the rights and interests of elderly persons by advancing policy measures including elder abuse prevention and support for caregivers of elderly persons, by setting forth the responsibilities of the State, etc. to prevent elder abuse, providing for measures for protecting elderly persons suffering from elder abuse, and providing for support measures, etc. for caregivers of elderly persons, such as measures for alleviating the burden borne by the caregivers (hereinafter referred to as "support for caregivers"), that are aimed at contributing to the prevention of elder abuse by caregivers.

(Definitions)

Article 2 (1) The term "elderly person" as used in this Act means a person who is 65 years of age or older.

(2) The term "caregiver" as used in this Act means a person who actually takes care of an elderly person, and who does not fall under the category of a long-term care facility managerial staff, etc. (meaning a person engaged in the services rendered by the facilities referred to in paragraph (5), item (i), or a person engaged in the services referred to in item (ii) of that paragraph; the same applies hereinafter).

(3) The term "elder abuse" as used in this Act means elder abuse by a caregiver and elder abuse by a long-term care facility managerial staff, etc.

- (4) The term "elder abuse by a caregiver" as used in this Act means an act that falls under any of the following items:
- (i) the following acts done to an elderly person who is being taken care of by a caregiver;
 - (a) inflicting an assault upon an elderly person that may cause or is likely to cause injury to their body;
 - (b) substantially failing to take care of an elderly person, including severely depriving the elderly person of food or leaving them unattended for a long hours in a manner that would debilitate the elderly person, and leaving the elderly person unattended, in a manner similar to those listed in any of items (a), (c) or (d) by any person who lives together with the elderly person but who does not fall under the category of a caregiver;
 - (c) directing to an elderly person any words or doing something which would be a significantly traumatic event of the elderly person, including significantly abusive language or a significantly negative attitude toward the elderly person; and
 - (d) committing an indecent act against an elderly person, or making an elderly person engage in an indecent act.
 - (ii) the unjust disposal of an elderly person's property by a caregiver or relative, or any other unjust acquisition of economic benefits from an elderly person.
- (5) The term "elder abuse by a long-term care facility managerial staff, etc." as used in this Act means an act which falls under any of the following items:
- (i) an act listed in any of the following sub-items, which is committed by a person engaged in the services rendered by a welfare facility for the elderly referred to in Article 5-3 of the Act on Social Welfare for the Elderly (Act No. 133 of 1963) or a fee-based nursing home for the elderly referred to in Article 29, paragraph (1) of that Act, or in the services rendered by a community-based nursing home for the elderly specified in Article 8, paragraph (20) of the Long-Term Care Insurance Act (Act No. 123 of 1997), a special nursing home for the elderly specified in paragraph (24) of that Article, a long-term care facility covered by insurance specified in paragraph (25) of that Article, a medical facility providing medical care for the elderly specified in paragraph (26) of that Article or a community' comprehensive support center specified in Article 115-39, paragraph (1) of that Act (hereinafter collectively referred to as a "long-term care facility"), upon an elderly person who has been admitted to or otherwise utilizes the relevant long-term care facility:
 - (a) inflicting an assault upon an elderly person which may cause or is likely to cause injury to their body;
 - (b) substantially failing to fulfill the professional duties to take care of and protect an elderly person, including severely depriving the elderly person of food or leaving them unattended for long hours in a manner that would

- debilitate the elderly person;
- (c) directing to an elderly person any words or do something which would be a significantly traumatic event of the elderly person, including significantly abusive language or a significantly negative attitude toward the elderly person;
- (d) committing an indecent act against an elderly person, or making an elderly person engage in an indecent act.
- (e) unjustly disposing of an elderly person's property or otherwise acquiring economic benefits from such elderly person in an unjust manner.
- (ii) an act listed in any of the sub-items (a) through (e) of the preceding item, which is committed by a person who provides in-home elderly support services specified in Article 5-2, paragraph (1) of the Act on Social Welfare for the Elderly, or in in-home services specified in Article 8, paragraph (1) of the Long-Term Care Insurance Act, community-based long-term care services specified in paragraph (14) of that Article, in-home long-term care support specified in paragraph (21) of that Article, preventive long-term care services specified in Article 8-2, paragraph (1) of that Act, community-based preventive long-term care services specified in paragraph (14) of that Article or preventive long-term care support services specified in paragraph (18) of that Article (hereinafter collectively referred to as "long-term care services"), upon an elderly person to whom service is provided in relation to the long-term care services.

