

**WACOSA**  
**Maltreatment of Vulnerable Adults Reporting and Internal Review Policy**

**Date of last policy review:** 11-30-2013  
11-18-2014  
**Date of last policy revision:** 11-30-2013  
8-5-2015  
3-10-16

**THIS REPORTING POLICY SHALL BE POSTED IN A PROMINENT  
LOCATION, AND BE MADE AVAILABLE UPON REQUEST.**

Legal Authority: Minn, Stat. [626.557](#); [626.5572](#); [245A.65](#); [245A.04](#) subd. 14; [245D.09](#), subd. 4 (5)



## **WACOSA**

### **Policy for Maltreatment of Vulnerable Adults**

#### ***This policy implements Minnesota Statute 626.557, Reporting of Maltreatment of Vulnerable Adults***

It is the policy of WACOSA to protect the adults served by this program who are vulnerable to maltreatment and to require the reporting of suspected maltreatment of vulnerable adults.

#### **Purpose of the Reporting of Maltreatment of Vulnerable Adults:**

- To protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment that includes abuse, neglect and financial exploitation.
- To provide safe institutional or residential services or living environments for vulnerable adults who have been victims of maltreatment.
- To assist personal charged with the care of vulnerable adults to provide safe environments.
- To require the reporting of suspected maltreatment of vulnerable adults.
- To require the investigation of the reports.
- To provide protective and counseling services in appropriate cases.

#### **Definition of a Vulnerable Adult:**

- Vulnerable adults are persons 18 years of age or older who:
- Live in a licensed program / residential facility
- Receive services at or from licensed facilities such as day programs or home health agencies
- Regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

#### **Definition of Maltreatment:**

##### **Abuse:**

- An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:
  - Assault in the first through fifth degrees
  - The use of drugs to injure or facilitate crime
  - The solicitation, inducement and promotion of prostitution
  - Criminal sexual conduct in the first through fifth degree
- (A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction).*

- Conduct which is not an accident or therapeutic conduct, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including but not limited to the following:
- Hitting, slapping, kicking, pinching, biting or corporal punishment of a vulnerable adult
- 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.
- 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
- Use of any aversive or deprivation procedures for persons with developmental disabilities or related condition not authorized under section 245.825.
- Any sexual contact or penetration between a facility staff person or a person providing services in a facility and a resident, patient or client of that facility.
- 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.

#### **Financial Exploitation:**

- Unauthorized expenditure of funds entrusted to a person by a vulnerable adult which results or is likely to result in detriment to the vulnerable adult
- Failure to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for a vulnerable adult and the failure results or is likely to result in detriment to the vulnerable adult.
- Willfully uses, withholds, or disposes of funds or property of a vulnerable adult
- 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
- Acquires possession of control of or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception or fraud
- Forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

#### **Neglect:**

- 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 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
  - Not the result of an accident or therapeutic conduct.

- Results in criminal sexual conduct against a vulnerable adult.
- Any aversive and deprivation procedures that have not been authorized under MN. Statutes, Section 245.825 or MN. Rules parts 9525.2799 & 9525.2810 (rule 40), or procedures which are prohibited including the restricting of a person's normal access to:
  - Nutritious diet
  - Adequate ventilation
  - Sleeping conditions
  - Legal counsel
  - Drinking water
  - Necessary medical care
  - Necessary clothing
  - Next of kin

### **Definition of Therapeutic Conduct:**

Therapeutic conduct is defined as the provision of program services, health care, or other personal care services done in good faith in the interests of vulnerable adult by:

- 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
- Caregiver

### **Abuse Prevention:**

Facility-specific issues for WACOSA's DT&H programs are identified and addressed in the each site specific Program Abuse and Prevention Plan. Individual specific issues are addressed for each individual in their Individual Abuse Prevention Plan/Self Management Assessment and/or Coordinated Service and Support Plan Addendum. This plan is developed by the support team and/or expanded support team upon initiation of services and is reviewed at least annually.

### **Procedures:**

#### **Who should report suspected maltreatment of a vulnerable adult?**

As a mandated reporter, if you know or suspect that a vulnerable adult has been maltreated, you must report it 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.

