

Maltreatment of Vulnerable Adults and Minors Reporting Policy and Procedure

Policy

Lifeworks Services, Inc. is required by state law to ensure the safety of vulnerable individuals and report any suspected maltreatment in accordance to MN Statutes 245A, 245D and 626.5572 and 260E. All Lifeworks staff are considered mandated reporters.

Procedure:

Vulnerable Adults:

Who should report suspected maltreatment of a vulnerable adult:

1. As a mandated reporter, if you know or suspect that a vulnerable adult has been maltreated, you must report it immediately (as soon as possible, but **no longer than 24 hours** from the time initial knowledge that the incident occurred has been received).

Where to report suspected maltreatment of a vulnerable adult:

1. If you know or suspect that a vulnerable adult is in immediate danger, **call 911**.
2. You may report suspected maltreatment of a vulnerable adult internally or externally. Internally, you may report to your Lifeworks supervisor (primary person) or the compliance committee (secondary person) at 651-365-3737. Externally, you may report to the **Minnesota Adult Abuse Reporting Center (MAARC), by calling 1-844-880-1574** which is open 24 hours a day, seven days a week or through their webpage at mn.gov/dhs/reportadultabuse/.

What to report:

1. Definitions of maltreatment of a vulnerable adult are located at the end of this policy.
2. An external or internal report should contain enough information to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in the investigation of the suspected maltreatment.

Definition of a Vulnerable Adult:

1. Anyone over the age of 18 who:
 - a. has a physical, mental or emotional disorder that makes it difficult for the person to care for themselves without help and to protect themselves from maltreatment;
 - b. is in a hospital, nursing home, transitional care unit, assisted living, housing with services, board and care, foster care or other licensed care facility; or
 - c. receives services such as home care, day services, personal care assistance or other licensed services.

Minors (children):

Who should report suspected maltreatment of a minor:

1. If you provide care to minors (children) served by this program, you are legally required or mandated to report and cannot shift the responsibility of reporting to your supervisor or to anyone else at your licensed facility.
2. If you know or have reason to believe that a child is being or has been maltreated within the preceding three years you must immediately (as soon as possible, but **no longer than 24 hours**) make a report to an outside agency (see the list of county phone numbers at the end of this policy).
3. Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, the county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being maltreated.

Where to report suspected maltreatment of a minor:

1. If you know or suspect that a vulnerable individual is in immediate danger, **call 911.**
2. Reports concerning suspected abuse or neglect of children, occurring in a licensed child foster care or family child care facility should be made to county child protection services.
3. Reports concerning suspected maltreatment of a minor (child), or other violations of Minnesota Statutes or Rules, in licensed facilities by the Minnesota Department of Human Services, should be made to the **Licensing Division's Central Intake line at (651)-431-6600.**

4. All reports concerning suspected maltreatment of a minor (child) within a family or in the community should be made to the local law enforcement or county social services agency (see list of counties and phone numbers at the end of this policy).

What to report:

4. Definitions of Maltreatment of a Minors (children) Act are can be located at the end of this policy or visit MN Statutes 260E.03.
5. A report to any of the above agencies should contain enough information to identify the child involved, any persons responsible for the abuse or neglect (if known), and the nature and extent of the maltreatment and/or possible licensing violations. For reports concerning suspected abuse or neglect occurring within this program, the report should include any actions taken by this program in response to the incident.
6. An oral report of suspected abuse or neglect made to one of the above agencies by a mandated reporter must be followed by a **written report to the same agency within 72 hours**, exclusive of weekends and holidays.

Internal Reporting & Review:

Internal Reports:

1. When an internal report is received regarding a vulnerable adult, the program supervisor (for intensive support services) or service coordinator (for basic support services) is responsible for deciding if a report to the MAARC is required. If that person is involved in the suspected maltreatment, the program manager or compliance committee (651-365-3737) will assume responsibility for deciding.
2. The report to the MAARC must be as soon as possible (**no longer than 24 hours** from the time initial knowledge of the incident occurred has been received).
3. If you have reported internally, you will receive a confidential written notice within 2 business days that tells you whether or not your report regarding an abuse of a vulnerable adult has been forwarded to the MAARC. If you are not satisfied with the action taken, you may still make an external report to the MAARC.

