

**Policy Title: Vulnerable Adult Abuse Reporting**

<p><b>Policy Owner:</b> COO <b>Policy Originated by:</b> Program</p>	<p><b>Date Written:</b> 10/1/13</p>
<p><b>Applicable Programs:</b> Center-Based Therapy and Supports, Community-Based Therapy and Supports</p>	<p><b>Date Reviewed and Approved by PLT:</b> 3/11/14, 02/17/15, 07/07/15, 02/23/16, 06/15/16, 09/20/16, 07/22/20, 4/28/21, 6/8/22</p>
<p><b>Statutory or Regulatory Citation:</b> Minn. Stat. § 245A.65 Minn. Stat. § 245A.66 Minn. Stat. § 626.557 Minn. Stat. § 626.5572 Minn. Stat. § 245D.06, Subd. 1</p>	<p><b>Signature if needed:</b></p>

**Policy:** St. David's Center expressly prohibits the abuse, neglect or financial exploitation of its clients. All employees, agents, consultants, volunteers, and others who provide services to St. David's Center clients (collectively, "St. David's Center personnel") are mandatory reporters and will report any apparent or suspected abuse, neglect, or financial exploitation that comes to their attention. All such reports will conform to applicable statutory requirements, click [here](#) for links to the form. For information regarding policy violation, click [here](#).

**What to report**

- Maltreatment includes egregious harm, neglect, physical abuse, sexual abuse, financial exploitation, substantial endangerment of a vulnerable adult, threatened injury, and mental injury. For definitions refer to Minnesota Statutes, section 626.5572, and the definitions section of this document [here](#). Maltreatment must be reported if you have witnessed or have reason to believe that a vulnerable adult is being or has been maltreated within the last three years.

**Emergency or Remedial Action to Address Maltreatment**

- St. David's Center personnel observing or discovering maltreatment of a vulnerable adult will immediately intervene, provide First Aid and/or obtain qualified medical assistance, and otherwise secure the safety of the individual using any available resources or assistance required. If you know of or suspect immediate danger, you must call 911.
- An "Accident/Critical Incident Reporting" Form must be completed.
  - The "Accident/Critical Incident Reporting" Form does not constitute a VI maltreatment report, which is also required.

**Who must report**

- If you work in a licensed facility, you are a “mandated reporter” and are legally required (mandated) to report maltreatment. You cannot shift the responsibility of reporting to your supervisor or to anyone else at your licensed facility.
- In addition, people who are not mandated reporters may voluntarily report maltreatment.

### **Where to report**

- If you know or suspect that a vulnerable adult is in immediate danger, call 9-1-1.
- Minnesota Adult Abuse Reporting Center 1-844-880-1574 or staff can make a report online at <http://edocs.dhs.state.mn.us/lfserver/Public/DHS-6303-ENG>
- If your report does not involve possible abuse or neglect but does involve possible violations of Minnesota Statutes or Rules that govern the facility, you should call the Department of Human Services, Licensing Division at (651) 431-6500.

### **When to report**

- Mandated reporters must make a report to one of the agencies listed above immediately (as soon as possible but no longer than 24 hours).

### **Information to report**

- A report to any of the above agencies should contain enough information to identify the vulnerable adult involved, any persons responsible for the maltreatment (if known), and the nature and extent of the maltreatment and/or possible licensing violations. For reports concerning suspected maltreatment occurring within a licensed facility, the report should include any actions taken by the facility in response to the incident. See [internal](#) and [external](#) reporting.

### **Failure to report**

- A mandated reporter who knows or has reason to believe a vulnerable adult is or has been maltreated and fails to report is guilty of a misdemeanor.
- In addition, a mandated reporter who fails to report serious or recurring maltreatment may be disqualified from a position allowing direct contact with, or access to, persons receiving services from programs, organizations, and/or agencies that are required to have individuals complete a background study by the Department of Human Services as listed in Minnesota Statutes, section 245C.03. See [conditions of reporting](#)

### **Retaliation prohibited**

An employer of any mandated reporter is prohibited from retaliating against (getting back at):

- an employee for making a report in good faith; or
- a adult who is the subject of the report.

If an employer retaliates against an employee, the employer may be liable for damages and/or penalties.

