



<b>Policy Name:</b>	<b>Vulnerable Adults – Reporting of Maltreatment</b>
<b>Policy Code:</b>	<b>402</b>
<b>Policy Purpose:</b>	In accordance with public policy, Rise is committed to protecting adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment.

## I. Overview

The purpose of this policy is to protect vulnerable adults and provide guidance for reporting and investigating suspected maltreatment. This includes suspected maltreatment occurring both internally and externally to Rise programs. Definitions of maltreatment of vulnerable adults are contained in Minnesota Statutes, section 626.5572 and in Wisconsin Statutes section §55.01(1e). Current definitions are attached to this policy.

## II. Procedure

### A. Reporting Procedures

1. If a Rise team member knows or suspects that a vulnerable adult is in immediate danger, they should intervene or call 911, as appropriate.
2. Any Rise team member who knows or suspects that a vulnerable adult has been maltreated should report it immediately to his/her supervisor.
  - a. It does not matter whether the suspected maltreatment occurred internally at Rise or externally at a different program or location. Rise team members are obligated to report either way.
  - b. Immediately means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.
  - c. If the primary supervisor is not available or is suspected to be involved in the maltreatment, it should be reported to a secondary supervisor or designee.
  - d. All non-program team members should report suspected maltreatment to a program supervisor or secondary program supervisor/designee.

\*Any team member may choose to report an incident of alleged maltreatment directly to the MAARC (for persons served in MN) or APS (for persons served in WI) and not use Rise's internal reporting procedure nor inform Rise that the report has been made. Rise will not retaliate in any manner against a mandated reporter who chooses to use external means for the reporting of suspected maltreatment.

3. The supervisor (or secondary supervisor/designee as stated above) is responsible for ensuring completion of the Suspected Maltreatment of a Vulnerable Adult Report Form.
  - a. For Minnesota (MN) resident suspected maltreatment must be reported to the MN Adult Abuse Reporting Center (MAARC). You can contact MAARC one of two ways (24/7/365):
    - i. The statewide number: 1-844-880-1574
    - ii. The website specifically for mandated reporters: [mn.gov/dhs/reportadultabuse/](http://mn.gov/dhs/reportadultabuse/)
  - b. For Wisconsin (WI) residents, suspected maltreatment must be reported to Adult Protective Services:
    - i. The statewide number: 715-246-8255
4. Some things to remember:
  - a. The report to the MAARC must be made as soon as possible, but no longer than 24 hours from the initial knowledge that the incident occurred has been received.
  - b. The report should contain enough information to identify the vulnerable adult, the perpetrator, 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.
  - c. If reporting on the website be sure to print out a copy of the report at the end.
  - d. If reporting via phone, please fill out the Rise "Suspected Maltreatment of a Vulnerable Adult Report Form".
5. If the contact at the MAARC states that the incident does not meet the definition of maltreatment and a report is not necessary, the incident which caused the concern and the call to the MAARC should still be documented on the Rise Suspected Maltreatment of a Vulnerable Adult Reporting Form. The determination by the MAARC that the incident does not meet the definition of maltreatment will be documented on the report, and it will be filed and maintained in the same manner as other reports of suspected maltreatment.

6. Within 24 hours from the initial knowledge that the incident occurred has been received, the supervisor/designee will inform the vulnerable adult's legal representative and county case manager (if applicable) that a report was made, unless there is reason to believe that either is involved in the suspected maltreatment.
  - a. The Suspected Maltreatment of a Vulnerable Adult Report form itself will NOT be given to the vulnerable adult's legal representative or county case manager.
  - b. When an incident involves more than one person served in Rise programs, Rise will not disclose personally identifiable information about any other person receiving services when making the report to each person's legal representative, case manager, or other licensed caregiver, unless Rise has the consent of the person served and his/her legal representative.
7. The supervisor or designee will provide the initiator of the report a written notice (using the "Written Notice to Mandated Reporter Form") that states whether or not Rise reported the incident to the MAARC.
  - a. This notice will be given within two working days and in a manner that protects the confidentiality of the reporter.
  - b. The notice will also state that the reporter may report the incident to the MAARC if not satisfied with the action taken by Rise.
  - c. The notice will also state that the reporter is protected against retaliation by Rise if the reporter makes a good faith report to the MAARC.
  - d. A copy of the notice will be forwarded to the designated Program VP.
8. The supervisor or designee will scan in a signed copy of the completed Rise Suspected Maltreatment of a Vulnerable Adult Report Form if the VA report was made by phone, or a copy of the electronic report form if it was made on the website, and email this to the Director of Quality Assurance, the Quality Assurance Specialist, and the designated Program VP within 24 hours of making the report.
9. 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.

