**POLICY: RESPONDING TO AND REPORTING MALTREATMENT IN MINNESOTA**

Mains’l endeavors to protect people who receive services from maltreatment through education and clear expectations of what to do when you suspect a person is experiencing a form of maltreatment such as abuse, neglect or financial exploitation. Minnesota has multiple laws about the maltreatment of vulnerable adults and minors that are used to inform our actions.

**PROCEDURE: RESPONDING TO AND REPORTING MALTREATMENT IN MINNESOTA**

If you suspect, witness, or become aware of maltreatment of a vulnerable adult or a child, report immediately!

* Immediately call 911 if you observe or are aware of a physical or sexual assault in progress;
* Immediately (as soon as possible, but not more than 24 hours from initial knowledge) contact the Mains’l administrative on-call personnel. Mains’l does not release identifying information about the mandated reporter unless given permission by the mandated reporter, or as required by law. Only information about the suspected maltreatment or injury is reported;

**Where to report maltreatment:**

To report to Mains’l, call the administrative on-call phone at 612-598-5700

If you choose to report outside of Mains’l:

**For Adults:** Call 1-844-880-1574 or go to: [mn.gov/dhs/reportadultabuse/](file:///C%3A%5CUsers%5CTracy%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CContent.Outlook%5CU2Z9AHA3%5Cmn.gov%5Cdhs%5Creportingadultabuse%5C) to report

**For Children:** Contact law enforcement or locate the local child welfare agency phone number by going to: <http://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/contact-us/index.jsp> or for a child living in foster care call 651-431-6600

If you choose not to call the Mains’l administrative on-call person, you need to report directly to the Minnesota Adult Abuse Reporting Center (MAARC-for adults) or the local child welfare agency (for children) if you suspect maltreatment;

* Reports concerning suspected abuse or neglect of a child who lives in a home that is licensed as child foster care, should be made to the Department of Human Services, Licensing Division’s Maltreatment Intake line at (651) 431-6600.
* Reports concerning suspected abuse or neglect of a child who does not live in licensed child foster care should be made to the local county social services agency or local law enforcement.

**Suspected maltreatment must be reported.**

**You do not need to have proof that maltreatment has occurred.**

**How people learn about responding to and reporting maltreatment**

Mains’l provides awareness and education to our employees and the people we support on responding to and reporting maltreatment.

1. All employees receive orientation training on their responsibilities as a mandated reporter, including online and in person training. Review of this policy and procedure, statutes referenced in policy, the Service Questionnaire and Safety Plan and the Home Safety Plan also known as the Program Abuse Prevention Plan is required when applicable, within 72 hours of first working in a direct care service and then participate in ongoing training each year. Training is documented for each employee.
2. All people receiving services and their guardian ( s) (when applicable) receive orientation to this policy and procedure, the Service Questionnaire and Safety Plan, and the Home Safety Plan, also known as the Program Abuse Prevention Plan (when applicable) within 24 hours of starting services with Mains’l. For a person whom would benefit more from a later orientation, the orientation may take place within 72 hours of starting services. This orientation is documented on the Orientation for Person Receiving Supports Form
3. This policy and procedure is made readily accessible to people by posting the critical information at each work location.

**The who, what, where, why, and how for responding to and reporting maltreatment**

**Who is considered a vulnerable individual?** In general, any person who needs assistance to adequately care for him or herself, and is therefore at a greater risk of maltreatment, is considered a vulnerable individual. Based on Minnesota laws, any person receiving services from Mains’l is considered either a vulnerable adult or child. The definition of a child for maltreatment reporting is a person who has not reached age 18.

**Who is considered a caregiver?** A person who has responsibility for any of the care of a vulnerable individual is considered a caregiver. Caregivers may or may not be paid for their caregiver responsibilities. Caregivers can include family, friends, hired employees, contracted service providers, and volunteers.

**What is maltreatment?** For vulnerable adults, maltreatment is defined as abuse, neglect, or financial exploitation.For children, maltreatment is defined as physical abuse, sexual abuse, and neglect.Definitions of each type of maltreatment are provided below in the definitions section. For complete definitions, please see the Minnesota Statutes listed above.

