



Reporting Maltreatment of Vulnerable Adults

Human Services: Adult Protection Services • Margarita Nadeau/Dustin Cobb • 2/28/19

Introduction

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- **Reporting**
- **Time and notification requirements**
- **Protection and penalties**
- **Response to reports**
- **Investigation**
- **Protective Services**



Who is a vulnerable adult?

- **A person 18 years of age or older who fits one of the following criteria:**
 - Resident of a licensed facility
 - Recipient of services from a facility or provider required to be licensed under 245A (DHS Home and Community Services)
 - Recipient of licensed home health care services or MA-funded personal care attendant services (PCA)

Categorical vulnerable adult exceptions:

- **If a person:**

- Receives outpatient mental health services
- Receives outpatient chemical health services
- Is committed as a Psychopathic Personality or Sexually Dangerous Person, unless functionally impaired

Definition of a vulnerable adult, continued

Physical or mental infirmity or emotional dysfunction which:

- Impairs ability to meet basic needs (e.g., food, health care, shelter, and supervision)

and

- Impairment limits ability to protect self from maltreatment
 - Inability to recognize maltreatment
 - Inability to ask for needed help and/or recognize danger
 - Inability to follow through with needed safety plan

Definitions of abuse or maltreatment

- **Assault**
- **Criminal sexual conduct**
- **Conduct producing pain or injury**
 - Hitting, slapping, kicking, corporal punishment, etc.
 - Use of force to compel somebody to do something
 - Unauthorized adverse or deprivation procedure (DD programs)
 - Involuntary confinement, deprivation
- **Use of drugs to injure or facilitate a crime**
- **Promotion of human trafficking**
- **Staff-resident sexual contact**
 - Unless pre-existing consensual sexual relationship or
 - Personal Care Attendant (PCA)



Criminal penalties are now in effect for some kinds of abuse and caregiver neglect

Definition of neglect

- Neglect: **Failure to provide care or services, such as food, clothing, health care, shelter or supervision**
- Neglect may be:
 - **Self-neglect:** The person's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks
 - **Caregiver neglect:** A person who is responsible for the care of the vulnerable adult (family or via contract/agreement)

Exceptions to neglect: Neglect does not occur...

When an authorized person:

- makes decision/s to give or withhold health care or services, within the boundary of reasonable medical practice, or
- uses spiritual means of healing as long as it is consistent with the lifestyle of the vulnerable adult.

Exceptions to neglect, continued

- An individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which requires medical or mental health care, **or**
- If an individual makes an error in the provision of therapeutic conduct which results in injury or harm requiring medical or mental health care, then
 - 1) Necessary care must be provided within a timely fashion, and
 - 2) Health status of the vulnerable adult can be expected to be restored (determined by MD), and
 - 3) Error is not part of a pattern by the individual

When an error occurs in a facility



The facility must:

- Report immediately the error, **and**
- Record the error internally, **and**
- Identify and implement corrective action to reduce risk of further occurrence, **and**
- Document adequately for review and evaluation

Definition of financial exploitation

- **In breach of a legal fiduciary relationship, a person:**

- Engages in unauthorized expenditures or
- Fails to use the financial resources to provide for the vulnerable adult's basic needs
- Results in detriment to the vulnerable adult

Examples of a legal fiduciary relationship

- Conservator or guardian
- Trustee
- Power of attorney
- Joint accounts
- Representative payee
- Joint property

Definition of financial exploitation, continued

- **In absence of legal authority, a person:**
 - Willfully uses, withholds, or disposes of the vulnerable adult's funds or property
 - Obtains control of or interest in vulnerable adult's funds or property through undue influence, harassment, duress, deception or fraud
 - Compels the vulnerable adult to perform for the profit of another

There are criminal penalties for financial exploitation



Reporting: Who must make a Vulnerable Adult Report?

- **Mandated reporters include professionals or professional's delegates while engaged in the care of vulnerable adults.**


Who are mandated reporters?	
Law enforcement officers	Doctors or physician's assistants
Guardians	Conservators
Educators	Nurses
Facility staff (e.g., NH, DTH, group home) or those involved in care of vulnerable adults	Social workers, Psychologists, Marriage Counselors, Voc Rehab Counselors
Medical examiner or coroner	Occupational, Physical, Speech, Therapists, Dieticians

How do you make a report?

