

**POLICY AND PROCEDURE ON REPORTING AND REVIEW OF
MALTREATMENT OF VULNERABLE ADULTS**

(Rev 6/2017)

I. PURPOSE

The purpose of this policy is to establish guidelines for the internal and external reporting and the internal review of maltreatment of vulnerable adults.

II. POLICY

Staff who are mandated reporters must report all of the information they know regarding an incident of known or suspected maltreatment, either internally or externally, in order to meet their reporting requirements under law. All staff of the company who encounter maltreatment of a vulnerable adult will take immediate action to ensure the safety of the person(s) served. Staff will define maltreatment of vulnerable adults as abuse, neglect, or financial exploitation and will refer to the definitions from Minnesota Statutes, section 626.5572 at the end of this policy. Staff are to conduct themselves in a supportive and respectful manner which does not maltreat Vulnerable Adults.

Staff will refer to the *Policy and Procedure on Reporting and Review of Maltreatment of Minors* regarding suspected or alleged maltreatment of persons 17 years of age or younger.

III. PROCEDURE

- A. Staff of the company who encounter maltreatment of a vulnerable adult, age 18 or older, will take immediate action to ensure the safety of the person or persons as well as the safekeeping of their funds and property. If a staff knows or suspects that a vulnerable adult is in immediate danger, they will call "911."
- B. If a staff knows or suspects that maltreatment of a vulnerable adult has occurred, they must make a report immediately (within 24 hours) internally to the company or externally to the Minnesota Adult Abuse Reporting Center. Should the staff choose to make a report directly to an external agency, they must make the report by notifying the Minnesota Adult Abuse Reporting Center.
- C. To make a report internally to the company, staff must make a verbal report to their supervisor or Sarah Hamilton. Sarah Hamilton is the primary individual responsible for receiving internal reports of maltreatment and for forwarding internal reports to the Minnesota Adult Abuse Reporting Center. If there are reasons to believe that Sarah Hamilton is involved in the alleged or suspected maltreatment, Lisa Sawyer or Linda Grover is the secondary individual responsible for receiving internal reports of maltreatment and for forwarding internal reports to the Minnesota Adult Abuse Reporting Center.
- D. To make a report externally to the Minnesota Adult Abuse Reporting Center staff can call **844-880-1574** or report at mn.gov/dhs/reportadultabuse/.
- E. When reporting the alleged or suspected maltreatment, either internally or externally, staff will include as much information as known and will cooperate with any subsequent investigation.
- F. For internal reports of suspected or alleged maltreatment, the person who received the report will:
 1. Contact the Minnesota Adult Abuse Reporting Center if the report is determined to be

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- suspected or alleged maltreatment.
 2. Ensure an *Incident and Emergency Report* has been completed.
 3. Inform the case manager and the persons legal guardian within 24 hours of reporting maltreatment, unless there is reason to believe that the case manager or legal guardian is involved in the suspected maltreatment. The person who received the report will disclose to the case manager and legal guardian the:
 - a. Nature of the activity or occurrence reported
 - b. The agency that received the report
 4. Complete and mail the *Notification to an Internal Reporter* to the home address of the staff who reported the maltreatment within two working days in a manner that protects the reporter's confidentiality. The notification must indicate whether or not the company reported externally to the Minnesota Adult Abuse Reporting Center. The notice must also inform the staff that if the company did not report externally and they are not satisfied with that decision, they may still make the external report to the Minnesota Adult Abuse Reporting Center themselves. It will also inform the staff that they are protected against any retaliation if they decide to make a good faith report to the Minnesota Adult Abuse Reporting Center on their own.
- G. When the company has knowledge that an internal or external report of alleged or suspected maltreatment has been made, an internal review will be completed. Sarah Hamilton is the primary individual responsible for ensuring that internal reviews are completed for reports of maltreatment. If there are reasons to believe that Sarah Hamilton is involved in the alleged or suspected maltreatment, Lisa Sawyer or Linda Grover is the secondary individual responsible for ensuring that internal reviews are completed.
- H. The *Internal Review* will be completed within 30 calendar days. The person completing it will:
1. Ensure an *Incident and Emergency Report* has been completed.
 2. Contact the lead investigative agency if additional information has been gathered.
 3. Coordinate any investigative efforts with the lead investigative agency by serving as the company contact, ensuring that staff cooperate, and that all records are available.
 4. Complete an *Internal Review* which will include the following evaluations of whether:
 - a. Related policies and procedures were followed
 - b. The policies and procedures were adequate
 - c. There is a need for additional staff training
 - d. The reported event is similar to past events with the vulnerable adults or the services involved
 - e. There is a need for corrective action by the license holder to protect the health and safety of the vulnerable adult(s)
 5. Complete the *Alleged Maltreatment Review Checklist* and compile together all documents regarding the report of maltreatment.
- I. Based upon the results of the internal review, the company will develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the company, if any.
- J. Internal reviews must be made accessible to the commissioner immediately upon the commissioner's request for internal reviews regarding maltreatment.
- K. The company will provide an orientation to the internal and external reporting procedures to all persons served and/or legal representatives. This orientation will include the telephone