(Responsibilities of the State and Local Governments)

- Article 3 (1) The State and the local governments must, in order to prevent elder abuse, to swiftly and appropriately protect elderly persons suffering from elder abuse and to provide appropriate support for caregivers, endeavor to put in place the necessary systems, such as strengthening partnership among the relevant government agencies, other relevant organizations and private organizations, and providing support to private organizations.
- (2) For the purpose of appropriately preventing elder abuse, of protecting elderly persons suffering elder abuse and of supporting caregivers based upon expert knowledge, the State and the local governments must endeavor to provide training to officials of the relevant government agencies or take any other necessary measures to maintain adequate specialized employees who take charge of such duties, and to improve their competency.
 - (3) The State and the local government must, for the purpose of facilitating the prevention of elder abuse and the protection of an elderly person suffering from elder abuse, implement public relations activities and any other activities to increase the awareness on these matters necessary in relation to the obligation to provide notification regarding elder abuse, a system of remedies for the

victims of human rights violation cases, etc.

(Responsibilities of the Citizens)

Article 4 The citizens must endeavor to gain better understanding of the significance of the prevention of elder abuse, support for caregivers, etc. and to cooperate for the policy measures taken by the State or local governments for the prevention of elder abuse, support for caregivers, etc.

(Identification of Elder Abuse at the Early Stages)

Article 5 (1) Organizations in a business relationship with welfare services for elderly persons, such as long-term care facilities, hospitals and health centers, as well as persons who are in a business relationship with welfare services for elderly persons, such as long-term care facility managerial staff, etc., medical doctors, public health nurses and attorneys-at-law, must be aware that they are in a position to easily identify elder abuse, and must endeavor to do so at the early stages.

(2) A person prescribed in the preceding paragraph must endeavor to cooperate for the activities to increase awareness on prevention of elder abuse and policy measures for the protection of elderly persons suffering from elder abuse implemented by the State and local governments.

Chapter II Prevention of Elder Abuse by Caregivers and Support for Caregivers

(Consultations, Guidance and Advice)

Article 6 A municipality must, in order to prevent elder abuse by caregivers and to protect elderly persons suffering from elder abuse by their caregivers, provide consultations, guidance and advice for such elderly persons and caregivers.

(Reporting Elder Abuse by a Caregiver)

Article 7 (1) If any person has found an elderly person who is likely to have been abused by a caregiver, and if the elderly person's life or body is seriously threatened, the person must promptly report this to the relevant municipality.

(2) In addition to the case set forth in the preceding paragraph, if any person has found an elderly person who is likely to have been abused by a caregiver, the person must endeavor to promptly report this to the relevant municipality.

(3) The provisions concerning the crime of unlawful disclosure of confidential information as set forth in the Penal Code (Act No. 45 of 1907) and the provisions of any other Acts providing for a confidentiality obligation must not be construed to preclude any reporting under the provisions of the preceding

two paragraphs.

Article 8 If a municipality has received a report under the provisions of paragraph (1) or (2) of the preceding Article or a report under the provisions of paragraph (1) of the following Article, an official of the municipality who has received such notification or report must not divulge any information which may come to their knowledge in the course of their duties and based on which the person who made either report is identifiable.

(Procedures for Handling Reports of Elder Abuse)

Article 9 (1) Upon receipt of a report under the provisions of paragraph (1) or (2) of Article 7 or a report from an elderly person informing the municipality that the elderly person has been abused by their caregiver, a municipality must promptly implement measures to confirm the safety of the elderly person and any other measures to identify the facts so notified or reported, and must consult with partners that collaborate with the relevant municipality pursuant to the provisions of Article 16 (hereinafter referred to as "partners responding to elder abuse") regarding how to respond to such elder abuse.

(2) The municipality or mayor that has received a report under the provisions of paragraph (1) or (2) of Article 7 or a report specified in the preceding paragraph must properly implement the measures set forth in Article 10-4, paragraph (1) or Article 11, paragraph (1) of the Act on Social Welfare for the Elderly, including promptly accommodating the elderly person whose life or health is likely to have been materially endangered due to elder abuse by their caregiver into a facility such as a short-term admission facility for the elderly referred to in Article 20-3 of that Act, in order to temporarily shelter the elderly person, or must properly file a request for a trial pursuant to the provisions of Article 32 of that Act, so as to prevent further elder abuse of the elderly person by a caregiver and to protect the elderly person pertaining to the report or notification.