- All reporters must use the **Minnesota Adult Abuse Reporting Center (MAARC)**
- Single coordinated entry operated by state
- Phone at **1-844-880-1574**
- Mandated reports may report via website:
<http://edocs.dhs.state.mn.us/lfs/erver/Public/DHS-6303-ENG>

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Instructions



Minnesota Adult Abuse Reporting Center (MAARC)
Mandated Reporter Form
DISCLOSURE: Prior to any disclosure refer to MN Stat. sec. 13.02 and MN Stat. sec. 626.557, Subd. 12b
Refer to the [MAARC Mandated Reporter Guide](#) for information on using the web-based reporting system.

Instructions – Do not save a copy of this form for future use. Successful submissions must be created directly from this site.
Last updated: 12/19/2017

This reporting form may be unavailable occasionally for system maintenance. To meet mandated reporter duties, an oral report may be made 24 hours a day, seven days a week, by calling the Minnesota Adult Abuse Reporting Center at 1-844-880-1574.

If you are reporting an emergency that requires immediate assistance from law enforcement, the fire department, or an ambulance, call 911 before making a mandated report on a vulnerable adult.

This form is only for use by mandated reporters. Mandated reporters, designated facility reporters, law enforcement, counties, and lead investigative agencies must complete all required fields and successfully submit the report to meet a duty as a mandated reporter.

Helpful Hints

- **Do not** use the browser buttons. If you use the browser button, you could lose all of the information that has been entered.
- Partially completed reports cannot be submitted or saved for later completion.
- Data entered on each page is saved as you navigate between pages. Navigating to pages in the report can be completed by selecting the page from the dropdown menu or by clicking << Go Back Button or Continue Button >>.
- The Web Report number is the confirmation number that will appear after successful submission of the report.
- A copy of the completed report may be printed or saved after successful submission of the report.
- The form will timeout after 2 hours.

Continue >>

Instructions

Reporter should be to able to identify:

**To the best of your ability, be
ready to identify:**

- The vulnerable adult
- Caregiver
- Nature and extent of the suspected maltreatment
- Time, date, location of the incident, and any additional pertinent information
- Evidence of previous maltreatment



Reporting questions

- **Reporters are asked questions to determine the need for an emergency response.**
 - Has an incidence of sexual assault occurred within the last three weeks and the vulnerable adult has not received a sexual assault exam?
 - Is the vulnerable adult likely to be physically abused or sexually assaulted within the next 72 hours?

More questions

- Is the vulnerable adult likely to be a victim of abuse, neglect, or exploitation which will likely result in serious injury, harm, or loss of health requiring medical care by a physician within the next 72 hours?
- Is the reporter not aware of abuse, neglect, or exploitation that is likely to result in assault, serious injury, harm, or loss of health to the vulnerable adult within 72 hours?

Reporting

- Written reports are no longer accepted
- Counties will no longer accept reports via telephone, email, fax; all reports must come from MAARC
- Nursing homes, board and care homes, and transitional care beds still need to make a report electronically to the Department of Health

Where to make a vulnerable adult report?

- If a **facility has an internal reporting procedure**, a mandated reporter may report internally.
- The facility remains responsible for immediate reporting, within 24 hours.

Hennepin County Adult Protection Services:

612-543-9912




When should a vulnerable adult report be made?

- When there is reason to believe a vulnerable adult is being or has been maltreated
- or
- When a vulnerable adult has sustained a physical injury that is not reasonably explained
- A report should be made immediately, which means as soon as possible, and within 24 hours.



If a crime is in progress...

- Remember, if a crime is in progress or has recently occurred... 
- Then call the MN Adult Abuse Reporting Center:
844-880-1574
- Do not destroy any physical evidence

Call
911

Exemptions from reporting

- Federal law specifically **prohibits disclosure of patient identifying information** without patient consent in certain federally funded programs (CD programs).
- Resident-to-resident verbal or physical abuse or self-injurious behavior not causing serious harm.
- Unless financial exploitation:
 - Money or property transfers or
 - Money or property gifted or
 - Compensation for services
- Accidents:
 - Sudden, unforeseen and unexpected event, and
 - Which is not likely to occur, and
 - Which could not have been prevented by exercise of due care, and
 - When the facility is in compliance with relevant rules and laws.

Protections for reporters

- No civil or criminal liability for good faith reports
- Identity of reporter not divulged: except with consent or by court order
- Penalties for retaliation against reporter
- Civil protections for good faith investigative activities
- No retaliation for making a report

Penalties may come into play

For reporters

- Intentional false report
- Negligent or intentional failure of a mandated reporter to report

For those accused of maltreatment

- If they try to retaliate against reporter

What happens when a report is received?