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number and website for the Minnesota Adult Abuse Reporting Center. This orientation for each new person to be served will occur within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

- L. Staff will receive training on this policy, MN Statutes, section 245A.65 and sections 626.557 and 626.5572 and their responsibilities related to protecting persons served from maltreatment and reporting maltreatment. This training must be provided within 72 hours of first providing direct contact services and annually thereafter.

MINNESOTA STATUTES, SECTION 626.5572 DEFINITIONS

Subdivision 1. Scope.

For the purpose of section [626.557](#), the following terms have the meanings given them, unless otherwise specified.

Subd. 15. Maltreatment.

"Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9.

Subd. 2. Abuse.

"Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

- (1) assault in the first through fifth degrees as defined in sections [609.221](#) to [609.224](#);
- (2) the use of drugs to injure or facilitate crime as defined in section [609.235](#);
- (3) the solicitation, inducement, and promotion of prostitution as defined in section [609.322](#); and
- (4) criminal sexual conduct in the first through fifth degrees as defined in sections [609.342](#) to [609.3451](#).

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
- (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;
- (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and
- (4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section [245.825](#).

(c) Any sexual contact or penetration as defined in section [609.341](#), between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

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(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections [144.651](#), [144A.44](#), chapter 145B, 145C or 252A, or section [253B.03](#) or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

- (1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or
- (2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

- (1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or
- (2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 9. **Financial exploitation.**

"Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section [144.6501](#), a person:

- (1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or
- (2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

(b) In the absence of legal authority a person:

- (1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;
- (2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;
- (3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or
- (4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

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Subd. 17. Neglect.

"Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

- (1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and
- (2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections [144.651](#), [144A.44](#), chapter 145B, 145C, or 252A, or sections [253B.03](#) or [524.5-101](#) to [524.5-502](#), refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

- (i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or
- (ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

- (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or
- (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

- (i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;
- (ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;
- (iii) the error is not part of a pattern of errors by the individual;
- (iv) if in a facility, the error is immediately reported as required under section [626.557](#), and recorded internally in the facility;

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- (v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and
- (vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead agency's determination of mitigating factors under section [626.557, subdivision 9c](#), paragraph (c).

NOTIFICATION TO AN INTERNAL REPORTER

(Rev. 6/2017)

To:

From:

On _____, you filed an internal report on the possible maltreatment of a person served from this company.

The purpose of this notification is to let you know that the company:

DID file a report to the Minnesota Adult Abuse Reporting Center (MAARC) regarding your internal report.

We also informed the MAARC of your request:

To be informed of the initial and final disposition

To not be informed of the initial and final disposition

DID NOT file a report to the Minnesota Adult Abuse Reporting Center (MAARC) regarding your internal report. The report was not filed because either the MAARC or the company believed that the incident did not reach the level of abuse, neglect, or financial exploitation.

As the company, we must inform you of the following information:

- If you are not satisfied with the action taken, you have the right to file the maltreatment report externally with Minnesota Adult Abuse Reporting Center (MAARC). The phone number is 1-844-880-1574 or you may file through the online report at mn.gov/dhs/reportadultabuse/. If you want more specific information on filing the report, please ask your manager, call the company's main number, or refer to the procedures regarding reporting of maltreatment of vulnerable adults.

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- You have the right to file this report without any resistance or retaliation from the company for making an external report.
- You have the right to file this report without any fear of retaliation; both the company and state and county agencies will provide for your protection.

Name and title of mandated reporter

Date distributed

INTERNAL REVIEW

Name of person served:

Type of services involved:

Address and phone number of person served:

Address of the location where incident occurred:

Date of incident or complaint:

Time of incident or complaint:

Type of incident or complaint requiring an internal review:

- Maltreatment of a vulnerable adult – specify type:
- Maltreatment of a minor – specify type:
- Death of a person served while receiving services that was not reported as maltreatment
- Serious injury of a person served while receiving services that was not reported as maltreatment
- Complaint or grievance of a person served

*Emergency use of manual restraint: this internal review will be completed using the *Emergency Use of Manual Restraint Incident Report* form.