### **Staff training**

The license holder must train all mandated reporters on their reporting responsibilities, according to the training requirements in the statutes and rules governing the licensed program. The license holder must document the provision of this training in individual personnel records, monitor implementation by

staff, and ensure that the policy is readily accessible to staff, as specified under Minnesota Statutes, section 245A.04, subdivision 14. See [Employee and Volunteer Requirements](#)

### **Provide policy to parents/guardians**

For services provided to adults, the mandated reporting policy must be provided to parent/guardian at the time of enrollment, be available upon request and annually. The definitions section (p. 3-6) is optional to provide to parents/guardians. The following sections apply to 245D license holders. This does not include family child foster care per Minnesota Statutes 245A.66, subd. 1. See [Orientation/intake of Clients and Families](#)

## **1. Internal Reporting**

- a) When maltreatment of a vulnerable adult is suspected, it will be reported immediately to the appropriate Program Coordinator unless there is reason to believe said Coordinator is involved in the alleged or suspected maltreatment, in such case the Program Director/Senior Director will be notified immediately. If after hours, persons suspecting or observing maltreatment will contact the on-call cell phone.
- b) The internal reporter may be asked to complete a written report. That report, as well as the oral report, must enable St. David's Center to identify:
  - i. The vulnerable adult,
  - ii. the caregiver,
  - iii. the nature and extent of the suspected maltreatment,
  - iv. any evidence of previous maltreatment,
  - v. the name and address of the reporter,
  - vi. the time, date and location of the incident, and
  - vii. any other information the reporter believes might be helpful in investigating the suspected maltreatment.
- c) A Mandated Reporter meets the reporting requirements of Minnesota law by reporting internally. Upon receiving an internal report of suspected maltreatment of a vulnerable adult, the program coordinator or director will be responsible for making required reports to the Minnesota Adult Abuse Reporting Center (MAARC) listed [here](#).
- d) St. David's Center shall give a person who reports internally a written notice stating whether St. David's Center has reported the incident to the MAARC. The written notice will be:
  - i. Provided within two working days; and
  - ii. In a manner that protects the confidentiality of the reporter.
  - iii. The written response provided by St. David's Center to the Mandated Reporter shall note that if the reporter is not satisfied with the action taken by St. David's Center, the reporter may report externally (see below) to MAARC.

- iv. St. David's Center shall not prohibit a Mandated Reporter from reporting externally, and shall not retaliate against a Mandated Reporter who reports suspected VI maltreatment to the MAARC in good faith.
- e) The written notice provided by St. David's Center to the mandated reporter will inform the mandated reporter of this protection from retaliation for reporting externally.

## **2. External Reporting by St. David's Center or Mandated Reporters**

- a) The Program Director shall receive all Internal Reports of vulnerable adult maltreatment and determine whether the internally reported information meets the state law requirements for a report of maltreatment.
- b) If it does, the Program Director shall make a report of such information to the MAARC immediately (not later than 24 hours after the information is learned by St. David's Center).
- c) Staff/Providers observing or learning of suspected maltreatment of a vulnerable adult may report externally as described.
- d) A formal internal written report must be completed by the Appropriate Program Coordinator. Copies of the report will be provided by the Program Coordinator to the Program Director/Senior Director and Chief Executive Officer. The Program Director/Senior Director will provide Social Services with a copy of the report, which will be filed in a designated location at the St. David's Center Minnetonka site for further reference. A report to MAARC listed [above](#) will be provided within 72 hours, exclusive of weekends and holidays.
- e) The appropriate Program Coordinator shall work with Staff/Providers to ensure that information regarding the maltreatment of a vulnerable adult report is documented in the vulnerable adult's file.

## **3. Conditions of Reporting**

- a) Everyone (including persons other than Mandated Reporters) may and should report cases of known or suspected Maltreatment of a vulnerable adult internally and/or to the local county social services agency.
- b) The identity of Mandated Reporters may not be disclosed. Any person who makes a good faith vulnerable adult report either internally or externally is immune from liability and shall not be subject to retaliation by anyone in authority or employed by St. David's Center.

- c) Any person who negligently or intentionally fails to report suspected maltreatment of a vulnerable individual is liable for damages caused by the failure.
- d) A person is not required to make a report if the reporter knows or has reason to know a report has already been made to the local county social service agency.
- e) Any person who intentionally makes a false maltreatment of a vulnerable adult report is liable in a civil suit for any actual damages, punitive damages and attorneys' fees.