(Assurance for Accommodation)

Article 10 A municipality must implement measures to assure the accommodations necessary for taking the measures under the provisions of Article 10-4, paragraph (1), item (iii) or Article 11, paragraph (1), item (i) or (ii) of the Act on Social Welfare for the Elderly, for an elderly person who has been abused by a caregiver.

(On-Site Inspections)

Article 11 (1) If a mayor of municipality finds that elder abuse by a caregiver may have posed a material threat to the life or health of an elderly person, the

mayor may instruct officials of the community comprehensive support center that is to be established pursuant to the provisions of Article 115-39, paragraph (2) of the Long-Term Care Insurance Act or any other officials engaged in business affairs related to welfare services for elderly persons to enter the elderly person's domicile or residence and carry out a necessary investigation or questioning.

- (2) When entering the domicile or residence and carrying out an investigation or questioning under the provisions of the preceding paragraph, the relevant official must carry an identification card and present this card to any relevant persons if they so request.
- (3) The authority to enter the domicile or residence and to carry out an investigation or questioning specified in paragraph (1) must not be construed as having been granted for the purpose of any criminal investigation.

(Request to the Chief of Police for Assistance)

Article 12 (1) When the mayor of a municipality intends to instruct an official to enter a domicile or residence and to conduct an investigation or questioning under the provisions of paragraph (1) of the preceding Article, and if the mayor deems it necessary for the execution of such duties, the mayor may seek assistance from the chief of police having the jurisdiction over the location of the domicile or residence of the relevant elderly person.

- (2) The mayor of a municipality must, pursuant to the provisions of the preceding paragraph, appropriately seek assistance from the chief of police as necessary, from the viewpoint of ensuring that the life or the health of an elderly person is secured.
- (3) If the chief of police has been requested to provide assistance under the provisions of paragraph (1), and where the chief of police deems it necessary for ensuring that the life or the health of the elderly person is secured, the chief of police must endeavor to instruct police officers under their jurisdiction to promptly implement measures in accordance with the Act on the Execution of Official Police Duties (Act No. 136 of 1949) or any other laws and regulations, necessary for supporting the execution of their duties referred to in that paragraph.

(Restrictions on Visitation)

Article 13 If the measures referred to in Article 11, paragraph (1), item (ii) or (iii) of the Act on Social Welfare for the Elderly have been implemented for any elderly person who has been abused by a caregiver, the mayor of the municipality or the head of the long-term care facility related to the measures may, from the viewpoint of preventing elder abuse by the caregiver and protecting the relevant elderly person, restrict the caregiver who have

committed the i elder abuse from visiting the elderly person.

(Support for Caregivers)

Article 14 (1) In addition to the measures prescribed in Article 6, a municipality must, for the purpose of alleviating the burden on a caregiver, implement necessary measures, such as providing consultations, guidance and advice for the caregiver.

(2) A municipality must, as a measure referred to in the preceding paragraph, implement measures to ensure the accommodation necessary for an elderly person to be taken care of for a short period of time if the municipality, in consideration of the caregiver's physical and mental condition, finds that there is an urgent need to do so in order to alleviate the burden on the caregiver.

(Maintaining Sufficient Number of Municipal Employees Specialized in Elder Abuse)

Article 15 A municipality must, in order to properly implement the measures to prevent elder abuse by caregivers, to protect elderly persons abused by a caregiver and to provide support for caregivers, endeavor to maintain a sufficient number of municipal employees specialized in elder abuse.

(Collaboration with Local Organizations)

Article 16 A municipality must, in order to properly implement the measures to prevent elder abuse by caregivers, to protect elderly persons abused by a caregiver and to provide support for caregivers, establish a partnership with the relevant agencies, such as long-term care support centers referred to in Article 20-7-2, paragraph (1) of the Act on Social Welfare for the Elderly, community comprehensive support centers established pursuant to the provisions of Article 115-39, paragraph (3) of the Long-Term Care Insurance Act, and private organizations, etc. In this case, the municipality must pay due consideration so that the municipality can promptly respond at any time to elder abuse by a caregiver.