Written summary of incident or complaint including persons involved:

Persons involved in incident or complaint, including relationship or job title:

Persons interviewed or consulted in the review:

Summary of interviews and events:

Action taken by the company is response to the incident or complaint:

***Supporting documentation as applicable to the situation is attached and may include:**

1. *Incident or Emergency Report*
2. *Death or serious injury reporting forms*
3. *Notification to an Internal Reporter*
4. *Alleged Maltreatment Review Checklist*
5. *Complaint Summary and Resolution Notice*

Conclusion and evaluation

- Company policies and procedures were followed Yes No – if no, specify what will be done to correct this:

- Company policies and procedures were adequate Yes No – if no, specify what will be done to correct this:

- There is a need for additional staff training at this time No Yes – if yes, specify what training is needed and when it will be completed:

- This event or complaint is similar to past events or complaints with the persons, staff, or services involved No Yes – if yes, describe:

- There is a need for corrective action to be taken by the license holder to protect the health and safety of the person served No Yes – if yes, describe what corrective action is needed:

Corrective action plan:

- Based upon the internal review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any. Describe the corrective action plan:

For maltreatment, include lead agency response:

Name and title of internal reviewer

Date*

*All internal reviews for maltreatment must be completed within 30 calendar days.

Confidentiality and access

- Documentation regarding suspected or alleged maltreatment will be maintained separately by the internal reviewer in a designated file that is kept locked and only accessible to authorized individuals.
- Internal reviews must be made accessible to the commissioner immediately upon the commissioner's request for internal reviews regarding maltreatment.

INCIDENT AND EMERGENCY REPORT

Identifying data

Program or person served:

Phone:

Address:

Type of incident or emergency (check all that apply)

<input type="checkbox"/> Serious injury*	<input type="checkbox"/> Any mental health crisis that requires the program to call "911," a mental health crisis intervention team, or a similar mental health response team or service when available and appropriate	<input type="checkbox"/> Conduct by a person served against another person served (see 245D.02, subd. 11 for severity)
<input type="checkbox"/> Medical emergency		
<input type="checkbox"/> Unexpected serious illness	<input type="checkbox"/> Maltreatment of a minor	<input type="checkbox"/> Sexual activity between persons served involving force or coercion
<input type="checkbox"/> Significant unexpected changes in an illness or medical condition of a person that requires the program to call "911," physician treatment, or hospitalization	<input type="checkbox"/> Maltreatment of a vulnerable adult	<input type="checkbox"/> Death of a person served*
	<input type="checkbox"/> An act or situation involving a person that requires the program to call "911," law enforcement, or the fire department	<input type="checkbox"/> Emergency use of manual restraint (complete the <i>EUMR Incident Report</i> form)
	<input type="checkbox"/> A person's unauthorized or unexplained absence from a program	<input type="checkbox"/> Emergency (state specific type):

*Reporting of these incidents must also be made to MN Department of Human Services and MN Office of the Ombudsman.

Date of incident:

Time of incident:

(indicate am or pm)

Location of incident:

Describe the incident and emergency including the effect on the person (delete unused rows)

Describe the response to the incident or emergency (delete unused rows)

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_____ Name and title of staff who responded	_____ Date
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Required notifications: completed within 24 hours of discovery or receipt of information that the incident occurred

Legal representative:	Date:	Time:	am/pm	<input type="checkbox"/> Left message
Case manager:	Date:	Time:	am/pm	<input type="checkbox"/> Left message
Designated emergency contact:	Date:	Time:	am/pm	<input type="checkbox"/> Left message
Rule 203 licensor (family foster care only): <input type="checkbox"/> N/A	Date:	Time:	am/pm	<input type="checkbox"/> Left message
Other: <input type="checkbox"/> N/A	Date:	Time:	am/pm	<input type="checkbox"/> Left message
DHS Licensing Division: <input type="checkbox"/> N/A	Date:	Time:	am/pm	<input type="checkbox"/> Left message
MN Office of the Ombudsman: <input type="checkbox"/> N/A	Date:	Time:	am/pm	<input type="checkbox"/> Left message
MN Office of Health Facility Complaints (ICF/DD only): <input type="checkbox"/> N/A	Date:	Time:	am/pm	<input type="checkbox"/> Left message
The MAARC/CEP/Child Protection Agency <input type="checkbox"/> N/A Name of intake worker:	Date:	Time:	am/pm	
Was an internal maltreatment report filed? <input type="checkbox"/> Yes <input type="checkbox"/> No, if no, why:				

_____ Name of staff person who notified the persons or entities	_____ Date
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Designated Manager review and recommendation

1. Was the person's *Coordinated Service and Support Plan Addendum* implemented as applicable?
 Yes No: if no address in the corrective action section of this review

 Were policies and procedures implemented as applicable?
 Yes No: if no address in the corrective action section of this review
2. Identification of patterns:
3. Is corrective action necessary based upon the review? Yes No: if yes, what corrective action will be implemented as necessary to reduce occurrences:

_____ Designated Coordinator and/or Designated Manager	_____ Date
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