**Who is required to report maltreatment?** While anyone can report, many people are required by law to report, including you. A complete list of who is required to report can be found in the Statutes listed above. Some professionals who are mandated reporters are people who work in the following areas:

* Care of vulnerable adults or minor children; including relatives and other paid and unpaid caregivers
* Healing arts
* Social services

If you SEE SOMETHING…

SAY SOMETHING!

* Hospitals, medical clinics, and nursing homes
* Psychological or psychiatric treatment
* Child care and education
* Law enforcement and corrections
* Vocational rehabilitation
* Medical examiner or coroner

**What is required to be reported?** Suspected maltreatment and any injury that cannot be explained must be reported within 24 hours of finding out. Definitions of maltreatment are listed in this document.

For children, if you know or have reason to believe a child is being or has been neglected or physically or sexually abused within the **past three years**, you must immediately make a report to the child protection unit of the local social service agency.

**Who do I report to?** For the suspected maltreatment of a vulnerable adult, report to the Minnesota Adult Abuse Reporting Center (MAARC). For suspected maltreatment of a child, report to law enforcement or the local child welfare agency.We also ask that you contact the Mains’l administrative on-call personnel.

**What happens at Mains’l after a report is made?** When Mains’l has reason to believe that an internal or external report of alleged or suspected maltreatment has been made, we also report and respond.

1. When an internal maltreatment report is received, the Mains’l administrative on-call personnel is responsible for deciding if the report should be forwarded to the Minnesota Adult Abuse Reporting Center (MAARC) or local child welfare agency. If the administrative on-call person is involved in the suspected maltreatment, contact your senior manager, so they can take responsibility for deciding if the report should be forwarded to MAARC/child welfare. When suspected maltreatment has occurred, the report must be sent to MAARC/child welfare within 24 hours.
2. If you have reported internally, you will receive, within two working days, a written notice that tells you whether or not your report has been forwarded to MAARC/child welfare. The notice will be given to you in a manner that protects your identity. It will inform you that, if you are not satisfied with the decision on whether or not to report externally, you may still make your own report to MAARC/child welfare. It will also inform you that you are protected against any retaliation if you decide to make a good faith report to MAARC/child welfare.
3. An internal review is completed within 30 calendar days and corrective action is taken, if necessary, to protect the health and safety of vulnerable people. The review includes an evaluation of whether:
4. the policies and procedures were adequate;
5. related policies and procedures were followed;
6. the policies and procedures were adequate;
7. there is a need for additional staff training;
8. the reported event is similar to past events with the vulnerable person or the services involved; and
9. there is a need for Mains’l to take corrective action to protect the health and safety of people.

Internal reviews are completed by Chuck Jakway, Vice President of Administration or a designated Senior Manager. Mains’l documents completion of the internal review and will provide a copy to the commissioner immediately upon request.

1. Based on the results of the internal review, Mains’l develops, documents, and implements a corrective action plan designed to correct current lapses and prevent future lapses in performance by the agency or a specific person/group of people, if any.

**What is the Minnesota Adult Abuse Reporting Center?** The Minnesota Adult Abuse Reporting Center was established on 7/1/15 to replace the county based Common Entry Point system. MAARC is the central location for receiving reports of vulnerable adult maltreatment.

**What are local child welfare agencies?** Each county in the state has a localchild protection/welfare agency responsible for taking reports and investigating. The number for your local child welfare agencies can be found online and is included in orientation materials.

**Who is the Mains’l administrative on-call personnel?** The administrative on-call personnel is a group of employees at Mains’l who are extensively trained in maltreatment reporting. This team rotates an administrative cell phone for one week at a time in addition to their regular job duties. They are expected to answer the phone or return phone calls as soon as they can. With the caller, they walk through the steps required to complete maltreatment reporting and ensure the health and safety of the person who may have been maltreated.

**How much time does a mandated reporter have to make a report?** No longer than 24 hours from the time you believe or know that witnessed or suspected maltreatment occurred.