(Entrustment of Functions)

Article 17 (1) A municipality may entrust a partner responding to elder abuse that is deemed appropriate with all or part of its functions related to consultation, guidance and advice under the provisions of Article 6; acceptance of reports under the provisions of Article 7, paragraph (1) or (2) or of notifications specified in Article 9, paragraph (1); the fact-finding measures to confirm the safety of the elderly person and other reports or notifications under the provisions of that paragraph; and the measures for alleviating the burden on caregivers under the provisions of Article 14, paragraph (1).

- (2) A partner responding to elder abuse that has been entrusted with the function under the provisions of the preceding paragraph, or who is or was its officer or employee, must not divulge any confidential information concerning the functions entrusted with them that may come to their knowledge, without reasonable grounds.
- (3) If the partner responding to elder abuse that, has been entrusted with the functions related to the acceptance of reports under the provisions of Article 7, paragraph (1) or (2) or of notifications specified in Article 9, paragraph (1) receives a report under the provisions of Article 7, paragraph (1) or (2) or a notification specified in Article 9, paragraph (1), the partner responding to elder abuse or its officer or employee who receives either a report or notification must not divulge any information which may come to their knowledge in the course of their duties that identifies the person who made the report or notification.

(Publication)

Article 18 A municipality must publicize the department or section and partners responding to elder abuse in charge of the services related to the prevention of elder abuse by caregivers, the acceptance of reports under the provisions of Article 7, paragraph (1) or (2) or notifications specified in Article 9, paragraph (1), the protection of elderly persons who have been abused by a caregiver, and provision of support for caregivers, , by making the department or section or partners responding to elder abuse known to the public.

(Assistance from Prefectures)

- Article 19 (1) A prefecture must provide the assistance necessary for a municipality to implement the measures pursuant to the provisions of in this Chapter, such as liaison and coordination among municipalities and provision of information to municipalities.
- (2) A prefecture may, if it finds it necessary for ensuring the proper implementation measures to be taken by the municipalities pursuant to the provisions of this Chapter, give the municipalities any necessary advice.

**Chapter III Prevention of Elder Abuse by Long-term Care Facility
Managerial Staff**

(Measures to Prevent Elder Abuse by Long-term Care Facility Managerial
Staff)

Article 20 The establisher of a long-term care facility or a person who provides long-term care services must take measures to prevent elder abuse, etc. by long-term care facility managerial staff, etc., including providing training to

long-term care facility managerial staff, etc., and establishing a system for handling complaints from elderly persons to whom the service pertaining to the long-term care service is being provided, as well as complaints from their family members.

(Elder Abuse Reporting by Long-term Care Facility Managerial Staff)

- Article 21 (1) If any long-term care facility managerial staff member, etc. finds an elderly person who appears to have been abused by any other long-term care facility managerial staff member, etc. who works at the long-term care facility or in long-term care services in which the relevant long-term care facility managerial works (including long-term care facilities established by the establisher of the long-term care facility or by the person who provides the long-term care services, or long-term care services provided by these persons), the long-term care facility managerial staff member must promptly report this to the municipality.
- (2) In addition to the case set forth in the preceding paragraph, if any person finds an elderly person who appears to have been abused by a long-term care facility managerial staff member, etc. and if the elderly person's life or health has been materially threatened, such person shall promptly report this to the municipality.
- (3) In addition to the cases set forth in the preceding two paragraphs, any person who finds an elderly person who appears to have been s abused by a long-term care facility managerial staff member, etc. must endeavor to promptly report this to the municipality.
- (4) An elderly person who has been abused by a long-term care facility managerial staff member, etc. may report the abuse to the municipality.
- (5) The provisions of Article 18 apply mutatis mutandis to the publication of the name of the department or section in charge of the services related to the acceptance of reports under the provisions of paragraphs (1) through (3) and the acceptance of notifications specified in the preceding paragraph.
- (6) The provisions concerning the crime of unlawful disclosure of confidential information set forth in the Penal Code and the provisions concerning confidentiality obligations of any other Act must not be construed to preclude a report under the provisions of paragraphs (1) through (3) (excluding false reports and reports filed by negligence; the same applies in the following paragraph).
- (7) A long-term care facility managerial staff member, etc. is not be treated unfavorably such as dismissal from their service on the ground that they made a report under the provisions of paragraphs (1) through (3).