Internal Review:

1. When Lifeworks has reason to believe that an internal or external report of alleged or suspected maltreatment has been made, an internal review will be conducted and will take corrective action, if necessary, to protect the health and safety of the vulnerable individual.
2. The internal review will include an evaluation of whether: related policies and procedures were followed; the policies and procedures were adequate; there is a need for additional staff training; the reported event is similar to past events with the vulnerable individual or the services involved; and there is a need for corrective action by the license holder to protect the health and safety of the vulnerable individual.
3. The internal review will be completed by the compliance committee within 30 calendar days. If an individual from the compliance committee is involved in the alleged or suspected maltreatment, the individual will be removed from being involved in the internal review.
4. Internal reviews regarding maltreatment will be made accessible to the commissioner (DHS) immediately (**within 24 hours**) upon the commissioner's request.
5. Based on the internal review, a correction action plan will be developed, documented and implemented to correct current lapses and assist in preventing future lapses in performance by individuals or the program.

Failure to Report, Retaliation and Training:

Failure to Report:

3. A mandated reporter who negligently or intentionally fails to report suspected maltreatment of a vulnerable adult is liable for damages caused by the failure to report.
4. A mandated reporter who knows or has reason to believe a child is or has been neglected or physically or sexually abused and fails to report is guilty of a misdemeanor. In addition, a mandated reporter who fails to report maltreatment that is found to be serious or recurring maltreatment may be disqualified from employment in positions allowing direct contact with persons receiving services from programs licensed by the Department of Human Services and by the Minnesota Department of Health, and unlicensed Personal Care Provider Organizations.

Retaliation Prohibited:

1. A facility or person shall not retaliate against any person who reports in good faith or against the vulnerable individual with respect to whom the report is made.
2. The Reporting of Maltreatment of Minors Act contains specific provisions regarding civil actions that can be initiated by mandated reporters who believe that retaliation has occurred.

Orientation for persons served:

1. Orientation will be provided regarding the internal and external reporting procedures to all persons served and/or legal representatives **within 24 hours of admission or within 72 hours if the person** would benefit more from a later orientation.

Staff training:

2. Staff will receive training on this policy, Minnesota Statutes, sections 260E, 626.557 and 626.5572, the requirements of Minnesota Statutes, section 245A.65, the program's program abuse prevention plan when applicable, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.
3. The program will document the provision of this training, monitor implementation by staff, and ensure that the policy is readily accessible to staff, as specified under Minnesota Statutes, section 245A.04, subdivision 14.

Definitions of Maltreatment of a Vulnerable Adult:

Abuse of a Vulnerable Adult include:

1. Physical, emotional and sexual abuse, use of restraints, involuntary seclusion or punishment.

Neglect of a Vulnerable Adult include:

1. Failure to provide necessary food, shelter, clothing, health care or supervision because of neglect by a caregiver or self-neglect because the vulnerable adult cannot meet their own needs.

Financial Exploitation of a Vulnerable Adult include:

1. Theft or withholding of money or property and/or use of money or property not for the vulnerable adult's benefit.

Completed definitions of Maltreatment of a Vulnerable Adult can be located at the end of this policy or visit MN Statutes 626.5572

Definitions of Maltreatment of a Minor:

Neglect of a Minor:

1. Neglect is the most common form of maltreatment and is usually a failure of a child’s caregiver to:
 - a. provide needed food, clothing, shelter, medical or mental health care, education or appropriate supervision;
 - b. protect a child from conditions or actions that endanger the child; or
 - c. take steps to ensure that a child is educated as required by law.
2. Exposing a child to certain drugs during pregnancy and causing emotional harm to a child may also be considered neglect.

Physical Abuse:

3. This is when a caregiver causes any physical injury, or threatens harm or substantial injury, on a child other than by accident. Physical abuse can range from minor bruises to severe internal injuries and death.

Mental Injury:

4. Injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

Sexual Abuse:

5. This is when a child is a victim of a criminal sexual act or threatened sexual abuse including solicitation of children to engage in sexual conduct or communicating sexually explicit materials to children committed by:
 - a. a person responsible for a child’s care;
 - b. a person who has a significant relationship to a child; or
 - c. a person in a current or recent position of authority.

Complete definitions of Maltreatment of a Minor can be located at the end of this policy or visit MN Statutes 260E.03.

