

Vulnerable Adults Act Summary

In our community, there are adults experiencing abuse or neglect who need our help. To help them find safety and security, the community needs to know about this problem and what to do about it. This handout is designed to help you learn more about abuse and neglect of vulnerable adults and what you can do to help. If you are a mandated reporter, it will help you learn more about your duty to report suspected abuse or neglect. If you are a relative, friend, neighbor, or other interested person, this handout will help you understand the adult protection system and assist you in finding protective services for someone in need. Any one of us may need protective services at some point in life. As you help your vulnerable clients, relatives, friends and neighbors, remember that you are strengthening a system that you too may need. If you have questions after reading this handout, you can get more information from your county social services agency.

Who is a Vulnerable Adult?

A vulnerable adult is any person, eighteen (18) years of age or older, who is a resident or patient of a facility such as a hospital, group home, nursing home, day service facility, day activity center, adult foster care home, or home care agency; or a person who receives services during the day from an agency that is licensed/certified by the Minnesota Department of Human Services to provide services. It also includes people who, regardless of where they live or what type of services they receive, are unable or unlikely to report abuse or neglect themselves because of limitations which are caused by mental, physical or emotional impairment.

Who is a care giver/caretaker?

A care giver/caretaker is a person whose support enables another individual to live independently or semi-independently in the community; OR a facility or service provider who has assumed responsibility for all or part of the care of a vulnerable adult voluntarily, by contract, or by agreement. The term care giver/caretaker may or may not mean legal or financial responsibility for the person.

Neglect

- Self Neglect: The absence of necessary food, clothing, shelter, health care or supervision.
- Passive Neglect: Unintentional failure to fulfill a care giving/care taking obligation; infliction of distress without conscious or willful intent, etc.
- Active Neglect: Intentional failure to fulfill care giving/care taking obligations; abandonment; denial of food, medications, personal hygiene, etc.
- Financial Neglect: The absence of necessary financial management that might lead to exploitation, if you are legally responsible for fiscal material management.

Abuse

- Psychological Abuse: Infliction of mental anguish by demeaning, name-calling, insulting, ignoring, humiliating, frightening, threatening, isolating, etc.
- Material/Financial Abuse: Illegally or unethically exploiting by using funds, property, or other assets of a vulnerable adult for personal gain, etc.
- Physical Abuse: Infliction of physical pain or injury; physical coercion; confinement; slapping, bruising, cutting, lacerating, burning, restraining, pushing, shoving, etc.
- Sexual Abuse: Any sexual contact between a care giver/caretaker and a vulnerable adult (rape, inappropriate sexual touching, etc.).

Who is required to report adult abuse?

Any person concerned about the well-being of a vulnerable adult may report known or suspected abuse or neglect.

Anyone involved in providing care for vulnerable adults (doctors, law enforcement, homemakers, nurses, home health aides, nursing assistants, foster care providers, adult day care center workers, volunteers, social workers, etc.) are **required** by law to report any incident of abuse or neglect. They are required to report any physical injury which cannot be reasonably explained or appears to be part of a pattern that suggest abuse or neglect.

Any employee or volunteer of a public or private facility or agency caring for vulnerable adults, including employees not generally involved with patient care (maintenance people, food service workers, etc.) must comply with this law.

Where do I report abuse?

Report any incident of known or suspected abuse or neglect to your county social services agency, your local police department, your county's Sheriff's Department, the Licensing Division of the Minnesota Department of Human Services, or the Office of Health Facilities Complaints of the Minnesota Department of Health.

How do I report suspected abuse or neglect and is my report confidential?

If you call to report suspected abuse or neglect of a vulnerable adult or make a written statement reporting suspected abuse or neglect of a vulnerable adult, the person being reported cannot be told your name. If you are engaged in the care of a vulnerable adult, you will be asked to file a written report identifying the vulnerable adult, the abusing or neglecting care giver/caretaker, and the extent and nature of the suspected abuse or neglect. The written report helps social services, law

enforcement, or licensing agencies in their investigation. If you need help in filing a written report, the social services agency, law enforcement agency, or licensing agency will help you.

What happens when a report is filed?

When a report is received, the local social services agency, law enforcement agency, or licensing agency will conduct an investigation. During the investigation process, all information is confidential.

Can I be fired for reporting abuse?

The Minnesota Vulnerable Adults Act provides for protection for employees to report abuse or neglect, including protection against discharge, demotion, or a reduction in salary. The Minnesota Vulnerable Adults Act specifically states that anyone reporting abuse or neglect in good faith is immune from civil and criminal liability. This means that if you report suspected abuse or neglect of a vulnerable adult, you cannot be held liable in any court for damages to the abuser which occur because of your report (unless the court later determines that the report was false, and the person reporting knew that the report was false at the time the report was made).

What is the penalty for failing to report suspected abuse or neglect?

If you are required by law to report suspected abuse or neglect and deliberately fail or refuse to do so, you can be found guilty of a misdemeanor. Additionally, you can be held liable for any damages or harm caused by your failure or refusal to report the abuse or neglect.

What is the penalty for adult abuse?

It is a gross misdemeanor for a care giver/caretaker to abuse or intentionally neglect a vulnerable adult in the state of Minnesota. Additionally, persons found guilty of abuse or neglect can be charged with crimes against the person that are included in statutes under Minnesota Law.

Adult Protections Workers **cannot** solve every problem. All adults are at liberty to make decisions, even bad ones. Adult Protection Workers may follow an individual case for months before they are able to establish a pattern and intervene in that person's best interests.

The following is a list of tips to help vulnerable adults maintain their independence in the community:

***Learn about and utilize resources:**

- Home care agencies, social contacts, community and public health agencies
- Crime prevention activities
- Banks and banking services (direct deposit, assistance in balancing checking and savings accounts)
- Physician, physician's assistants, nurse practitioners
- Church and ministerial services
- Mental health services

***Keep accurate and complete records of finances.**

***Keep valuables put away.**

***Do not sign documents without the advice of an attorney, advocate or trusted friend.**

***Keep involved with social activities (church, friends, social clubs, etc.).**

***Develop a buddy system, make use of weekly or daily contact by telephone or face-to-face visit with a friend or several friends.**

***Do not leave your home unattended or unlocked while you are away or leave messages on your door while you are away.**

***Review your Will periodically.**

***Do not accept personal care in return for a transfer of property or assets unless you have a trusted person (lawyer or advocate) act as a witness.**

***Do not give up control of your property/assets unless YOU decide you cannot manage them any longer.**

***Consult your attorney for more information regarding these options:**

- Advanced Directive/Living Will:** A document in which a competent adult can make his/her wishes known regarding medical care. This document can be revoked or changed at any time.
- Power of Attorney:** A document signed voluntarily by a competent adult authorizing another person or corporation to act on their behalf for financial and/or other matters. This arrangement terminates upon death of the person, at a time specified in the document or when the person revokes the power in writing.
- Durable Power of Attorney:** Similar to Power of Attorney; however, special wording allows the Power of Attorney to continue in the event the authorizing adult becomes incompetent.
- Conservatorship:** Legal proceeding in which one person is appointed to act as a substitute decision-maker for another person. Conservatorship does not presume that the incapacitated person is incompetent in all areas of his/her life. It can be tailor-made to meet the needs of the individual. Additionally, persons under conservatorship still hold the right to vote. Conservatorship can be voluntary or involuntary and can be of the person and/or estate.
- Guardianship:** Legal proceeding in which a person is appointed to act as a substitute decision-maker for another person. This is the most restrictive option. A person under guardianship loses **all** rights. The guardian becomes responsible for all aspects of the incapacitated person's life.