Article 22 (1) If a municipality receives a report under the provisions of

paragraphs (1) through (3) of the preceding Article or a notification under the provisions of paragraph (4) of that Article, it must, pursuant to the provisions of Order of the Ministry of Health, Labour and Welfare, report the information related to the elder abuse by a long-term care facility managerial staff member, etc. pertaining to the report or notification to the prefecture where the place of business of the long-term care facility related to the elder abuse by a long-term care facility managerial staff member, etc. or the place of business of the long-term care services related to the elder abuse by a care facility managerial staff member, etc. is located.

(2) Unless otherwise provided for by the Order of the Ministry of Health, Labour and Welfare, the provisions of the preceding paragraph do not apply to a designated city referred to in Article 252-19, paragraph (1) of the Local Autonomy Act (Act No. 67 of 1947) or a core city referred to in Article 252-22, paragraph (1) of that Act.

Article 23 If a municipality receives a report under the provisions of Article 21, paragraphs (1) through (3) or a notification under the provisions of paragraph (4) of that Article, the municipal employee who receives the report or notification must not divulge any information which may come to their knowledge in the course of their duties that identifies the person who made the report or notification. The same applies to the employee of the prefectural government which receives a report, when the prefecture has received the report under the provisions of paragraph (1) of the preceding Article.

(Procedures for Handling Reports of Elder Abuse)

Article 24 In f a municipality receives a report under the provisions of Article 21, paragraphs (1) through (3) or a notification under the provisions of paragraph (4) of that Article, or if a prefecture receives a report under the provisions of Article 22, paragraph (1), the mayor of the municipality or the prefectural governor must, in order to prevent elder abuse by the long-term care facility managerial staff member, etc., as well as to protect the elderly person by assuring proper management of the long-term care services provided by the long-term care facility or the long-term care services, exercise the authority under the provisions of the Act on Social Welfare for the Elderly or the Long-Term Care Insurance Act in an appropriate manner.

(Elder Abuse to be Published)

Article 25 A prefectural governor must, in each fiscal year, publish the status of elder abuse by long-term care facility managerial staff members, etc., measures taken if elder abuse by a long-term care facility managerial staff member, etc. has occurred, and the particulars prescribed by Order of the Ministry of Health,

Labour and Welfare.

Chapter IV Miscellaneous Provisions

(Research and Studies)

Article 26 The State is to perform an analysis of elder abuse cases, and conduct research and studies on methods for properly handling elder abuse, methods for properly taking care of elderly persons, and any other matters that contribute to the prevention of elder abuse, the protection of elderly persons who have been abused, and to the provision of support for caregivers.

(Prevention of Damages Caused by Unjust Property Transactions)

Article 27 (1) A municipality is to provide consultation on damages suffered by an elderly person due to a transaction aimed at unjustly gaining economic benefits carried out by a person other than the caregiver, the elderly person's relatives, or a long-term care facility managerial staff member, etc.

(hereinafter referred to as an "unjust property transaction") or is to provide consultation, introduce the elderly person to the relevant agency, such as the department or section in charge of consumer affairs; or is to entrust a partner responding to elder abuse with consultation on damages suffered by elderly persons due to unjust property transactions or to introduce the persons to the relevant agency.

(2) The mayor of a municipality is to, with regard to an elderly person who has or is likely to suffer any damages due to an unjust property transaction, file a request for trial pursuant to the provisions of Article 32 of the Act on Social Welfare for the Elderly accordingly.

(Encouraging the Use of Adult Guardianship System)

Article 28 The State and the local governments must, in order to prevent elder abuse and to protect elderly persons who have been abused as well as to prevent damages that elderly persons may suffer due to unjust property transactions and to claim recovery of damages, encourage people to use the adult guardianship system, by implementing measures for making the adult guardianship system known to the public, and measures to alleviate the financial burdens related to the use of the system.

Chapter V Penal Provisions

Article 29 A person who violates the provisions of Article 17, paragraph (2) is punished by imprisonment with work of not more than one year or a fine of not more than one million yen.

Article 30 A person who, without any legitimate grounds, refuses, prevents or evades an on-site inspection under the provisions of Article 11, paragraph (1) or refuses to give answers to the questioning under the provisions of that paragraph or who gives a false answer or does not allow an elderly person to answer or forces an elderly person to give a false answer to the questions is punished by a fine not more than 300,000 yen.