



Udac, Inc. | 4724 Mike Colalillo Dr. | Duluth, MN 55807

MALTREATMENT OF VULNERABLE ADULTS PROCEDURES AND POLICY

I. POLICY:

All personnel will report suspected or known maltreatment, abuse, or financial exploitation of a vulnerable adult in compliance with state and federal laws. A copy of the internal and external reporting policies and procedures, including the telephone number of The MN Adult Abuse Reporting Center (MAARC), must be posted in a prominent location in the program and have it available upon request to mandated reporters, persons receiving services, and the person's legal representatives.

This Policy/Procedure supersedes any undated or previously-dated Policy/Procedure.

II. PROCEDURES

A) Definitions

See 'Attachment 1' and 'Attachment 2' at the end of this Policy or the referenced links for additional detail of the following:

1. Vulnerable Adult

The definitions for Vulnerable Adult in Minnesota can be found in [Minnesota Statute 626.5572](#)

2. Maltreatment

The definitions for neglect, abuse, financial exploitation, accident, mistake, mandated reporter and other key terms regarding vulnerable adult law in Minnesota can be found in [Minnesota Statute 626.5572](#)

3. Mandated Reporter

Mandated reporters are professionals identified by law who **MUST** make a report if they have reason to believe that a vulnerable adult is being or has been maltreated or has knowledge that abuse, neglect misappropriation of consumer property and injuries of unknown origin has occurred.

B) Reporting Procedures

In compliance with [Minnesota Statute 626.557](#) for reporting incidents of maltreatment of vulnerable adults, you must report any known, suspected, rumored behavior or incidents that you believe may fit the definition of abuse or neglect, whether or not you can prove that the incident occurred. In addition, you must report any verbal or physical aggression occurring between individuals, or self-abusive behavior that causes serious harm which results

in medical treatment.

If you believe that an adult is in immediate danger, call 911 at once, and then follow the additional reporting procedures listed here.

All mandated reporters, as defined in this policy, are required to make a verbal report immediately upon becoming aware of possible maltreatment using the procedures described in this section. For the purposes of this section, "immediately" shall mean as soon as reasonably possible but not to exceed 24 hours from the moment at which the suspected maltreatment is discovered. If the maltreatment is likely to re-occur within 24 hours, the mandated reporter has a responsibility to report the maltreatment before it is likely to re-occur.

Mandated reporters may make either an Internal or External report, using the following procedures

1. Internal Report

An internal verbal report must be made immediately to:

- (a) Ann Dahl Director of Strategy or Chris McCord Director of Business
- (b) If the above contact(s) cannot be reached in an urgent situation, report by contacting the Executive Director,
- (c) Ann Dahl or Chris McCord are the primary individuals responsible for ensuring that the investigation is completed and that the report is forwarded to MAARC and the local welfare agency for maltreatment of minors.
- (d) If Ann Dahl or Chris McCord is suspected of involvement in the maltreatment, report the incident to the Executive Director. The Executive Director will then be responsible for ensuring that the report is forwarded to MAARC. The Executive Director will also oversee the internal investigation when Ann Dahl or Chris McCord is suspected of involvement in the maltreatment.
- (e) The verbal report should contain all information necessary to identify clearly the client, the suspected perpetrator(s), all pertinent dates and times, and a clear description of the suspected abuse or neglect. They may request additional information to make an external report.

Any employee or volunteer of this facility who elects to make only an internal report, according to procedure defined in this Policy, may do so, and shall be considered to have discharged his/her responsibility to further report the abuse or neglect in question. However, the reporter has an obligation to report the incident externally if s/he is not satisfied with Udac's determination regarding whether or not the incident fits the definition of abuse or neglect.

2. External Report

An external report can be made directly to MAARC by the mandated reporter.

If you know or suspect that a vulnerable adult is in immediate danger or if the incident is also a crime contact your local law enforcement agency immediately. If the vulnerable adult is not in immediate danger, reports of suspected maltreatment of vulnerable adults should be made as described below.

If the mandated reporter makes only an internal report, Ann Dahl or Chris McCord or person designated to investigate and report externally shall make the external report if necessary to the phone number listed below. If you need to contact Law Enforcement after hours for an emergency report, you will also need to call The MN Adult Abuse Reporting Center (MAARC) with the report of suspected maltreatment.

- The MN Adult Abuse Reporting Center (MAARC) 1-844-880-1574

If you make an external report, Udac strongly encourages, but does not require the reporter to make a concurrent internal report. This will enable Udac to take appropriate and immediate action to protect the well-being of the person in question.

