Protection for Vulnerable Adults: It Starts With a Report

Presented by:
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Outline

• Background of the DHS APS unit and duties
• Who is a Vulnerable Adult?
• What is Maltreatment?
• Reporting suspected maltreatment
• What Happens After Reporting?
**1981.** The Vulnerable Adults Act (VAA) was enacted in 1981. The statute identified reporting procedures and agencies responsible for responding to reports. State adult protection administration of the statute mandate.

**1995.** VAA established definitions and the county board designated common entry point (CEP). Previously reports went to each lead investigative agency (LIA). Statute was modernized to reflect the community based services system.

**2013.** VAA designated the centralized CEP under DHS. New state positions.

**2015.** MAARC launch
DHS Adult Protective Services (APS) Unit

State Unit in Aging and Adult Services Division

- Supervisor
- Policy Specialist
- Resource Specialist (2)
- Data Analyst
- Project Manager
- Contract Administrator

Note: The MN Elder Justice Center (MEJC) is not affiliated with this unit and is not a state agency. DHS APS partners with MEJC related to protective services and vulnerable adult maltreatment.
Who is a Vulnerable Adult?
(if you don’t know, make the report)
A person, 18 years of age or older, who is a:

• Resident or inpatient of a facility; hospital, nursing home, ICFDD, residential or non-residential facility regulated by MDH or DHS,

or

• Receives services from a facility or service regulated under 245A (including PCA)

or

• Recipient of home care or hospice services from provider regulated by MDH under 144A; includes Customized Living
A person 18 years of age or older who, regardless of residence or service has an:

- impairment or disability, and because of this impairment has:
  - an impaired ability to meet basic needs,
  - an impaired ability to protect self from maltreatment.
What is Reportable Maltreatment?
Maltreatment

- Abuse (physical, sexual, emotional or mental)
  - Hitting, slapping, sexual contact, oral or written gestures, etc.
- Neglect (caregiver or self)
  - Failure to provide for basic needs: food, clothing, shelter, health care or supervision, absence of essential services, etc.
- Financial Exploitation (with or without legal relationship)
  - Failure to spend for the benefit of the VA, unauthorized spending, withholding or disposing funds, etc.
• Physical Assault *1st -5th Degree Criminal

• Sexual Conduct* – 1st -5th Degree Criminal

• Any sexual contact by facility staff or licensed provider. 609.341 Exceptions: when capacity to consent if prior consensual relationship or PCA services

• Use of drugs to injure or to facilitate a crime;

• Inducement/solicitation/promotion of prostitution
• Forced services for another

• Conduct which produces pain, injury, emotional distress ex. hitting, kicking, pinching, biting, corporal punishment

• Malicious oral, written or gestured language considered by a reasonable person to be: disparaging, derogatory, humiliating, harassing, threatening
Neglect

**Caregiver**

- Failure or omission by caregiver to supply a VA with necessary care or services; food, shelter, clothing, health care or supervision
- Failure or omission to maintain VA’s health or safety

**Self Neglect**

Absence or likelihood of the absence of care or services, including food, shelter, clothing, health care or supervision a reasonable person would deem essential to maintain health, safety or comfort
## Family Caregiver or Self-Neglect?

<table>
<thead>
<tr>
<th>Family Caregiver</th>
<th>Self Neglect</th>
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<tbody>
<tr>
<td>Paid Caregiver</td>
<td>Family has not Assumed Responsibility to Provide the Necessary Care or Service the VA is Alleged to Not be Receiving</td>
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<tr>
<td>PCA</td>
<td>VA with Capacity, Refuses Family Provision of Necessary Care or Service</td>
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<tr>
<td>Verbal or Written Agreement to Provide the Necessary Care or Service the VA is Alleged to Not be Receiving</td>
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Financial Exploitation

**Fiduciary**
- Spends funds without authorization
- Fails to use resources of the VA to provide for food, shelter, clothing, health care or supervision
- And failure likely to result in determent to VA

**Any Person**
- Uses, withholds, disposes of funds or property of VA
- Wrongfully profits from VA’s funds or property
- Acquires control of funds or property through undue influence, harassment, duress, deception, or fraud
- Forces VA to perform services for profit
When is VA Maltreatment Reporting Required?
Reporting Suspected Maltreatment

Mandated Reporters
- Professional/delegate: Social Services, Law Enforcement, Education, Care of Vulnerable Adults, +
- Licensed by Health Board under 214.01
- Employee MDH or DHS licensed facility/service
- MA Enrolled Provider

Voluntary Reporters
- Everyone else!
Standard for Reporting:

- Suspected maltreatment
- Unexplained Injury
- As soon as possible, within 24 hours initial knowledge

*Voluntary reporter, anytime
Protections for Good Faith Reporters - Minnesota Statutes

• Identity may not be disclosed

• Ability to disclose not public data 626.557 Subd. 4.