County Phone Numbers to Report Maltreatment of a Minor (children):

COUNTY	DAY	EVENING/WEEKEND
--------	-----	-----------------

AITKIN	(218) 927-7200 or (800) 328-3744	(218) 927-7400
ANOKA	(763) 324-1440	(612) 852-0935
BECKER	(701) 235-3620	(701) 235-3620
BELTRAMI	(218) 333-4223	(218) 751-9111
BENTON	(320) 968-5087	(320) 968-7201
BIG STONE	(320) 839-3558	(320) 839-3558
BLUE EARTH	(507) 304-4319	(507) 625-9034
BROWN	(507) 354-8246	(507) 233-6720
CARLTON	(218) 879-4511	(218) 384-4185
CARVER	(952) 361-1600	(952) 226-1483
CASS	(218) 547-1340	(218) 547-1424
CHIPPEWA	(320) 269-6401	(320) 269-2121
CHISAGO	(651) 251-1300	1-888-234-1246
CLAY	(218) 299-5200	(218) 299-5171
CLEARWATER	(218) 694-6226	(218) 694-6226
COOK	(218) 387-3620	(218) 387-3030
COTTONWOOD	(507) 831-1891	(507) 831-1375
CROW WING	(218) 824-1140	(218) 829-4749
DAKOTA	(952) 891-7459	(952) 891-7171
DODGE	(507) 635-6170	(507) 635-6200
DOUGLAS	(320) 762-2302	(320) 762-8151

FARIBAULT	(507) 526-3265	(507) 526-3265
FILLMORE	(507) 765-2175	(507) 765-3874
FREEBORN	(507) 377-5400	(507) 377-3081 or (507) 373-2940
GOODHUE	(651) 385-3200	(612) 385-3155
GRANT	(218) 685-4417	(218) 685-5303
HENNEPIN	(612) 348-3552	(612) 348-4111
HOUSTON	(507) 725-5811	(507) 725-3379
HUBBARD	(218) 732-1451	(218) 732-3331
ISANTI	(763) 689-8146	(763) 689-2141
ITASCA	(218) 327-2941	(218) 327-2941
JACKSON	(507) 847-4000	(507) 847-4420
KANABEC	(320) 679-6350	(320) 679-2141
KANDIYOHI	(320) 231-6232	(320) 235-2244
KITTSOON	(218) 843-2689 or (800) 672-8026	(218) 843-3535
KOOCHICHING	(218) 283-7000	(218) 283-4416
LAC QUI PARLE	(320) 598-3720	(320) 598-3720
LAKE	(218) 834-8401	(218) 834-8385
LAKE OF THE WOODS	(218) 634-2642	(218) 634-1143
LE SUEUR	(507) 934-5420	(507) 934-5420
LINCOLN	(507) 532-6241 or (800) 657-3811	(507) 694-1664
LYON	(507) 532-6241 or (800) 657-3811	(507) 537-7000

MAHNOMEN	(218) 935-2568	(218) 935-2255
MARSHALL	(218) 745-5124	(218) 745-5411
MARTIN	(507) 238-4757	(507) 238-4757
MC LEOD	(320) 864-3144	(320) 864-3134
MEEKER	(320) 693-5300	(320) 693-5400
MILLE LACS	(320) 983-8208	(320) 983-8257
MORRISON	(320) 632-2951	(320) 632-9233
MOWER	(507) 437-9700	(507) 437-9400
MURRAY	(507) 352-6241 or (800) 657-3811	(507) 836-6168
NICOLLET	(507) 934-8559	(507) 931-1570 or (800) 247-5044
NOBLES	(507) 372-2157	(507) 372-2136
NORMAN	(218) 784-5400	(800) 422-0863
OLMSTED	(507) 328-6400	(507) 281-6248
OTTER TAIL	(218) 998-8150	(218) 998-8555
PENNINGTON	(218) 683-4350	(218) 683-4350
PINE	(800) 450-7263	(800) 629-3930
PIPESTONE	(507) 825-6700	(507) 825-6700
POLK	(218) 281-3127	(218) 281-0431
POPE	(320) 634-5750	(320) 634-5411
RAMSEY	(651) 266-4500	(651) 266-4500
RED LAKE	(218) 253-4131	(218) 253-2996