## **B. Other Required Reports**

1. An "Incident Report" must also be completed along with each Suspected Maltreatment of a Vulnerable Adult report, whether internal or external. This should describe the incident of maltreatment if observed, and/or the circumstances of discovering that possible maltreatment occurred. The Incident Report must be done within 24 hours by the staff that

- witnessed or first learned about the possible maltreatment. The Incident Report will be sent to the vulnerable adult's team members as usual.
2. If a work-related injury occurred as part of suspected maltreatment at Rise, a "First Report of Injury Form" must also be completed and sent to Human Resources, as well as the Suspected Maltreatment Report and the Incident report.
  3. If a serious injury or death occurred as part of suspected maltreatment at Rise, an "Ombudsman Cover Page", and "Ombudsman Serious Injury Report", or "Ombudsman Death Report" is required to be completed by a supervisor. This is in addition to the Suspected Maltreatment Report and Incident Report. A First Report of Injury Report is also required if the injury was work-related.
  4. If a manual restraint occurred as part of the internal suspected maltreatment, an "Emergency Use of Manual Restraint" report must be completed with the Suspected Maltreatment Report and Incident Report. If an injury, serious injury, or death occurred as well, a First Report of Injury form must be completed if the injury was work-related, as well as Ombudsman reports, if applicable.

### **C. Internal Review Procedures**

1. When an allegation of suspected maltreatment is reported regarding Rise, either by a Rise team member or by external sources, an internal review will be conducted within 30 calendar days to identify corrective actions, if necessary, to protect the health and safety of vulnerable adults. (Rise team members are required to report, but not investigate, suspected maltreatment that occurs externally to the program.)
  - a. Upon notification of the incident, the Quality Assurance Specialist will complete the internal review/investigation.
  - b. In the Quality Assurance Specialist's absence or if the Quality Assurance Specialist is involved in the alleged or suspected maltreatment, the Director of Quality Assurance will complete the internal review/investigation.
  - c. In the Director of Quality Assurance's and Quality Assurance Specialist's absence or if the Director of Quality Assurance is involved in the alleged or suspected maltreatment and the Quality Assurance Specialist is unavailable, the designated Program VP will assign a manager to complete the internal review/investigation.
  - d. If a Program VP is involved in the alleged or suspected maltreatment, the report should be given to the President/CEO, who will assume all responsibility for reporting, investigating, etc.

2. During the internal review/investigation process, the designated Program VP or his/her designee may reassign team member work responsibilities, individual caseloads, work hours, program area assignments, or take other steps needed to protect the safety and/or well-being of persons served and to reduce any conflict of interests that may exist among employees or persons served.
3. Results of the internal review will be documented on the "VA Internal Review/Investigation Report" form. Documentation will 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 team member training.
  - d. The reported event is similar to past events with the vulnerable adults or the services involved.
  - e. There is a need for corrective action by the program to protect the health and safety of vulnerable adults.
4. Upon completion of the review, the VA Internal Review/Investigation Form and all pertinent documentation will be submitted to the designated Program VP. A copy of the VA Internal Review/Investigation Form will also be given to the program supervisor.
  - a. The investigator will meet with the Designated Program VP and program supervisor(s) as requested to review findings.
  - b. Documentation of the Internal Review will be made available to the Lead Agency and to DHS upon the commissioner's request.
5. If it is determined that corrective actions are needed, a corrective action plan will be designed to correct current lapses and prevent future lapses in performance by individual or the program. A copy of the corrective action plan will be submitted to the designated Program VP and the President/CEO.

#### **D. Orientation for Persons Receiving Services**

1. All persons receiving services shall receive an orientation upon intake and annually thereafter on the Maltreatment of Vulnerable Adults Reporting Policy.
  - a. The orientation shall include the telephone number for the MN Adult Abuse Reporting Center. The website will NOT be provided to the person supported as this resource is only for mandated reporters.

- b. A person's legal representative must be notified of the orientation.
2. All new persons receiving services will be provided an orientation within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

### **E. Team Member Training**

1. Orientation to this policy and Minnesota's Vulnerable Adults Act will be provided to all team members within 72 hours of first providing direct contact services to a vulnerable adult and annually thereafter.
2. The orientation and annual review shall inform all team members of:
  - a. The reporting requirements.
  - b. Definitions.
  - c. Service site Program Abuse Prevention Plan (PAPP).
  - d. Maltreatment of Minors Act
3. The program must document the provision of this training, monitor implementation by team members, and ensure that the policy is readily accessible to team members, as specified under Minnesota Statutes, section 245A.04 subdivision 14.

## **III. Definitions**

### **MINNESOTA DEFINITIONS**

All definitions below are from Minnesota Statute 626.5572

#### **A. Vulnerable Adult (subd. 21)**

Any person 18 years of age or older who:

1. Is a resident or inpatient of a facility;
  - a. Receives services at or from a facility required to be licensed to serve adults under sections MS 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 MS 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4).

- b. Receives services from a home care provider required to be licensed under section MS 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections MS 256B.04, subdivision 16, MS 256B.0625, subdivision 19a, MS 256B.0651, and MS 256B.0653 to 256B.0656, and 256B.0659.
- c. Regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - 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.
  - 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.
- d. For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

**B. Maltreatment (subd. 15)**

1. "Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9.