(a) Contents of an External Report

External reports shall include the following information:

- (1) Date, time and location of Incident,
- (2) The name and address of the alleged victim,
- (3) The name, address and date of birth of the alleged perpetrator,
- (4) The name and contact information for the reporter,
- (5) The name and contact information for any witnesses;
- (6) Details of the incident(s) that represent alleged maltreatment,
- (7) Whether there was a risk of imminent danger to the alleged victim,
- (8) Disability of the alleged victim,
- (9) The relationship of the alleged perpetrator to the alleged victim,
- (10) Whether the facility was involved and if so, which agency licenses the facility,
- (11) Whether law enforcement has been notified,
- (12) Information about all persons/agencies who were contacted/informed of the incident how they were contacted and the dates they were contacted,
- (13) If the incident occurs in a licensed setting, telephone numbers of the licensing agencies (DHS),
- (14) All information currently available about the internal investigation, follow-up, and whether or not policies and procedures, or the person's support plans were adequate to prevent the occurrence and whether or not these plans were followed.

(b) Protection of the Persons Privacy When Reporting Externally

When the incident involves more than one individual, the license holder must not disclose personally identifiable

information about any other person when making the report to each person's legal representative, other licensed caregiver, if any, and case manager unless the license holder has the consent of a person or a person's legal representative.

(c) Reports by Individuals, Guardians, Case Managers, Family Members and Others

Individuals, their guardians, case managers, advocates, friends or family members may report suspected abuse or neglect by calling Ann Dahl or Chris McCord. If Ann Dahl or Chris McCord is suspected of involvement in the maltreatment, report by contacting the Executive Director, or contact MAARC.

C) Internal Investigations

1. Initial Report

Ann Dahl or Chris McCord will make every effort possible to ensure that the investigations of suspected abuse or neglect are conducted in a manner that protects the confidentiality of the reporter.

Initial investigation of the report will determine if the incident fits the definition of abuse or neglect from vulnerable adult protection law, and the interpretation of errors is the provision of therapeutic conduct. If the incident does fit these definitions of possible maltreatment, the report will be forwarded within 24 hours to MAARC

2. Notice of Action Taken on Internal Reports

Within two working days of having received the initial report, Ann Dahl or Chris McCord will contact the reporter in writing to inform him or her of the initial determination and status as to whether or not the report has been forwarded to MAARC for adults and the local welfare agency for maltreatment of adults. This notification shall be done in such a way as to protect the confidentiality of the reporter. It will also inform the reporter that, if the initial determination did not satisfy him/her, s/he has the right and obligation to report to outside authorities, if s/he has not already done so.

The response to the mandated reporters will also inform him or her in writing of their protection from retaliation.

3. Full Investigation

Udac will ensure that an internal review is completed and that 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.

The primary person responsible for ensuring that the internal reviews (investigations) are completed is Ann Dahl or Chris McCord. If there is reason to believe that Ann Dahl or Chris McCord is involved in the alleged or suspected maltreatment, the Executive Director will then be responsible for ensuring that the internal review (investigation) is completed.

Following the initial report made or once you become aware of an external report, Ann Dahl or Chris McCord will conduct a full investigation of the incident to be completed within 30 calendar days of receipt of the report. All investigations shall be conducted in such a manner as to protect the confidentiality of the reporter at all times, following the steps listed below:

- a. Immediately assure the safety of the person(s) in question. This may mean that the alleged

perpetrator is placed on administrative leave until the internal investigation is complete, at which time a determination shall be made regarding continued reinstatement, retraining, or re-assignment of the alleged perpetrator.

- b. Interview the reporter and any witnesses.
- c. Interview the person, if possible.
- d. Interview the alleged perpetrator.
- e. Review all pertinent reports and documents, including any medical documentation of the incident.
- f. The review must include the following:
 - 1) Contents identified in the “External Report” - see above,
 - 2) Evidence of previous abuse or neglect,
 - 3) A summary of the findings of the internal investigation,
 - 4) Persons involved in the incident and investigation,
 - 5) Persons interviewed,
 - 6) Persons notified regarding the results of the investigation including times and dates that each are notified,
 - 7) Conclusions,
 - 8) Actions taken,
 - 9) The name of the person completing the investigation,
 - 10) Whether related policies and procedures were followed,
 - 11) Whether the policies and procedures were adequate,
 - 12) Whether there is a need for additional training,
 - 13) Whether the reported event is similar to past events with the vulnerable adults and the services involved, and
 - 14) Whether there is a need for corrective action by the license holder to protect the health and safety of vulnerable adults,
 - 15) Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any,
 - 16) Any other information that the mandated reporter believes might be helpful in investigating the suspected abuse or neglect.