#### **A. Persons required (mandated) to report include:**

- A professional or a professional's delegate who is engaged in:
  - Care of a vulnerable adult
  - Education
  - Social Services
  - Law Enforcement
  - Any related occupations
- Employees of, or persons providing services in a licensed program
- Employees of rehabilitation facilities certified by the Department of Economic Security

***B. Other persons who may and should report are persons who are in contact with vulnerable adults other than those listed above.***

***C. Reporting is required when:***

- A person has knowledge of the abuse or neglect of a vulnerable adult.
- A person has reasonable cause to believe that a vulnerable adult is being or has been abused or neglected.
- A person has knowledge that a vulnerable adult has sustained a physical injury or injuries that have not been reasonably explained.
- A person has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect.
- There is a therapeutic error that results in harm or injury to a vulnerable adult, which requires medical attention.

***D. Reporting is not required when:***

- Verbal or physical aggression between individuals receiving services ***unless*** it causes serious harm, which requires the care of a physician (whether or not the care of a physician was sought).
- Self-abusive behavior ***unless*** it causes serious harm.
- Transfer of the individual's money or property by gift or as compensation for services rendered.
- Accidents as defined as a sudden, unforeseen, and unexpected occurrence or event which:
  - Is not likely to occur again and could not have been prevented by exercising due care.
  - Occurs while a vulnerable adult is receiving services from a facility, happens when the facility employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.
- Therapeutic errors that do not result in harm or injury.

*Incidents of aggression and self-abusive behavior are recorded on an incident report so that licensing agencies and the county may review.*

**Where and What to report?** You can make an external or an internal report.

You may make an external report to the Minnesota Adult Abuse Reporting Center at 844-880-1574. This number is open 24 hours a day, 7 days per week. The center also provides a web based reporting system 24 hours a day, 7 days per week [mn.gov/dhs/reportadultabuse/](http://mn.gov/dhs/reportadultabuse/) You may make an internal report to the individuals Designated Coordinator, (or another Designated Coordinator, Site Coordinator, or Quality Assurance Director in that person's absence).

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 investigating the suspected maltreatment.

***A copy will also be placed in the program site's master file for vulnerable adult reports.***

***A. Internal reporting process:***

1. When an internal report is received, the Designated Coordinator is responsible for deciding if a report to the Minnesota Adult Abuse Reporting Center is required. If that person is involved in the suspected maltreatment, the Quality Assurance Director, will assume responsibility for deciding if the report must be forwarded to the Minnesota Adult Abuse Reporting Center.
2. The report to the Minnesota Adult Abuse Reporting Center must be as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.
3. If you report, internally, you will receive, within 2 working days, a written notice that tells you whether or not your report has been forwarded to the Minnesota Adult Abuse Reporting Center. The written notice will be given to you in a manner that protects your confidentiality as a reporter. It will inform you that if you are not satisfied with the action taken by WACOSA on whether to report the incident to the Minnesota Adult Abuse Reporting Center, you may still make an external report to the Minnesota Adult Abuse Reporting Center. It will also inform you that you are protected against retaliation by WACOSA if you make a good faith report to the Minnesota Adult Abuse Reporting Center.

Corrective action is taken as necessary to protect the health and safety of vulnerable adults when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made.

Within 24 hours of reporting maltreatment, WACOSA will inform the consumer's Case Manager and Legal Representative, unless there is reason to believe that the Legal Representative or Case Manager is involved in the suspected maltreatment. WACOSA will report the following information to these individuals:

- Nature of the activity or occurrence reported
- The agency that receives the report
- Phone number of the Department of Human Services, Licensing Division

***B. External Reporting Process:***

The person with knowledge of the suspected abuse or neglect may choose to report directly to outside authorities instead of the Designated Coordinator at WACOSA.

The person with knowledge of the abuse is then responsible for assuring that a report

is made to outside authorities. External reports must be made to at least one of the following agencies:

- WACOSA's Minnesota Adult Abuse Reporting Center is Stearns County Social Services (320) 656-6000
- Local Police Department
- County Sheriff
- County Human Services Agency
- Minnesota Department of Human Services, Licensing Division
- Medical Examiner or Coroner (if an individual has reason to believe that a person died as a result of abuse or neglect).

If an employee chooses to report externally, they may use WACOSA's Vulnerable Adult Reporting Form which includes notification that there will be no retaliation for such an action on their part.