- MN Adult Abuse Reporting Center receives telephone and online reports of maltreatment 24/7
 - Use of a telecommunications device for the deaf or other similar device are available.
- Screens and distributes reports
 - Notifies law enforcement agencies
 - Refers to counties for Emergency Protective Services
 - Notifies Medical Examiner
 - Notifies Ombudsman for Mental Health and DD
- Determines lead investigative agency:
 - **MN Dept. of Human Services** (Facilities: foster homes, group homes, day programs, residential treatment)
 - **MN Office of Health Facility Complaints** (Facilities: nursing homes, board-and-care homes, home health agencies)
 - **County Adult Protection** (Community, including Personal Care Providers Organizations)

Hennepin County Adult Protection duties

- Lead investigative agency for maltreatment that occurs **outside of a licensed facility or program**
- Provide emergency protective services



County Adult Protection intake

- Gathers additional information
- Coordinates information and services
- Makes initial disposition
 - Is this a vulnerable adult?
 - Is the incident maltreatment per law?
 - Is there an adverse impact on the vulnerable adult?
 - Can the formal or informal support system resolve the situation?
 - Is there a role for Adult Protection?
 - Determines response time: same day, within one day, within 72 hours

Lead agency responsibilities

- Notify reporter of initial disposition within five (5) days, if requested
- Assess vulnerable adult status of the victim
- Gather evidence:
 - Interview victim, perpetrator, witnesses, collaterals regarding maltreatment
 - Examine records and consult with experts
 - Enter facility and inspect records
- Make a final disposition (finding) within 60 days
 - Substantiated, inconclusive, false
 - Preponderance of Evidence Standard
 - Individual or facility responsibility
 - Notify relevant parties

Definition: Protective Services

- Social, medical, legal, and law enforcement services used to reduce or eliminate maltreatment of a vulnerable adult.
- Provided in keeping with client self-determination goals, using least restrictive alternatives, client-centered planning

Assessing the client's mental capacity

Competent and accepts services <ul style="list-style-type: none">• Good outcome. Work with client	Competent and refuses services <ul style="list-style-type: none">• Respect client's right to refuse services and leave person alone
Incompetent and accepts services <ul style="list-style-type: none">• Work with client to extent legally possible. Involve family if available.	Incompetent and refuses services <ul style="list-style-type: none">• State may have a duty to act• May need legal intervention such as guardianship or commitment

Protective services include:

- Emergency services to protect vulnerable adult from further maltreatment
- Assess for and arrange immediate medical or mental health examination and treatment (if appropriate)
- Assess risk to other vulnerable adults
- Enter facility and inspect records
- Seek authority to remove vulnerable adult

Legal protective services include:

- Restraining or protective order
- Conservatorship or guardianship
- Replacement of neglectful conservator or guardian
- Criminal prosecution
- Commitment for mental illness and/or chemical dependency



Social services may also be protective services

- Social services referrals
 - Housing or placement
 - Health or mental health care
 - Home health, chore services
 - Case management
 - Waivered services or programs



Adult Protection and community agencies

- Collaborate for better client outcomes
- Contracted case managers
 - Self-neglect follow up
 - Other reports
- APS service referrals

Supported decision making

- Guardianship/conservatorship criteria is being rethought based upon client-centered interventions, legal decisions, and research.
- Guardianship workgroups are sponsored by WINGS (Working Interdisciplinary Network of Guardian Stakeholders) and Elder Justice Center
- Guardianships are not being eliminated.
- Supported decision making is gaining traction as the prominent alternative to guardianships and conservatorships.
- Traditional approaches to determine capacity to make decisions are being questioned.

Supported decision making

- **Alternatives to guardianship**

- Health Care Directive, other advanced documents or conversations about preferences
- Community-based or supportive services
- Long-term care consultation/MNChoice assessment
- Decision support teams: Care or Case manager, families, other supportive involved individuals

Alternatives to conservatorship

- POA
- Trusts
- Rep payee
- Informal supports such as auto bill pay, joint accounts

Metro county Adult Protective Services

- Anoka: 763-422-7168
- Carver: 952-361-1600
- Dakota: 651-554-6000
- Hennepin: 612-543-9912
- Ramsey: 651-266-4012
- Scott: 952-445-7751
- Washington: 651-430-6484
- Wright: 763-682-7481



**Hennepin County
Adult Protection
612-543-9912**

Vulnerable adult law online

- The Reporting of Vulnerable Maltreatment Law can be obtained on-line

www.leg.state.mn.us/leg/statutes.asp

The laws to be retrieved are
626.557 and 626.5572



MN Department of Human Services

- Website includes tutorial on the reporting of vulnerable adult maltreatment: www.dhs.state.mn.us/TrainLink.



Margarita Nadeau and Dustin Cobb

Margarita.Nadeau@Hennepin.us or call
612-296-2855

Dustin.Cobb@Hennepin.us or call 612-348-
3354