REDWOOD	(507) 637-4050	(507) 637-4036
RENVILLE	(320) 523-2202	(320) 523-1161
RICE	(507) 332-6115	(507) 332-6115
ROCK	(507) 283-5070	(507) 283-5000
ROSEAU	(218) 463-2411	(218) 463-1421
SCOTT	(952) 496-8959	(952) 496-8484
SHERBURNE	(763) 241-2600	(763) 607-0969 or (763) 241-2500
SIBLEY	(507) 237-4000	(507) 237-4330
ST. LOUIS	(218) 726-2164 or (800) 450-9777	(218) 726-2164 or (877) 474-4290
STEARNS	(320) 656-6000	(320) 656-6000
STEELE	(507) 431-5600	(507) 451-5600
STEVENS	(320) 589-7400	(320) 589-2141
SWIFT	(320) 843-3160	(320) 843-3133
TODD	(320) 732-4500	(320) 732-2157
TRAVERSE	(320) 563-8255	(320) 563-4244
WABASHA	(651) 565-3551	(651) 565-3551
WADENA	(218) 631-7605	(218) 631-7600
WASECA	(507) 835-0560	(507) 835-0500
WASHINGTON	(651) 430-6457	(651) 291-6795
WATONWAN	(507) 375-3294	(507) 375-3121
WILKIN	(218) 643-8013	(218) 643-8544

WINONA	(507) 457-6200	(507) 457-6368
WRIGHT	(763) 682-7449	(763) 682-7400
YELLOW MEDICINE	(320) 564-2211	(320) 564-2130

Maltreatment of Minors Act Minnesota Statutes, Chapter 260E.03 Definitions

As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

Subd. 12. Maltreatment. "Maltreatment" means any of the following acts or omissions:

- (1) egregious harm under subdivision 5;
- (2) neglect under subdivision 15;
- (3) physical abuse under subdivision 18;
- (4) sexual abuse under subdivision 20;
- (5) substantial child endangerment under subdivision 22;
- (6) threatened injury under subdivision 23;
- (7) mental injury under subdivision 13; and
- (8) maltreatment of a child in a facility

Subd. 5. Egregious harm. "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

- (1) conduct towards a child that constitutes a violation of sections [609.185](#) to [609.2114](#), [609.222](#), [subdivision 2](#), [609.223](#), or any other similar law of any other state;
- (2) the infliction of "substantial bodily harm" to a child, as defined in section [609.02](#), [subdivision 7a](#);
- (3) conduct towards a child that constitutes felony malicious punishment of a child under section [609.377](#);
- (4) conduct towards a child that constitutes felony unreasonable restraint of a child under section [609.255](#), [subdivision 3](#);
- (5) conduct towards a child that constitutes felony neglect or endangerment of a child under section [609.378](#);
- (6) conduct towards a child that constitutes assault under section [609.221](#), [609.222](#), or [609.223](#);
- (7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section [609.322](#);
- (8) conduct towards a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a);

(9) conduct towards a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a); or

(10) conduct toward a child that constitutes criminal sexual conduct under sections 609.342 to 609.345

Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (8), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;

(6) medical neglect, as defined in section 260C.007, subdivision 6, clause (5);

(7) chronic and severe use of alcohol or a controlled substance by a person responsible for the child's care that adversely affects the child's basic needs and safety; or

(8) emotional harm from a pattern of behavior that contributes to impaired emotional functioning of the child, which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(b) Nothing in this chapter shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.

(c) This chapter does not impose upon persons not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care.

Subd. 18. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury under subdivision 13, or threatened injury under subdivision 23, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

(b) Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582.

(c) For the purposes of this subdivision, actions that are not reasonable and moderate include, but are not limited to, any of the following:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions that result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) striking a child who is at least age one but under age four on the face or head, which results in an injury;
- (9) purposely giving a child:
 - (i) poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child; or
 - (ii) other substances that substantially affect the child's behavior, motor coordination, or judgment; that result in sickness or internal injury; or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
- (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58

Subd. 20. **Sexual abuse.** "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a current or recent position of authority, to any act that constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse

also includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse, which includes the status of a parent or household member who has committed a violation that requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means that a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm under subdivision 5;
- (2) abandonment under section 260C.301, subdivision 2;
- (3) neglect under subdivision 15, paragraph (a), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- (8) criminal sexual conduct under sections 609.342 to 609.3451;
- (9) solicitation of children to engage in sexual conduct under section 609.352;
- (10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (11) use of a minor in sexual performance under section 617.246; or
- (12) parental behavior, status, or condition that mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

Subd. 23. **Threatened injury.** (a) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(b) Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in subdivision 17, who has:

- (1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;
- (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.

