

Mandatory Reporting Requirements: The Elderly Minnesota

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Question	Answer
Who is required to report?	<ul style="list-style-type: none"> • A professional, or professional’s delegate, while engaged in: <ul style="list-style-type: none"> • social services; • law enforcement; • education; • care of vulnerable adults; • nursing home administrators; • unlicensed complementary and alternative healthcare providers; • physicians; • nurses; • chiropractors; • optometrists; • occupational therapists; • physical therapists; • psychologists; • social workers; • marriage and family therapists; • behavioral health and therapy practitioners; • dietitians and nutritionists; • dentists; • pharmacists; • podiatrists; • employees of a rehabilitation facility certified by the state; • employees of or persons providing services in any hospital, nursing home, assisted living facility, home health care organization, hospice facility or other organization that offers, provides or arranges for personal care assistance services authorized by the state; and • anyone that performs the duties of the medical examiner or coroner.
When is a report required and where does it go?	<p>When is a report required?</p> <ul style="list-style-type: none"> • Reason to believe that a vulnerable adult is being or has been maltreated (i.e., is being or has been subject to abuse, neglect, or financial exploitation), or knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained. <p>Where does it go?</p>

- Oral reports should be made to the Minnesota Adult Abuse Reporting Center at 1-844-880-1574 or via an online reporting tool (available at: <https://tnt09.agileapps.dhs.state.mn.us/networking/sites/880862836/MAARC>).
- A mandated reporter may meet his or her requirement by reporting through his or her facility's internal reporting structure; if he or she reports through the internal reporting structure at his or her facility, he or she is not responsible for complying with the immediate reporting requirements of Minn. St. § 626.557 (but the facility is).
- The Minnesota Adult Abuse Reporting Center will screen the report and make referrals to the agencies responsible to respond for protective services and investigation.

What definitions are important to know?

- **“Abuse”** means:
 - 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 degree;
 - the use of drugs to injure or facilitate crime;
 - the solicitation, inducement, and promotion of prostitution; and
 - criminal sexual conduct.

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; and
 - 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.
 - Any sexual contact or penetration, between a facility staff person or a person providing services in the 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.
 - 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 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:

- 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
 - a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.
- 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; or
- 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:
 - a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or
 - a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.
- **“Facility”** means (i) a hospital or similar entity required to be licensed under state law sections 144.50-144.58; (ii) a nursing home required to be licensed to serve adults under section 144A.02; (iii) a facility or service required to be licensed under chapter 245A; (iv) an assisted living facility required to be licensed under chapter 144G; (v) a home care provider licensed or required to be licensed under sections 144A.43-144.482; (vi) a hospice provider licensed under sections 144A-144A755; or (vii) a person that offers, provides or arranges for personal care assistance services under the medical assistance program.
 - For services identified above that are provided in a vulnerable adult’s 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 where services are provided.
- **“Financial exploitation”** means:
 - In breach of a fiduciary obligation recognized elsewhere in law, 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.
 - 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.
 - 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.
- **“Maltreatment”** means abuse, neglect or financial exploitation, as is defined in this section.
- **“Neglect”** means:

- **Caregiver 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; and
 - not the result of an accident or therapeutic conduct.
- **Self-neglect:** 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.
- **Example:** 78-year-old mother of adult daughter suffered from "neglect," when daughter failed to obtain medical attention for her mother, who suffered from early stages of Alzheimer's disease and mild dementia, following mother's slip and fall, foot and ankle injury, and complaints of pain, which, as was later discovered, was caused by three broken bones. ([In re O'Boyle, 655 N.W.2d 331](#), 332 (Minn. Ct. App. 2002))
- A vulnerable adult is not "**neglected**" for the sole reason that:
 - the vulnerable adult, or a person with authority to make health care decisions for the vulnerable adult, 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.
 - 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;
 - 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:
 - a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or
 - a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship;
 - 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
 - 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:
 - the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

	<ul style="list-style-type: none"> • 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; • the error is not part of a pattern of errors by the individual; • if in a facility, the error is immediately reported as required and recorded internally in the facility; • 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 • if in a facility, the actions required under the 2 items directly above are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency. <ul style="list-style-type: none"> • Nothing in the definition of “neglect” requires a caregiver, if regulated, to provide services in excess of those required by the caregiver’s license, certification, registration, or other regulation. <ul style="list-style-type: none"> • “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. • “Vulnerable adult” means any person 18 years of age or older who: <ul style="list-style-type: none"> • Is a resident or inpatient of a facility (such as a nursing home or hospital); • Receives services at a facility licensed by the state to serve adults, residential and non-residential (including adult day care and chemical abuse treatment facilities) (except that a person receiving outpatient services for a chemical dependency or mental illness, who is committed to a facility in connection with a sex-related crime, or who is committed as a sexual psychopathic personality or as a sexually dangerous person) is not a “vulnerable person” unless such person also possesses a physical or mental infirmity as described below); • Receives services from a home care provider who is required to be licensed by the state, or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized by the state; or • Possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs that individual’s ability to provide adequately for his/her own care without assistance (including food, shelter, clothing, health care or supervision) and that person has an impaired ability to protect him/herself from maltreatment.
<p>What timing and procedural requirements apply to reports?</p>	<ul style="list-style-type: none"> • A report must be made as soon as possible, but not longer than 24 hours from the time initial knowledge of an incident is received.

<p>What information must a report include?</p>	<ul style="list-style-type: none"> • To the extent possible, the oral report should contain sufficient content to identify: <ul style="list-style-type: none"> • The vulnerable adult; • The caregiver for the vulnerable adult; • 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 might be helpful in investigating the suspected maltreatment.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless: <ul style="list-style-type: none"> • the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or • the reporter knows or has reason to believe that the individual possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs that individual's ability to provide adequately for his/her own care without assistance (including food, shelter, clothing, health care or supervision) and that person has an impaired ability to protect him/herself from maltreatment. • A reporter is not required to report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point. • A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure to report. • A person who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report. • <i>Rosati v. Pine County</i>, 460 F. Supp. 3d 846, 862 (D. Minn. 2020) <ul style="list-style-type: none"> • Minnesota courts construe "good faith" liberally so as to encourage people to come forward with reports without fear of reprisal. • A reporter acting in good faith will be immune from suit even if she is negligent or exercises bad judgment. • A reporter who knowingly or recklessly makes a false report of maltreatment of a vulnerable adult is not entitled to immunity from suit. • Certain boarding care homes, nursing homes, and hospitals may send electronic (instead of oral) reports. • A person not required to report, may voluntarily make a report. • A mandated reporter may disclose not public data, as well as medical records, to the extent necessary to comply with the reporting requirements.
<p>Statutory citation(s):</p>	<p>Minn. St. §§ 626.557, 626.5572.</p>