#### 4. **Internal Review Procedures**

When St. David's Center has reason to know that an internal or external report of alleged or suspected maltreatment has been made, St. David's Center will complete an internal review and take corrective action, if necessary, to protect the health and safety of vulnerable individuals and that review will be completed within 30 calendar days.

- a) Such internal review will include an evaluation of whether:
  - i. Related policies and procedures were followed;
  - ii. The policies and procedures were adequate;
  - iii. There is a need for additional staff training;
  - iv. The reported event is similar to past events with the maltreatment of a vulnerable adult or the services involved; and
  - v. There is a need for corrective action by the license holder to protect the health and safety of the vulnerable adult.
- b) The internal review will be completed by the designated Coordinator, unless there is reason to believe such Coordinator is involved in the alleged or suspected maltreatment. In such a case, the Program Director will decide who will complete the internal review.
- c) The designated Coordinator will document completion of the internal review and provide documentation of the review to the commissioner upon the commissioner's request.
- d) Based on the results of the internal review the designated coordinator will develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or St. David's Center, if any.
- e) The internal review will be accessible to the commissioner of human services or a commissioner's designated representative upon request.

#### 5. **Orientation/Intake of Clients and Families**

- a) All clients and/or representatives of a site or program will receive orientation regarding internal reporting procedures, in a manner they are able to comprehend, within 24 hours of admission.

- b) Clients and families using Minnesota Statute § 245D licensed services will also be oriented to the IAPP (Individual Abuse Prevention Plan) in a manner they are able to comprehend within 24 hours of admission, when applicable.
  - i. Client Representatives shall have the opportunity to be included in the orientation and must be notified when the orientation will be provided.
- c) If a client would benefit by delaying orientation, orientation may take place within the first 72 hours following admission, provided the reason for the delay is documented at the time of admission.
- d) If a determination is made that a client is unable to comprehend the orientation, this requirement may be waived.
  - ii. Such waiver must be documented in the IAPP.
  - iii. In this case, representatives shall have the opportunity to receive the orientation on behalf of the client.

#### **6. Employee and Volunteer Requirements**

- a) Staff/Providers/Volunteers will receive an orientation within 72 hours of his or her first shift providing direct contact services to a vulnerable individual and annually thereafter.
- b) The orientation and annual review will inform the Mandated Reporters of statutory reporting requirements and definitions specific under MS, sections 626.577 and 626.5572, the requirements of MS, section 245A.65, the license holder's program abuse prevention plan and St. David's Center internal policies and procedures related to the prevention and reporting of maltreatment of clients.

**The remainder of this page has been intentionally left blank**

## Definitions

Found in Minnesota Statutes, section 626.5572

### Subd. 2. **Abuse.**

"Abuse" means:

- a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:
  - 1) assault in the first through fifth degrees as defined in sections [609.221](#) to [609.224](#);
  - 2) the use of drugs to injure or facilitate crime as defined in section [609.235](#);
  - 3) the solicitation, inducement, and promotion of prostitution as defined in section [609.322](#); and
  - 4) criminal sexual conduct in the first through fifth degrees as defined in sections [609.342](#) to [609.3451](#).

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

- b) 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:
  - 1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
  - 2) 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;
  - 3) 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.
- c) Any sexual contact or penetration as defined in section [609.341](#), between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.
- d) 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.
- e) For purposes of this section, a vulnerable adult is not abused for the sole reason that 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 section [253B.03](#) or 524.5-313, 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:

- 1) 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
  - 2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.
- f) For purposes of this section, a vulnerable adult is not abused for the sole reason that 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.
- g) For purposes of this section, a vulnerable adult is not abused for the sole reason that 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:
- 1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or
  - 2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

**Subd. 3. Accident.**

"Accident" means a sudden, unforeseen, and unexpected occurrence or event which:

- 1) is not likely to occur and which could not have been prevented by exercise of due care; and
- 2) if occurring while a vulnerable adult is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

**Subd. 4. Caregiver.**

"Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

**Subd. 5. Common entry point.**

"Common entry point" means the entity responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult under section [626.557](#).