(c) A child is the subject of a report of threatened injury when the local welfare agency receives birth match data under section 260E.14, subdivision 4, from the Department of Human Services.

Subd. 13. **Mental injury.** "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

626.5572 Vulnerable Adults definitions

Subdivision 1.Scope.

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

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 [609.345](#).

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; or

(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 unless authorized under applicable licensing requirements of Minnesota Rules, chapter 9544

(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.

(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. 3.Accident.

"Accident" means a sudden, unforeseen, and unexpected occurrence or event which:

(1) is not likely to occur and which could not have been prevented by exercise of due care; and

(2) if occurring while a vulnerable adult is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

Subd. 4.Caregiver.

"Caregiver" means an individual or facility who has responsibility for all or apportion of the care of a vulnerable adult voluntarily, by contract, or by agreement. Caregiver does not include an unpaid caregiver provides incidental care.

Subd. 5.Common entry point.

"Common entry point" means the entity responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult under section [626.557](#).

Subd. 6.Facility.

(a) "Facility" means a hospital or other entity required to be licensed under sections [144.50](#) to [144.58](#); a nursing home required to be licensed to serve adults under section [144A.02](#); a facility or service required to be licensed under chapter 245A; an assisted living facility required to be licensed under chapter 144G; a home care provider licensed or required to be licensed under sections [144A.43](#) to [144A.482](#); a hospice provider licensed under sections [144A.75](#) to [144A.755](#); or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625, subdivision 19a](#), [256B.0651](#) to [256B.0654](#), [256B.0659](#), or [256B.85](#).

(b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

Subd. 7.False.

"False" means a preponderance of the evidence shows that an act that meets the definition of maltreatment did not occur.

Subd. 8. Final disposition.

"Final disposition" is the determination of an investigation by a lead investigative agency that a report of maltreatment under Laws 1995, chapter 229, is substantiated, inconclusive, false, or that no determination will be made. When a lead investigative agency determination has substantiated maltreatment, the final disposition also identifies, if known, which individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

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.

Subd. 10.Immediately.

"Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

Subd. 11.Inconclusive.

"Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur.

Subd. 12.Initial disposition.

"Initial disposition" is the lead investigative agency's determination of whether the report will be assigned for further investigation.

Subd. 13.Lead investigative agency.

"Lead investigative agency" is the primary administrative agency responsible for investigating reports made under section [626.557](#).

(a) The Department of Health is the lead investigative agency for facilities or services licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding care homes, hospice providers, residential facilities that are also federally certified as intermediate care facilities that serve people with developmental disabilities, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Health for the care of vulnerable adults. "Home care provider" has the meaning provided in section [144A.43, subdivision 4](#), and applies when care or services are delivered in the vulnerable adult's home.

(b) The Department of Human Services is the lead investigative agency for facilities or services licensed or required to be licensed as adult day care, adult foster care, community residential settings, programs for people with disabilities, family adult day services, mental health programs, mental health clinics, chemical dependency programs, the Minnesota Sex Offender Program, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Human Services.

(c) The county social service agency or its designee is the lead investigative agency for all other reports, including, but not limited to, reports involving vulnerable adults receiving services from a personal care provider organization under section [256B.0659](#).

Subd. 14.Legal authority.

"Legal authority" includes, but is not limited to: (1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations; (2) a contractual obligation; or (3) documented consent by a competent person.

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. 16.Mandated reporter.

"Mandated reporter" means a professional or professional's delegate while engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section [214.01, subdivision 2](#); (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.

Subd. 17.Neglect.

"Neglect" means neglect by a caregiver or self-neglect.:

(a) "Caregiver neglect" means 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) "Self-neglect" means neglect by a vulnerable adult of the vulnerable adult's own food, clothing, shelter, health care, or other services that are not the responsibility of a caregiver which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort.

(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;

(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 investigative 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 investigative agency's determination of mitigating factors under section [626.557, subdivision 9c](#), paragraph (c).

Subd. 18.Report.

"Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 19.Substantiated.

"Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

Subd. 20.Therapeutic conduct.

"Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 21.Vulnerable adult.

(a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services required to be licensed under chapter 245A, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota Sex Offender Program on a court-hold order for

commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under section [256B.0625, subdivision 19a](#), [256B.0651](#), [256B.0653](#), [256B.0654](#), [256B.0659](#), or [256B.85](#); or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.