Any person making a good faith report in a timely manner is protected from any civil or criminal liability that might otherwise result from their actions.

**What happens if I do not report suspected maltreatment?** There are many things that can happen if you do not report including**:**

* the continuation of maltreatment to the person
* you being removed from your caregiver responsibilities
* you may be found guilty of a misdemeanor and liable for damages caused by the failure
* you may not clear a background study required for many jobs

If you are asked to not report something, you can explain to the person that you are required by law to report. You also do not have to inform the person that you are making a report, go ahead and make the report if you suspect maltreatment has occurred.

**Will I be protected from retaliation if I make a report?** Yes, Mains’l will not retaliate against anyone for making a report in good faith (an honest report) and takes action to protect people who report. There are also laws in place to protect people who make good faith reports.

A person who intentionally makes a false report may be found liable in a civil suit for any actual damages suffered by the reported facility, person or persons and any punitive damages up to $10,000.00 and attorney’s fees.

**What is therapeutic conduct?** Some of the definitions reference therapeutic conduct. It refers to services and caregiver responsibilities that are provided in good faith and in the interests of the vulnerable individual where an accident or injury might occur that was not intended to harm.

**What is considered an accident?** A sudden, unforeseen, and unexpected occurrence or event which is not likely to occur, and which could not have been prevented by exercise of due care. It is also considered an accident if the occurrence or event happens when an employee or the person providing services is in compliance with the laws and rules relevant to the occurrence or event.

**What is considered serious harm?** An injury that requires medical treatment that cannot be immediately provided by the present caregiver may be considered serious harm. The act of going to the doctor when no medical treatment is received is not considered serious harm.

**How do I know how to protect the person receiving services?** Before you perform any caregiver responsibilities, you should review the person’s Service Questionnaire and Safety Plan that was written specifically for the person receiving services that addresses the vulnerable individual’s susceptibility to abuse, neglect, and financial exploitation, as well as other vulnerabilities. Review this document before services are provided so you are prepared. The individual receiving services participates in the development of this plan to the fullest extent possible. The plan is reviewed and if necessary, revised at least annually. If after reading the plan you have questions, please make sure to ask the person responsible for training you.

**Maltreatment definitions for adults**

See MN Statutes for complete definition and additional information. [https://www.revisor.mn.gov/laws/2022/0/Session+Law/Chapter/98/2022-08-01%2010:29:11+00:00/pdf](https://www.revisor.mn.gov/laws/2022/0/Session%2BLaw/Chapter/98/2022-08-01%2010%3A29%3A11%2B00%3A00/pdf)

**Abuse:** Abuse can be physical, emotional, verbal, or sexual. This includes but is not limited to:

1. An act against a vulnerable individual that includes:

**See MN Statutes for complete definitions and additional information.**

1. assault
2. the use of drugs to injure or facilitate crime
3. the solicitation, inducement, and promotion of prostitution
4. criminal sexual conduct
5. Conduct which is not an accident or therapeutic, which produces or could reasonably be expected to produce physical pain or injury or emotional distress, including, but not limited to the following:
6. hitting, slapping, kicking, pinching, biting, or corporal punishment
7. use of repeated or malicious oral, written, or gestured language or the treatment of a vulnerable individual which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing or threatening;
8. use of any aversive or deprivation procedure, unreasonable confinement, or involuntary
	* seclusion, including the forced separation of the vulnerable individual from other persons against their will.
9. Sexual contact or penetration between a person providing services and a vulnerable individual.
10. NOTE: It is not considered abuse when a 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 providing services, when a consensual sexual relationship exists; or for a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the care giving relationship.
11. The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult’s services will to perform services for the advantage of another.

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

**Neglect:** Neglect means neglect by a caregiver or self-neglect.

1. “Caregiver neglect” means the failure or omission to supply a vulnerable individual 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 person’s physical or mental healthor safety, and is not the result of an accident or therapeutic conduct.

 2. “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 adults’ health, safety, or comfort.