- g. Take appropriate action to assure the safety of the person affected and to prevent such occurrences from happening again.
- h. Forward relevant additional information gathered regarding the incident to MAARC for adults or other agency investigating the incident.

4. Internal Investigative Documentation

Udac will maintain complete records of all vulnerable adult reports made and internal investigation done regardless of the outcome of any internal investigation undertaken. These records will be maintained in a separate confidential file accessible only to the authorized personnel of Udac.

Additionally, Udac shall maintain records of persons, dates, and contact names/numbers to whom reports are made in the case that maltreatment is reported subsequent to an investigation. Persons who shall be notified of such a report (unless the person or persons are suspected of the maltreatment reported) include:

- (1) MAARC
- (2) The persons case manager,
- (3) The persons guardian,
- (4) If foster care, the foster care licensor,
- (5) Other persons identified in the persons plan to receive reports of possible maltreatment.

III. PROTECTION FROM RETALIATION FOR REPORTING

All mandated reporters making a report of abuse and neglect in good faith may do so internally or externally without fear of retaliation, and any person making such a good faith report is immune for civil liability. All mandated reports shall be informed of the responsibility and of their protection from retaliation by the facility at the time of their initial orientation and annually thereafter.

A person making a false report may be liable for civil damages.

Any employee or volunteer of this facility who intentionally fails to report either abuse or neglect may be guilty of a misdemeanor as defined in Minnesota Law, and is liable for damages caused by the failure.

If it is deemed that retaliation by staff did indeed occur, action may include but is not limited to:

- 1. "Discharge from the facility,
- 2. "Discharge from or termination of employment,
- 3. "Demotion or reduction in remuneration for services,
- 4. "Restriction or prohibition of access to the facility or its residents, or
- 5. "Any restriction of rights set forth in section 144.651."

IV. COOPERATION WITH EXTERNAL AGENCIES/INVESTIGATORS

Udac will cooperate fully with investigators of outside agencies and will provide as requested to any applicable licensing or investigating agency all facts and findings of any abuse or neglect allegation that can be obtained

through internal investigation.

Udac will document and make internal reviews accessible to the commissioner upon the commissioner's request. The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.

Udac will retain any investigation or determination reports sent from the commissioner.

V. TRAINING PROVISIONS

- A. The license holder shall provide an orientation to the internal and external reporting procedures to all persons receiving services. The orientation shall include the telephone number for MAARC. If applicable, the person's legal representative must be notified of the orientation. 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.
- B. All personnel will be oriented to this policy including reporting procedures, and definitions of mandated reporter, vulnerable adult, abuse, and neglect before unsupervised contact with individuals, and in no case later than 72 hours after initial hire.
- C. All personnel shall be oriented, and such orientation documented, as soon as reasonably possible after any change to this policy as it is currently written.
- D. All personnel shall be re-oriented annually to this Policy and to other aspects of assuring protection of vulnerable adults, as deemed appropriate by Udac, Inc. supervisory personnel.
- E. The license holder must document the provision of this training, monitor implementation by staff, and ensure the policy is readily accessible to staff, as specified under Minnesota Statutes, section 245A.04, subdivision 14.

VI. DISSEMINATION OF INFORMATION

All persons making internal reports of suspected maltreatment will be informed as soon as reasonably possible if, when, and to whom, such reports are forwarded. All vulnerable adult investigative proceedings shall be kept strictly confidential. No information shall be disseminated to any person or organization other than that expressly required by law and according to this Policy.

II. ATTACHMENT 1: MN. Statute 626.5572 Definitions for Vulnerable Adults

Attachment 1

DEFINITIONS for VULNERABLE ADULTS

Vulnerable Adult means:

- (a) any person 18 years of age or older who:

- (1) is a resident or inpatient of a facility;
- (2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, 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 section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, and 256B.0653 to 256B.0656; 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.

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.

Maltreatment means:

abuse as defined in subdivision 2, *neglect* as defined in subdivision 17, or *financial exploitation* as defined in subdivision 9.

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.

Neglect means:

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

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

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

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

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

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

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

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

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

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

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

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

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

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

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

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.

The MN Adult Abuse Reporting Center (MAARC) means:

the entity designated by each county responsible for receiving reports under section 626.557.

Immediately means:

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

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.

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.

Reviewed:



Karen Herman Executive Director

Date 06.01.2020