

Minnesota Rules §§ 9555.7100-9555.7700

9555.7100 SCOPE.

Parts 9555.7100 to 9555.7700 govern the investigation and reporting of maltreatment of vulnerable adults and some aspects of the emergency and continuing protective social services required to be furnished by local social services agencies under Minnesota Statutes, section 626.557.

STAT AUTH: MS s 256E.05 subd 1; 626.557
Current as of 10/08/07

9555.7200 DEFINITIONS.

Subpart 1. Scope. As used in parts 9555.7100 to 9555.7700, the following terms have the meanings given them.

Subp. 2. Abuse. "Abuse" means:

A. any act which constitutes a violation of Minnesota Statutes, section 609.322 related to prostitution;

B. any act which constitutes a violation of Minnesota Statutes, sections 609.342 to 609.345 related to criminal sexual conduct; or

C. the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress.

Subp. 3. Caretaker. "Caretaker" means an individual or facility which has responsibility for the care of a vulnerable adult as a result of family relationship, or which has assumed responsibility for all or a portion of the care of the vulnerable adult voluntarily, by contract, or by agreement. A person who has assumed only financial responsibility for an adult is not a caretaker.

Subp. 4. County of financial responsibility. "County of financial responsibility" means the county designated as the county of financial responsibility.

Subp. 5. Facility. "Facility" means a hospital or other entity required to be licensed pursuant to Minnesota Statutes, sections 144.50 to 144.58; a nursing home required to be licensed pursuant to Minnesota Statutes, section 144A.02; an agency, residential or nonresidential program required to be licensed pursuant to Minnesota Statutes, chapter 245A; a mental health program receiving funds pursuant to Minnesota Statutes, section 245.61; and any entity required to be certified for participation in titles XVIII or XIX of the Social Security Act, United States Code, title 42, section 1395 et seq.

Subp. 6. False. "False" means disproved to the satisfaction of the investigating agency.

Subp. 7. Host county. "Host county" means the county in which a facility is located.

Subp. 8. Impairment of mental or physical function or emotional status. "Impairment of mental or physical function or emotional status" means a condition which includes being substantially unable to carry out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working; being unable to protect oneself from hazardous or abusive situations without assistance; a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality or ability to cope with the ordinary demands of life; substantial difficulty in engaging in the rational decision-making process, and inability to weigh the possible benefits and risks of seeking assistance; a condition in which an individual is so fearful, so ashamed, so confused, or so anxious about the consequences of reporting that that individual would be unable or unlikely to make a responsible decision regarding whether or not to report abuse or neglect.

Subp. 9. Licensing agency. "Licensing agency" means:

A. the commissioner of health, for a facility which is required to be licensed or certified by the Department of Health;

B. the commissioner of human services for programs required by Minnesota Statutes, chapter 245A to be licensed;

C. any licensing board which regulates persons pursuant to Minnesota Statutes, section 214.01; and

D. the Minnesota Department of Health if the human services occupation of the alleged perpetrator is credentialed pursuant to Minnesota Statutes, section 214.13 or 149.02.

Subp. 10. Local social services agency. "Local social services agency" means the local agency under the authority of the human services board or board of county commissioners which is responsible for social services.

Subp. 11. Neglect. "Neglect" means failure by a caretaker to supply or to ensure the supply of necessary food, clothing, shelter, health care, or supervision for a vulnerable adult.

Subp. 12. Report. "Report" means any verbal or written report of abuse or neglect of a vulnerable adult received by the local social services agency, police department, county sheriff, or licensing agency.

Subp. 13. State agency. "State agency" means the Minnesota Department of Human Services.

Subp. 14. Substantiated. "Substantiated" means proved to

the satisfaction of the investigating agency.

Subp. 15. Vulnerable adult. "Vulnerable adult" means any person 18 years of age or older:

- A. who is a resident or patient of a facility;
- B. who receives services at or from a program required to be licensed pursuant to Minnesota Statutes, chapter 245A; or
- C. who, regardless of residence, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

Subp. 16. Inconclusive. "Inconclusive" means a report which cannot be substantiated or disproved to the satisfaction of the investigating agency.

STAT AUTH: MS s 256E.05 subd 1; 626.557

HIST: L 1984 c 654 art 5 s 58; 13 SR 1448; L 2003 1Sp14 art 11 s 11
Current as of 10/08/07

9555.7300 COMPLAINT INVESTIGATION BY LOCAL SOCIAL SERVICES AGENCIES.

Subpart 1. Duty to accept and investigate complaints. The local social services agency shall accept and investigate all complaints alleging that a vulnerable adult has been abused or neglected in that agency's county. The local social services agency shall notify each relevant licensing agency and the local police departments or county sheriffs and shall cooperate in coordinating its investigation with the investigations of the licensing agencies, police departments, and sheriffs. The local social services agency shall immediately send a report of its findings to all other agencies notified concerning the complaint in question.

Subp. 2. Time limits to initiate investigations. The local social services agency shall begin to investigate all complaints within the following time limits:

A. The local social services agency shall conduct an immediate on-site investigation for complaints alleging or from which it can be inferred that a vulnerable adult is in need of immediate care or protection because the adult is life-threatening or likely to experience physical injury due to abuse or abandonment.

B. The local social services agency shall begin its investigation within 24 hours for complaints alleging, or when there is substantial evidence, that a vulnerable adult is not in need of immediate care or protection but is allegedly abused.

C. The local social services agency shall begin its investigation within 72 hours for complaints alleging, or when there is substantial evidence, that a vulnerable adult is not in need of immediate care or protection but is allegedly neglected.