• Immunity from civil or criminal liability resulting from reporting or participating in the investigation if acting in good faith

• Protection from employer retaliation for good faith reporting
• **Subd. 5a. Financial institution cooperation.**

• Financial institutions shall cooperate with a lead investigative agency, law enforcement, or prosecuting authority that is investigating maltreatment of a vulnerable adult and comply with reasonable requests for the production of financial records as authorized under section [13A.02, subdivision 1](#). Financial institutions are immune from any civil or criminal liability that might otherwise result from complying with this subdivision.
• Even without client consent, APS is authorized under the federal Gramm-Leach-Bliley Act to obtain a bank customer’s records, because APS falls under the law’s exceptions in that:

• 1) the purpose of viewing the records is to prevent actual or potential fraud, and

• 2) *APS is authorized under state law to carry out civil investigations.*

A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure. Nothing in MS 626.557 Subd. 7 imposes vicarious liability for the acts or omissions of others. Additionally, an individual may be disqualified from providing direct contact services for failing to make a required report (MS 245C.15, Subd. 4(b)). Facilities that fail to make mandated reports may be subject to a fine.
The Minnesota Adult Abuse Reporting Center (MAARC) is the Common Entry Point Minnesota Statutes 626.557 Subd. 9.
Public Awareness Campaign Materials

https://mn.gov/dhs/people-we-serve/adults/services/adult-protection/resources/
The Power of Could - Reporting Vulnerable Adult Maltreatment

https://youtu.be/MNbagIqL64w
Minnesota Adult Abuse Reporting Center (MAARC)

- 24/7/365 reporting and processing
- 911, for crime in progress or if police or ambulance are needed; then return for reporting
- Refers callers not alleging maltreatment
- Operated under DHS
- Telephone reports from mandated and voluntary reporters
Minnesota Adult Abuse Reporting Center - Phone Reporting

1-844-880-1574
24/7/365
Voluntary or Mandated Reporters
Mandated Reporters-MAARC Web Reporting

mn.gov/dhs/reportadultabuse/

• Launches from DHS Adult Protection

• 911: Reporters directed first 911 for crime in progress or if police or ambulance are needed; then MAARC
What Does a Report Entail?

• Who? Reporter, Alleged Perpetrator, VA, Witnesses, 1st Hand Reporter, etc.

• When? Details of the incident date and time

• Where? Specifics as to location, address, and phone

• What? All details pertaining to the incident you are reporting

• Impacts of maltreatment on VA

• Immediate risk of repeat maltreatment or serious harm to VA and current protection plan

• Other details?
MAARC Mandated Reporter
Web Reporting

Minnesota Adult Abuse Reporting Center

Reporter/Information Source

FIRST NAME
MIDDLE NAME
LAST NAME

ADDRESS TYPE
STREET ADDRESS Line 1
Line 2
CITY
STATE
ZIP CODE
COUNTY

PHONE TYPE
PHONE NUMBER
EXTENSION

EMAIL TYPE
EMAIL ADDRESS

✓ Yes ☐ No Does the Reporter/Information Source wish to receive notification of the status of the report?

✓ Yes ☐ No Is this information being entered by a member of Law Enforcement, MDH, DHS or County on behalf of a reporter as required by MN Stat. 525.557, Subd. 6(a)?

✓ Yes ☐ No Are you the Designated Facility Reporter for a DHS licensed provider?

✓ Yes ☐ No Are you the Designated Facility Reporter for a MDH licensed provider?

Designated reporters for MDH licensed providers with federal reporting requirements affirm this report is also being filed to comply with federal regulations.
What Does MAARC Do With Reports?

Immediate Evaluation and Referral as required:

• County agency notification for emergency adult protective services

• Law Enforcement Notification (criminal)

• Medical Examiner/Ombudsman Notification (suspicious deaths)

• Referral All Reports to civil lead investigative agency (LIA)
Emergency Protective Services

• The county social service agency is responsible for providing emergency services to stop maltreatment and prevent further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult.

• Law enforcement required to cooperate

• EPS is different than conducting an investigation and is done regardless of the LIA
Referral to Law Enforcement

• Primary agency when crime alleged
• Exchange data with LIA
• Share results of investigation with LIA
What Happens After the Report?
Who are the Lead Investigative Agencies?

MAARC Referral to Lead Investigative Agency (civil investigation)

• MN Department of Human Services; Licensing
• MN Department of Health; Health Regulation Division
• County Adult Protective Services
How does LIA Decide When to Investigate?

• Vulnerable Adult

• Maltreatment

• Prioritization Guidelines

* Cooperation between LIA’s and LIA’s and law enforcement required
Lead Investigative Agency

- Initial disposition; 5 business days
- Notify reporter initial disposition (if reporter asked for it)
- Final Disposition; 60 days
Duties of the County

Adult Protection is charged with offering services in least restrictive manner to:

• Prevent further maltreatment
• Safeguard the vulnerable person
• Sexual Assault; immediate medical exam
• Seek authority to remove vulnerable person
• Determine if other vulnerable adults are in jeopardy
Duties of the County Cont’d

• Assist with obtaining a restraining order to remove the perpetrator from the VA’s residence

• Hold Order/Civil Commitment

• Guardianship/Conservatorship
  • Appointment or replacement
  • When necessary to protect a Vulnerable Adult from “serious harm”

• Referral for criminal prosecution
Could be nothing, could be maltreatment!

You could make a difference!

Call 1-844-880-1574 to make a report with the MN Adult Abuse Reporting Center
Thank you!

Contact:
dhs.adultprotection@state.mn.us
651-431-2609