

# MALTREATMENT OF VULNERABLE ADULTS

Revised 08-09-02

## I. STATUTORY REFERENCES AND DEFINITIONS

Minn. Stat. § [626.557](#) - Reporting of Maltreatment of Vulnerable Adults

Minn. Stat. § [626.5571](#) - Adult Protection Team

Minn. Stat. § [13.46](#), subd. (3) and (4) - Welfare System Investigations of Licensed Facilities

It is the public policy of the State of Minnesota to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment. To achieve this end, the law requires certain persons (known as "mandated reporters") to report suspected abuse and requires reporting information about alleged maltreatment of vulnerable adults to a "common entry point," established in each of the 87 counties. A "common entry point" is the entity responsible for receiving reports of suspected maltreatment.

## II. CLASSIFICATION

Data involving maltreatment of a vulnerable adult generally is private, confidential, or protected nonpublic depending on the activity, status, and data subject. There are also specific provisions for sharing data about maltreatment of vulnerable adults.

## III. ADDITIONAL CONSIDERATIONS

**A. ACTIVE AND INACTIVE INVESTIGATION** - All data on individuals obtained during an active investigation is confidential. Data obtained on vendors or agencies during an active investigation is protected nonpublic data. [Minn. Stat. § 13.46, subd. 3](#) The Vulnerable Adult Maltreatment Act contains specific requirements about disclosure of such data. [Minn. Stat. § 626.557](#) Data on individuals collected during a licensing agency's investigation becomes private data when the investigation becomes inactive, unless it is submitted to a court involved in prosecuting the alleged perpetrator. This data, however, may be released to the public if the personal identifiers are removed. Data derived from private or confidential data on individuals from which the personal identifiers have been removed is generally considered to be public.

Inactive investigative data maintained by agencies other than the licensing agency is public data, unless the data would ordinarily be classified as not-public or the release of the data would jeopardize some other ongoing investigation. [Minn. Stat. §§ 13.39, subd. 3, or 13.82, subd. 5](#) If the data is submitted to a court or hearing examiner, it becomes public data. Data not on individuals, such as licensees, generally becomes public when the investigation becomes inactive.

**B. MULTIDISCIPLINARY ADULT PROTECTION TEAMS** - Counties may establish adult protection teams, of which the core team members include the following entities or their designees: county welfare director, county sheriff, county attorney, health care representatives and vulnerable adult advocate groups. Additional members, based upon professional interest, can be added to the Adult Protection Team at the discretion of the county.

All members of an adult protection team may discuss public data and develop resources for intervention, prevention, and treatment surrounding maltreatment of vulnerable adults. Core members of the adult protection team may also discuss private data about individuals allegedly subjected to maltreatment. Private data may only be shared with other members if the data subject has given consent or the sharing of private data is permissible under another law. [Minn. Stat. § 626.5571, subd. 3.](#)

**C. COMMON ENTRY POINT** - A "common entry point" is the entity responsible for receiving the report of suspected maltreatment. Immediately after discovering suspected maltreatment of a vulnerable adult, a mandated reporter must inform the common entry point of the alleged maltreatment. The report must include, in part, a description of the incident, the alleged victim, the disability, any other witnesses, and the name and relationship of the alleged perpetrator. The reporter may also disclose not-public data as defined in [Minn. Stat. § 13.02, subd. 8a](#), and private

or confidential data from medical records to the extent necessary to comply with mandated reporter law.

**D. NAME OF REPORTER** - The names of reporters are considered confidential and may only be shared with the consent of the reporter, when ordered by the court, or upon a written finding by a court that the report was false and made in bad faith. For more details, See [Minn. Stat. § 626.557, subd. 12b\(c\)](#) Notwithstanding any other provision in law, the Commissioner shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section [626.556](#) or [626.557](#), to the ombudsman for mental health and retardation upon the request of the ombudsman. [Minn. Stat. 13.46, subd. 3 \(b\)](#)

**E. FINAL DISPOSITION AND FAIR HEARING** - Upon conclusion of the investigation, each licensing agency must prepare a final disposition report of the agency's investigation which includes the name of the facility, the nature of the reported abuse or neglect or other violations of the maltreatment law, pertinent information obtained from medical or other records, the investigator's name, a summary of the investigative findings, and a statement of whether the report was found to be substantiated, inconclusive, or false, and action taken by the agency. This report must be written in a manner that protects the identity of the reporter and the vulnerable adult and may not contain the name or, to the extent possible, the identity of the alleged perpetrator or those interviewed during the investigation. A determination of maltreatment against an individual or facility may be appealed to the Commissioner of Human Services for a fair hearing. Any data considered by the referee must be made available to all parties to the hearing.

**F. NAME OF THE VICTIM AND NAME OF THE PERPETRATOR** - While the investigation is active the names of the victim and alleged perpetrator and anyone else interviewed are confidential. The names become private when the investigation terminates. This private information may be released if the personal identifiers can be removed.

**G. INVESTIGATIVE MEMORANDA** - The commissioners of health and human services (the lead agencies) are required to prepare investigative memoranda. The memoranda must be written in a manner that protects the identity of the reporter and the vulnerable adult. During the investigation, all data are confidential or protected nonpublic. When the investigation is concluded, some information becomes public, for example, name of the facility, nature of the alleged maltreatment, identity of the investigator, and other facts. [Minn. Stat. § 626.557, subd. 12b\(b\)](#), defines what data in the report are public and not-public upon conclusion of the investigation.

**H. EXCHANGE OF INFORMATION** - The data obtained in the investigation of the abuse or neglect of a vulnerable adult may be shared as necessary between lead agencies, prosecuting authorities, and law enforcement agencies.

**I. DATA DESTRUCTION** - Data from an investigation must be destroyed on a schedule specified by law. [Minn. Stat. § 626.557, subd. 12b\(d\)](#) Depending on whether the report of maltreatment was false, inconclusive, substantiated, or not investigated, the reports must be destroyed within two years, four years, seven years, and two years, respectively from the date the finding or report was made. A common entry point must destroy its reports of maltreatment within three years from the date of receiving the report.

**J. NOTIFICATION OF OTHER AFFECTED PARTIES** - A lead agency may notify other affected parties if the agency has reason to believe maltreatment has occurred and that dissemination of the information will safeguard the well being of the affected parties or dispel wide-spread rumor.

**K. CHEMICAL DEPENDENCY TREATMENT FACILITIES** - There is no provision in the chemical dependency regulations for the reporting of vulnerable adult maltreatment. However, the Vulnerable Adult Maltreatment Reporting Act requires employees in facilities with patients covered by the Act to seek consent from the patient to disclose suspected maltreatment. In addition, the chemical dependency regulations allow dissemination of information to law enforcement prosecuting authorities for crimes committed at the facility, which includes suspected maltreatment in the facilities.

#### **IV. CROSS REFERENCE WITH OTHER SECTIONS OF THE MANUAL**

[Appeals](#)

[Chemical Dependency](#)

[Licensing](#)