**Subd. 6. Facility.**

- a) "Facility" means a hospital or other entity required to be licensed under sections [144.50](#) to [144.58](#); a nursing home required to be licensed to serve adults under section [144A.02](#); a facility or service required to be licensed under chapter 245A; an assisted living facility required to be licensed under chapter 144G; a home care provider licensed or required to be licensed under sections [144A.43](#) to [144A.482](#); a hospice provider licensed under sections [144A.75](#) to [144A.755](#); or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance



program as authorized under sections [256B.0625, subdivision 19a](#), [256B.0651](#) to [256B.0654](#), [256B.0659](#), or [256B.85](#).

- b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

**Subd. 7.False.**

"False" means a preponderance of the evidence shows that an act that meets the definition of maltreatment did not occur.

**Subd. 8.Final disposition.**

"Final disposition" is the determination of an investigation by a lead investigative agency that a report of maltreatment under Laws 1995, chapter 229, is substantiated, inconclusive, false, or that no determination will be made. When a lead investigative agency determination has substantiated maltreatment, the final disposition also identifies, if known, which individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

**Subd. 9.Financial exploitation.**

"Financial exploitation" means:

- a) 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:
  - 1) 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; or
  - 2) 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.
- b) In the absence of legal authority a person:
  - 1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;
  - 2) 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;
  - 3) 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; or
  - 4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.
- c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

**Subd. 10.Immediately.**

"Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

**Subd. 11.Inconclusive.**

"Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur.

**Subd. 12.Initial disposition.**

"Initial disposition" is the lead investigative agency's determination of whether the report will be assigned for further investigation.

**Subd. 13.Lead investigative agency.**

"Lead investigative agency" is the primary administrative agency responsible for investigating reports made under section [626.557](#).

- a) The Department of Health is the lead investigative agency for facilities or services licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding care homes, hospice providers, residential facilities that are also federally certified as intermediate care facilities that serve people with developmental disabilities, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Health for the care of vulnerable adults. "Home care provider" has the meaning provided in section [144A.43, subdivision 4](#), and applies when care or services are delivered in the vulnerable adult's home, whether a private home or a housing with services establishment registered under chapter 144D, including those that offer assisted living services under chapter 144G.
- b) The Department of Human Services is the lead investigative agency for facilities or services licensed or required to be licensed as adult day care, adult foster care, community residential settings, programs for people with disabilities, family adult day services, mental health programs, mental health clinics, chemical dependency programs, the Minnesota Sex Offender Program, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Human Services.
- c) The county social service agency or its designee is the lead investigative agency for all other reports, including, but not limited to, reports involving vulnerable adults receiving services from a personal care provider organization under section [256B.0659](#).

**Subd. 14.Legal authority.**

Legal authority" includes, but is not limited to: (1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations; (2) a contractual obligation; or (3) documented consent by a competent person.

**Subd. 15.Maltreatment.**

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

**Subd. 16.Mandated reporter.**

"Mandated reporter" means a professional or professional's delegate while engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the

occupations referred to in section [214.01, subdivision 2](#); (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.

**Subd. 17. Neglect.**

Neglect means neglect by a caregiver or self-neglect.

(a) "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:

- (1) 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; and
- (2) which is not the result of an accident or therapeutic conduct.

(b) "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.

(c) 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:

- (i) 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
- (ii) a 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:

- (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or
- (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) 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

(5) 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:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) 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;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section [626.557](#), and recorded internally in the facility;

(v) 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

(vi) 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.

(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.

(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).

**Subd. 18. Report.**

"Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

**Subd. 19. Substantiated.**

"Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

**Subd. 20. Therapeutic conduct.**

"Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 21. **Vulnerable adult.**

- a) "Vulnerable adult" means any person 18 years of age or older who:
- 1) is a resident or inpatient of a facility;
  - 2) receives services required to be licensed under chapter 245A, 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-order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
  - 3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under section [256B.0625, subdivision 19a](#), [256B.0651](#), [256B.0653](#), [256B.0654](#), [256B.0659](#), or [256B.85](#); or
  - 4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
    - i. 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; and
    - ii. 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.
- b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

**Violation of this Policy or Procedure**

No or only partial adherence to this policy or procedure may result in noncompliance with current regulatory requirements and subsequent penalties to St. David's Center. Remediation for violators will include, but not be limited to, disciplinary action up to and including termination depending on the circumstances of the situation at the time.

**Reference or Attachment:**

[Accident and Critical Incident - Emergency Response and Reporting.docx \(sharepoint.com\)](#)  
[Incident Report Form.doc \(sharepoint.com\)](#)