**Financial exploitation/abuse:** Occurs when a person misuses funds, assets, or property of a vulnerable individual. This includes but is not limited to:

1. Failure to use the vulnerable individual’s financial resources to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable individual, and the failure results in or is likely to result in detriment to the vulnerable individual;

1. Willfully using, withholding, or disposing of funds or property of a vulnerable individual without legal

authority;

1. Obtaining performance of services by a third person/party for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable individual;
2. Acquiring possession of, control of, or an interest in, funds or property of a vulnerable individual through the

use of undue influence, harassment, duress, deception, or fraud;

1. Forcing, compelling, coercing, or enticing a vulnerable adult against his or her will to perform services for the profit or advantage of another.

**Maltreatment definitions for children**

**Physical abuse:**Any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child’s care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child’s history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include:

1. Reasonable and moderate physical discipline of a child administered by a parent or guardian which does not result in injury. Unintentional injury resulting from physical discipline is physical abuse.
2. The use of reasonable force by a teacher, principal, or school employee as allowed in section 121A.582.

Actions which are not reasonable and moderate (so NOT allowed) include, but are not limited to any of the following that are done in anger or without regard to the safety of the child:

* throwing, kicking, burning, biting, or cutting a child
* striking a child with a closed fist
* shaking a child under age three
* striking or other actions which result in any non-accidental injury to a child under 18 months of age
* unreasonable interference with a child’s breathing
* threatening a child with a weapon
* striking a child under age one on the face or head
* purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child’s behavior, motor coordination, or judgment, or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances
* unreasonable physical confinement or restraint, including but not limited to tying, caging, or chaining; or
* in a school facility or school zone, an act by a person responsible for the child’s care that is a violation under section 121A.58, which states corporal punishment is not allowed including:
	+ hitting or spanking a person with or without an object; or
	+ unreasonable physical force that causes bodily harm or substantial emotional harm

**Sexual abuse:**Is when a person who has a significant relationship to the child or is in a position of authority controls or forces a child into any act considered by law to be criminal sexual conduct. Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses. Sexual abuse also includes threatened sexual abuse. Sexual contact includes fondling, touching intimate parts and sexual intercourse.

**Neglect:** Occurs when a child’s health and safety needs are not being met. This includes;

1. Failure by a person responsible for a child’s care to supply a child with necessary food, clothing, shelter, health, medical or other care required for the child’s physical or mental health when reasonably able to do so;
2. failure to protect a child from conditions or actions that seriously endanger the child’s physical or mental health when reasonably able to do so, including growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child considering factors as the child’s age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child’s’ own basic needs or safety, or the basic needs or safety of another child in their care;
4. failure to ensure that the child is educated;
5. prenatal exposure to a controlled substance;
6. medical neglect:
	1. nothing in this section shall be construed to mean that a child is neglected solely because the child’s parents, guardian, or other persons responsible for the child’s care in good faith selects and depends upon spiritual means or prayer for treatment or care of the disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child’s health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;
7. chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child’s basic needs and safety; or
8. emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child’s behavior, emotional response, or cognition that is not within the normal range for the child’s age and stage of development, with due regard to the child’s culture.

**Remember…** Respond immediately if you suspect, see, or hear about maltreatment!

* Immediately call 911 if you observe or are aware of a physical or sexual assault in progress;
* Immediately contact the Minnesota Adult Abuse Reporting Center for maltreatment of a vulnerable adult or the local child welfare agency for maltreatment of a child.
* We also ask that you immediately contact the Mains’l administrative on-call personnel at 612-598-5700

Thank you for helping to protect people from harm.

**References:** To view Minnesota statutes please go to [https://www.revisor.mn.gov/laws/2022/0/Session+Law/Chapter/98/](https://www.revisor.mn.gov/laws/2022/0/Session%2BLaw/Chapter/98/).

 Minnesota Statute 245A.65 Maltreatment of Vulnerable Adults

1. Minnesota Statute 245A.66 Maltreatment of Minors
2. Minnesota Statute 626.556 Mandatory Reporting of Maltreatment of Minor
3. Minnesota Statute 626.557 Mandatory Reporting of Maltreatment of Vulnerable Adults

(Revised 8/16/2022; LM)