***C. Internal Review of policy procedures:***

When WACOSA knows or has reason to know that an internal or external report has been made, a review of the following will be conducted:

- Evaluation of whether related policies and procedures were followed.
- Whether the policies and procedures were adequate.
- Whether there is a need for additional staff training.
- Whether there is a need for further action to be taken by WACOSA to protect the health and safety of vulnerable adults.
- If the situation was a part of a pattern of errors by an individual.
- If the reported event is similar to past events with the vulnerable adult or the services involved and
- Based on the results of this review, the license holder developed, documented and implemented a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any.

The internal review will be completed by the Quality Assurance Director, Lead Client Manager or Behavioral and Mental Illness Specialist or Site Coordinator.

- If the Quality Assurance Director, Lead Client Manager or Behavior and Mental Illness Specialist or Site Coordinator is involved in the alleged or suspected maltreatment, the internal review will be completed by the Executive Director.
- WACOSA will document the completion of the internal review within 30 days and provide documentation of the review to the DHS upon the commissioner's request.

**Orientation for persons receiving services:**

Each person who receives services from WACOSA will be oriented to the internal and external reporting system including, the telephone number for the Minnesota Adult Abuse Reporting Center, within 24 hours of admission or within 72 hours if the person can benefit from a later orientation. If the orientation is given after 24 hours,

but within 72 hours, the reason for the delay must be documented. A person's legal representative must be notified of the orientation.

**Staff Training:**

WACOSA will ensure that each new mandated reporter receives an orientation within 72 hours of first providing direct contact services to a vulnerable adult and annually thereafter. The orientation and annual review shall inform the mandated reporter of the reporting requirements and definitions under Minnesota Statutes, sections [626.557](#) and [626.5572](#), the requirements of Minnesota Statutes section 245A.65, the program's program abuse prevention plan, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.

WACOSA 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](#).

**Immunity From Liability:**

A person making a voluntary or mandated report or participating in an investigation under this section is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.

**Falsified Reports:**

A person intentionally making a false report may be liable in a civil suit for any actual damages suffered by the reported facility, person or persons. In addition, employees of WACOSA intentionally making a false report will be subject to disciplinary action by WACOSA.

**Failure to Report:**

A person who is required to report by this section and who intentionally fails to report is guilty of a misdemeanor. A person who is required by this section to report and who negligently or intentionally fails to report is liable for damages caused by the failure.

**Enforcement:**

A program that does not comply with the Vulnerable Adult Act is ineligible for renewal of its license and may have its license revoked.

**Retaliation Prohibited:**

A program or person shall not retaliate against any person who reports in good faith suspected abuse or neglect or against a vulnerable adult because of a report.

Any program or person that retaliates against a person because of a report of suspected abuse or neglect is liable to that person for actual damages and a penalty of up to \$10,000.



There is a presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. The term "adverse action" refers to action taken by a program or person involved in a report against the person making the report or the person involved in the report and includes, but is not limited to:

- discharge or transfer from the program
- discharge from or termination of employment
- demotion or reduction in payment for services
- restriction or prohibition of access to the program or its residents
- any restriction of rights set forth in section 144.651 (Minnesota Resident Bill of Rights)

**Penalty:**

Any caregiver, operator, employee, volunteer or worker who intentionally abuses or neglects a vulnerable adult is guilty of a gross misdemeanor.

**Documentation to be maintained by WACOSA:**

- A. Evidence that a mandated reporter received a written notice within two working days in a manner that protected their confidentiality. Additional documentation regarding the report which will be maintained includes:
  - Whether an internal report was forwarded to the Minnesota Adult Abuse Reporting Center
  - The reporter may report externally if they are not satisfied with the action (or lack of action) taken by the facility.
  - The reporter has statutory protection from retaliation by the facility for any good faith external report.
- B. Documentation of the facility's internal investigation of an incident of suspected maltreatment when an internal report is filed.
- C. Documentation of incidents that are considered "accidents".
- D. Documentation of a "therapeutic error" in the provision of therapeutic conduct.
  - Refer to MN. Statutes, Section 245A.65

If you have questions about the Vulnerable Adult Act, call the Minnesota Department of Human Services, Division of Licensing at (651) 297-4123.