**C. Abuse (subd. 2)**

1. An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of these statutes:
  - a. Assault in the first through fifth degrees (MS 609.221 to 609.224).
  - b. The use of drugs to injure or facilitate crime (MS 609.235).
  - c. The solicitation, inducement, and promotion of prostitution (MS 609.322).
  - d. Criminal sexual conduct in the first through fifth degrees (MS 609.342 to 609.3451)
2. A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.
3. 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:

- a. Hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult.
- b. 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.
- c. 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 unless authorized under applicable licensing requirements or Minnesota Rules, chapter 9544.
- d. Any sexual contact or penetration as defined in section 609.341, between a team member or a person providing services in the facility and a resident, patient, or person served at that facility.
- e. 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.

#### **D. Caregiver**

1. "Caregiver" means an individual who has responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract or agreement. Caregiver does not include an unpaid caregiver who provides incidental care.

#### **E. Neglect (subd. 17)**

1. Neglect means neglect by a caregiver or self-neglect.
2. Caregiver Neglect means 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:
  - a. 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.
  - b. Which is not the result of an accident or therapeutic conduct.
  - c. Self-Neglect means: 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.



- d. 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:
    - a. 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
    - b. 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:
    - a. A person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or
    - b. A personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or
  3. 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
  4. 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:
    - a. the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

- b. 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;
- c. the error is not part of a pattern of errors by the individual;
- d. if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;
- e. 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
- f. 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.
  - i. (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.
  - ii. (e) If the findings of an investigation by a lead investigative 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 (f).

**F. Financial Exploitation (subd. 9)**

1. 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:
  - a. 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.
  - b. 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.
2. In the absence of legal authority, a person:
  - a. Willfully uses, withholds, or disposes of funds or property of a vulnerable adult.

- b. 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.
- c. 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.
- d. Forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

## **WISCONSIN DEFINITIONS**

All definitions below are from Wisconsin Statutes section §55.01(1e).

Adult at Risk - any adult who has a physical or mental condition that impairs the ability to care for their needs and who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation. (Wis. Stat. §55.01(1e))

Elder Adult at Risk - any person aged 60 or older who has experienced, is experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation. (Wis. Stat. §46.90(br))

Abuse - per Wis. Stat. §46.90(1) can mean any of the following:

1. Physical abuse - intentional or reckless infliction of physical pain or injury, illness, or any impairment of physical condition.
2. Emotional Abuse - language or behavior that serves no legitimate purpose and is intended to intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed.
3. Sexual Abuse - sexual contact or intercourse with another person without consent (a violation of criminal assault law, §940.225 (1), (2), (3), or (3m)).
4. Treatment without Consent - the administration of medication or the performance of psychosurgery, electro-convulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.
5. Unreasonable Confinement or Restraint - the intentional and unnecessary confinement of an individual in a locked room, involuntary separation from his or her living area, use of physical restraints, or the provision of unnecessary or excessive medication. (Note: This does not include the use of these methods or devices if they conform with state and federal standards governing confinement and restraint.)

Caregiver - a person who has taken responsibility for all or part of an individual's care. (Wis. Stat. §46.90(1)(an))

Financial Exploitation - as defined in Wis. Stat. §46.90(1)(ed), means any of the following:

1. Obtaining an individual's money or property by deceiving or enticing the individual.
2. Forcing, compelling, or coercing an individual to give, sell at less than fair market value, or in other ways transfer money or property against their will without informed consent.
3. Theft, as prohibited in §943.20.
4. The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities.
5. Unauthorized use of an individual's personal identifying information or documents, as prohibited in §943.201.
6. Unauthorized use of an entity's identifying information or documents, as prohibited in §943.203.
7. Forgery, as prohibited in §943.38. 7. Financial transaction card crimes, as prohibited in §943.38.
8. Financial transaction card crimes, as prohibited in §943.41.

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Fiscal Agent - as defined in Wis. Stat. §46.90(1)(eg), includes any of the following:

1. A guardian of the estate appointed under §54.10.
2. A conservator appointed under §54.76.
3. An agent under a power of attorney under Chapter 244.
4. A representative payee under 20 CFR 416.635.
5. A conservatorship under the U.S. Department of Veterans Affairs.

Neglect - the failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health. "Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under Chapter 154, a power of attorney for health care under Chapter 155, or as otherwise authorized by law. (Wis. Stat. §46.90(1)(f))

Self-Neglect - a significant danger to an individual's physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care. (Wis. Stat. §46.90(1)(g))

Adult Protective Services (APS) - any services that when provided to an individual with developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacity, keep the individual safe from abuse, neglect, or financial exploitation, prevent the individual from experiencing deterioration, or stop the individual from inflicting harm on oneself or another person. (Wis. Stat. §55.01(6r))

The terms adult protective services agency and adult protective services system are used to refer to the agency or agencies to which the county has assigned responsibility under Wis. Stat. §55.02 for planning and carrying out the county's protective services responsibility.

Under Wis. Stat. §55.01(6r), "protective services" include any of the following:

- Outreach
- Identification of individuals in need of services
- Counseling and referral for services
- Coordination of services for individuals
- Tracking and follow-up
- Social services
- Case management
- Legal counseling or referral
- Guardianship referral
- Diagnostic evaluation

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