Subp. 3. Investigations related to a facility. When an investigation involves an alleged incident or situation related to a facility, the local social services agency shall make an on-site visit to the facility to assess the validity of the complaint. This investigation shall include the following activities when necessary to make an accurate assessment, but activities specified in items A, C, and E need not occur on the site of the facility:

- A. discussion with the reporter;
- B. discussion with the facility administrator or responsible designee;
- C. discussion with the physician or other professionals, or any corroborating contacts as necessary;
- D. contact with the alleged victim;
- E. discussion with the alleged perpetrator;
- F. examination of the physical conditions or the psychological climate of the facility; and
- G. inspection of the alleged victim's record.

The local social services agency shall also determine whether the reported abuse or neglect places other vulnerable adults in jeopardy of being abused or neglected.

The local social services agency shall immediately send a report of its findings to all other agencies notified concerning the complaint in question.

Subp. 4. Investigations not related to a facility. When an investigation involves an alleged incident or situation which is not related to a facility, the local social services agency shall assess the validity of the complaint. This investigation shall include the following activities where necessary to make an accurate assessment:

- A. discussion with the alleged victim;
- B. discussion with the reporter or any corroborating contacts, as necessary;
- C. discussion with the alleged perpetrator;
- D. discussion with the physician or other professionals; and
- E. examination of the physical conditions or the

psychological climate of the residence.

The local social services agency shall also determine whether the reported abuse or neglect places other vulnerable adults in jeopardy of being abused or neglected.

Subp. 5. Investigations by agencies which are not in the county of financial responsibility. When a complaint involves a vulnerable adult who is receiving services from a facility located in a county other than the adult's county of financial responsibility, the local social services agency of the host county shall:

A. investigate the complaint in accordance with subpart 3 and determine whether the complaint is substantiated, inconclusive, or false;

B. notify each relevant licensing agency, the police or sheriff, and the county of financial responsibility;

C. consult with the county of financial responsibility, unless the host county must take immediate emergency measures and representatives of the county of financial responsibility are not available;

D. take whatever measures are necessary to correct the situation or to remove the adult from the facility and notify the county of financial responsibility of the actions taken to correct the situation or of the removal of the adult from the facility; and

E. complete and transmit all required written forms and findings to appropriate agencies.

The local social services agency of the county of financial responsibility shall then resume responsibility for ensuring ongoing planning and services for the vulnerable adult.

Subp. 6. Use of outside experts. When it is investigating alleged abuse or neglect of a vulnerable adult, the local social services agency shall consult persons with appropriate expertise if the local agency believes that it lacks the expertise necessary for making judgments pertaining to the allegations. This consultation may include matters of physical health, mental health, specialized treatment such as behavior modification, geriatrics, or other matters.

Subp. 7. Investigations after initial complaint assessment. If upon the initial assessment required by subparts 1 to 6 there appears to be substance to a complaint, the local social services agency shall attempt to determine the following:

A. the risk posed if the vulnerable adult remains in the present circumstances;

B. the current physical and emotional condition of the vulnerable adult, including the history or pattern of abuse

or neglect or related prior injuries;

C. the name, address, age, sex, and relationship of the alleged perpetrator to the vulnerable adult; and

D. in a complaint of neglect, the relationship of the caretaker to the vulnerable adult, including the agreed-upon roles and responsibilities of the caretaker and the vulnerable adult.

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9555.7400 EMERGENCY PROTECTIVE SERVICES.

The local social services agency shall offer emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult.

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9555.7500 CLASSIFICATION OF COMPLAINTS.

Within 90 days of receiving the initial complaint, the local social services agency shall assess, make a finding, and classify all complaints as either substantiated, false, or inconclusive. At the conclusion of the assessment, the alleged victim of maltreatment and the alleged perpetrator shall be notified in writing as to whether the complaint was substantiated, false, or inconclusive.

STAT AUTH: MS s 256E.05 subd 1; 626.557
Current as of 10/08/07

9555.7600 ACTIONS ON BEHALF OF A VULNERABLE ADULT WHO REFUSES SERVICES.

If a vulnerable adult who is the victim of abuse or neglect by a caretaker refuses an offer of services from a local social services agency and in the judgment of that agency the vulnerable adult's safety or welfare is in jeopardy, the agency shall seek the authority to intervene on behalf of that adult. If the agency believes it to be in the adult's best interest, it shall seek or help the family or victim seek any of the following:

A. a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to Minnesota Statutes, section 518B.01;

B. guardianship or conservatorship pursuant to Minnesota Statutes, sections 525.539 to 525.6198, or

guardianship or conservatorship pursuant to Minnesota Statutes, chapter 252A;

C. a hold order or commitment pursuant to the Minnesota Hospitalization and Commitment Act, Minnesota Statutes, chapter 253A; or

D. a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under Minnesota Statutes, chapter 609.

STAT AUTH: MS s 256E.05 subd 1; 626.557
Current as of 10/08/07

9555.7700 REPORTS TO THE STATE AGENCY.

Subpart 1. Initial report. Every incident of abuse or neglect reported to the local social services agency shall be reported to the social services division of the state agency on forms provided by the state agency. The local agency shall send the completed report form to the state agency within 20 days of receiving the complaint, whether or not the classification of the report has been determined according to part 9555.7500.

Subp. 2. Subsequent report. When the classification of the report has been determined or if the classification has changed subsequent to the time of the initial report to the state agency, the local agency shall advise the state agency in writing of the correct information. The local agency shall do this within 90 days of when the local agency received the complaint.

Subp. 3. Data privacy. Reports to the social services division of the state agency are for statistical purposes only. The identity of the vulnerable adult and of the perpetrator shall not be included on the copy of the report sent to the state agency.

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Current as of 10/08/07