

# **CHOICE, unlimited**

Creating and Enhancing Opportunities Within Local Communities

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## **Vulnerable Adult Abuse Prevention Plan (VAAPP) Policy**

### **I. Policy**

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

### **II. Purpose**

Regulations developed under this policy are intended to set forth procedures implementing the "Vulnerable Adult Act", MSA Sec. 626.557. The 1995 Legislature made significant revisions in the Vulnerable Adult Act. As part of this reform effort, amendments to statutes that address maltreatment issues were made. These areas include definitions, reporting and response structure, investigation process, and penalties. The Legislature established that "the policy of this state is to protect adults who, because of physical or mental disability or dependency or institutional services, are particularly vulnerable to abuse or neglect; to provide safe institutional or residential services or living environments for vulnerable adults who have been abused or neglected; and to assist persons charged with the care of vulnerable adults to provide safe environments. In addition, it is the policy of the state to require the reporting of suspected abuse or neglect of vulnerable adults".

This program is committed to the prevention of abuse and neglect of all individuals applying for its services.

### **II. Position Statement**

Steps shall be taken to reduce or eliminate the likelihood of abuse or neglect without precluding a person's right to take risks while engaged in typical life activities. This program will cooperate to the fullest extent possible with county Lead Agencies and the Minnesota Department of Human Services while reporting and investigating suspected abuse and neglect. This program will assure that all documented knowledge of incidents of abuse and neglect are communicated to the Department of Human Service as required. Specific measures taken to reduce the risk of abuse or neglect are outlined in the Program Abuse Prevention Plan and the Individual Abuse Prevention Plan. Provisions for reporting abuse or neglect, investigation, record keeping, and review, are also detailed within the VAAPP.

### **III. Orientation for Individuals Served, Parents, and/or Guardians**

All persons served by this program will receive orientation to this policy, within 24 hours of admission. This may be delayed up to 72 hours if it is determined that the individual would benefit from a later orientation and the need for the delay is documented at the time of admission. Orientation documentation is kept in each service recipient's file.

All service recipients and parents or guardians of service recipients receive a copy of our VAAPP Policy upon intake. This policy details procedures and legal requirements that this agency must follow to report incidents of suspected abuse or neglect regardless of where the incident occurs.

This policy will be reviewed and updated as needed. Review of the Individual's Abuse Prevention Plan will occur at least annually and documentation of this will be retained in the individuals file.

#### **IV. Orientation for Staff**

New staff will receive an orientation to the VAAPP Policy within 72 hours of first providing direct contract services as defined under Minnesota Statutes, in section 245A.65, this program's abuse prevention plan, and all internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services. This program will maintain records documenting staff training on this policy. Training will include a review of the Program Abuse Prevention Policy and Procedures, and Individual Abuse Prevention Plans for each person they support.

#### **V. Definitions**

##### **Minnesota Statutes Section: 626.5572**

##### **Definitions.**

##### **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.

- (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 (harm) 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. 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. 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 section 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 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 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).

## VI. Maltreatment of Vulnerable Adults Reporting And Internal Review

- A. All CHOICE, unlimited employees are mandated reporters. 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 after the occurrence, but no later than 24 hours after the incident occurred or you became aware of the occurrence.
- B. Follow the steps below when filing a report of suspected maltreatment of a vulnerable adult:
1. To make a verbal report of abuse or neglect please call the Minnesota Adult Abuse Reporting Center (**MAARC**) number toll free at **1-844-880-1574**.
  2. You may also go online and report to: **mn.gov/dhs/reportadultabuse/**
  3. Externally to a law enforcement agency
    - Duluth Police Department – 218-730-5400
  4. Internally to:
    - **Primary person:** CHOICE, unlimited’s Executive Director  
Kristie Buchman: 218-724-5869 Extension 201
    - **Secondary persons:** CHOICE, unlimited’s Directors  
Karen Schmidt: 218-724-5869 Extension 202  
Jackie Nelson: 218-724-5869 Extension 212  
Annie Roseen: 218-724-5869 Extension 206
- C. Internal report
1. When an internal report is received, the primary person above is responsible for deciding if a report to the MAARC is required. If that person is involved in the suspected maltreatment, the secondary person(s) will assume responsibility for deciding if the report must be forwarded to the MAARC.
  2. Reporting to the MAARC must occur as soon as possible after the occurrence, but no later than 24 hours after the incident occurred or the program became aware of the occurrence.
  3. If you made an internal report, you will receive, within two working days, a written notice that tells you whether or not your report has been forwarded to the MAARC. The notice will be given to you in a manner that protects your confidentiality as a reporter. In addition, the notice will inform you that you may choose to report directly to the MAARC if a report was not filed by the program, and that you are protected against retaliation by the program if you make a good faith report to the MAARC.
- D. What to report
1. Definitions of maltreatment of vulnerable adults are contained in Minnesota Statutes, section [626.5572](#). Current definitions are contained within 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 investigating the suspected maltreatment.
- E. Failure to Report
1. 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.
- F. Internal Review

1. When the program has reason to know that an internal or external report of alleged or suspected maltreatment has been made, the program must complete an internal review within 30 calendar days and take corrective action, if necessary, to protect the health and safety of vulnerable adults.
  2. The internal review must include an evaluation 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; and
    - e. there is a need for corrective action by the program to protect the health and safety of vulnerable adults.
- G. Primary and secondary person(s) or position to ensure internal reviews are completed
1. The internal review will be completed by the Executive Director of this organization (Primary Person)
  2. If this individual is involved in the alleged or suspected maltreatment, the internal review will be completed by a Program Director.
- H. Documentation of the internal review
1. The program must document completion of the internal review and provide documentation of the review to the Department of Human Services upon the Commissioner's request.
- I. Corrective action plan
1. Based on the results of the internal review, the program must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the program, if any.
- J. Orientation for persons receiving services
1. The program shall provide an orientation to the internal and external reporting procedures to all persons receiving services and their legal representative. The orientation shall include the telephone number for the Minnesota Adult Abuse Reporting Center (MAARC) and the online reporting option at [mn.gov/dhs/reportadultabuse/](http://mn.gov/dhs/reportadultabuse/).
  2. The program shall provide this orientation for each new person within 24 hours of admission, or for persons who would benefit more from a later orientation; the orientation may take place within 72 hours.
- K. Staff training
1. The program will ensure that each new mandated reporter (new employee) receives orientation of this policy within 72 hours of first providing direct contact services to a vulnerable adult. Ongoing training of this policy will occur on an annual basis. The orientation and annual review will 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.

The program must 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.

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

Policy reviewed and authorized by:

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Print name & title

Signature

**Legal Authority: Minnesota Statute-**[626.557](#); [626.5572](#); [245A.65](#); [245A.04](#), subd. 14; [245D.09](#), subd. 4(5)

**2.I.c.** Vulnerable Adult Abuse Prevention Plan Policy

Policy Book 2, Section I. Service Recipient Handbook, Employee Handbook, Posted in main office

Revised: 8/4/2022