

Reporting Maltreatment of Vulnerable Adults



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Introduction

- Definitions per MN Statute 626.5572
- Reporting per MN Statute 626.557
- Time and notification requirements
- Protection and penalties
- Response to reports
- Investigation
- Protective Services



Who is a Vulnerable Adult?

- 18 years of age or older who fits one of the following criteria:
 - *Categorical*
 - *Functional*



Definition of Categorical VA

- Resident of a licensed facility
- Recipient of services from a licensed facility or provider
- Recipient of licensed home health care services or MA funded personal care attendant services (PCA)



Exceptions to Categorical VA

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 Functional VA

- Physical or mental infirmity or emotional dysfunction which:
 - Impairs ability to meet basic needs (e.g., food, healthcare, shelter, and supervision)
and
 - Impairment limits ability to protect self from maltreatment.



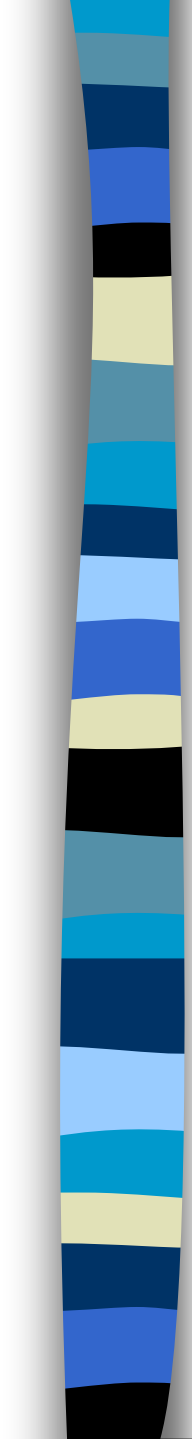
Definitions of Abuse

- Assault
- Criminal sexual conduct
- Conduct producing pain or injury
 - Hitting, Slapping, Kicking, Corporal Punishment, i.e.
 - Use of force to compel somebody to do something
 - Rule 40 violations in licensed facilities/programs
 - Involuntary Confinement, Deprivation.



Definitions of Abuse (con't.)

- Use of drugs to injure or facilitate a crime
- Promotion of prostitution
- 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.



Definition of Neglect

- Failure to provide care or services to VA
 - food, clothing, health care, shelter, or supervision
- Neglect may be:
 - Self
 - Caregiver

Definition: an individual who has responsibility for the care of a VA as a result of a family relationship or has assumed care voluntarily by contract or agreement.



Definition of Financial Exploitation

- In breach of a legal fiduciary relationship, a person:
 - Engages in unauthorized expenditure or
 - Fails to use the financial resources to provide for the VA's basic needs
 - Results in detriment to the Vulnerable Adult
- Examples of a Legal Fiduciary Relationship
 - Representative payee, Power of Attorney, Conservator, Trustee, Joint Accounts, Joint Property



Definition of Financial Exploitation

- In absence of legal authority, a person:
 - Willfully uses, withholds, or disposes of the VA's funds or property
 - Obtains control or interest in VA's funds or property through undue influence, harassment, duress, deception or fraud
 - Compels the VA 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*.



Examples of Mandated Reporters

- Law Enforcement
- Education
- Health Care Related Professions
 - Facility staff (e.g., NH, DTH, group home)
 - Medical Examiner or Coroner
 - Medicine (MD, PA)
 - Nursing
 - Social Services
 - Psychology



Reporting

- Mandated reporters must make **oral reports** (not written) to the CEP.
- A written report is NO longer a substitute for a call to the CEP.
- Use of a telecommunications device for the deaf or other similar device shall be considered an oral report.



Reporter should be to able to identify:

- VA demographic info
- Caregiver
- Nature and extent of the suspected maltreatment
- Time, date, location of the incident, and any additional pertinent information
- Evidence of previous maltreatment
- Guardianship Status



When to make a VA Report?

- When there is reason to believe a VA is being or has been maltreated
- or
- When a VA has sustained a physical injury that is not reasonably explained



When to make a Report

- A report should be made immediately, which means as soon as possible, and within 24 hours.
- When in doubt, make a report.



Reporting Crimes

- Remember, if a crime is in progress or has recently occurred...Call 911 immediately!!
- Do not destroy any physical evidence



Where to make a VA Report?

- All reports must be made to the Common Entry Point (CEP) at 348-8526.



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.



Exemptions from Reporting

- 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.



More Reporting Exemptions

Unless financial exploitation:

- Money or property transfers or
- Money or property gifted or
- Compensation for services



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 for Reporters

- Intentional false report
- Negligent or intentional failure of Mandated Reporter to report incident



CEP's Response to Reports

- The Common Entry Point (CEP)
 - Receives telephone reports of maltreatment 24 hours per day, 7 days per week
 - In Hennepin County APS provides service from 8:00 AM to 5:30 PM and Community Based First Response and Catholic Charities provides service after hours and on weekends



CEP Response to Reports

- Collects information in standard format
- Screens and Distributes as appropriate
 - Immediate law enforcement intervention
 - Immediate need for Protective Services
 - Lead Agency Designation
 - DHS (Facilities: foster homes, group homes, day programs, residential treatment)
 - OHFC (Facilities: nursing homes, board and care homes, home health agencies)
 - Adult Protection (Community)



Hennepin County APS Intake

- Gathers additional information
- Coordinates information and services
- Makes Initial Disposition
 - Is this a VA
 - Is the incident Maltreatment per Law
 - Is there harm
 - Can the formal or informal support system resolve
 - Is there a role for APS



HARM

- Eviction, condemnation, no water, no heating or cooling
- Wandering, getting lost
- Fire from unsafe smoking, cooking
- **Compromise of functioning:** weight loss, malnutrition, dehydration, suicide attempt, deterioration in mental or physical health, increased behaviors
- **Injury or Illness requiring medical treatment**



Investigation by Lead Agency

- Notify reporter of initial disposition within five (5) days, if requested
- Assess VA status of the victim
- Gather evidence including
 - Interviewing victim, perpetrator, witnesses, collateral's regarding maltreatment
 - Examining records and consult with experts
 - Entering facility and inspect records



Findings

- 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 and least restrictive alternatives



Protective Services Include

- Emergency services to protect VA 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 VA



Legal Protective Services

- Restraining or Protective Order
- Conservatorship/Guardianship
- Replacement of Neglectful Conservator/Guardian
- Criminal Prosecution
- Commitment for Mental Illness and/or Chemical Dependency



More Protective Services

- Social Services Referrals
 - Housing or Placement
 - Health or Mental Health Care
 - Home Health, Chore Services
 - Case Management
 - Waivered Services/Programs



■ QUESTIONS???



CEP Phone Numbers

- Anoka County 763-422-7168
- Carver 952-361-1600
- Dakota County 651-554-6000
- **Hennepin County 612-348-8526**
- Ramsey County 651-266-4012
- Scott 952-445-7751
- Washington 651-430-6484
- Wright 763-682-7481



VA LAW ON-LINE

- The Reporting of Vulnerable Maltreatment Law can be obtained on-line.
- The website is www.leg.state.mn.us/leg/statutes.asp
- The laws to be retrieved are
626.557 and 626.5572



DHS WEB SITE

- The Department of Human Services has a website, including a tutorial, on the reporting of vulnerable adult maltreatment.
- This website can be found at:
 - www.dhs.state.mn.us
 - On the left, under A-Z topics, choose Adult Protection