



Policy Number	C-540
Policy Title	Identifying and Reporting Abuse, Neglect, Exploitation of Clients
Last Reviewed/Revised Date	1/24/2022
Scope	MGA Homecare Clinical Policies
Reference(s)	

POLICY

Clients have the right to be free from mental, physical, sexual, and verbal abuse, neglect, and exploitation.

Agency personnel will assess each client individually to determine the client’s vulnerability to abuse, neglect, or exploitation. All personnel providing service in a client’s home are mandated to report abuse, neglect and/or exploitation (including suspected abuse, neglect, or exploitation) of the vulnerable or “at risk” adult/child to the appropriate authorities.

Abuse, neglect or exploitation of a client or the failure to report knowledge of these actions is considered unacceptable conduct and may result in disciplinary action, including termination.

PURPOSE

- To implement regulations requiring the reporting abuse, neglect and/or exploitation of children or adults.
- To provide guidelines for identifying and reporting suspected or actual cases of adult/child abuse, neglect and/or exploitation.
- To protect those persons who are, either by physical or mental disability or dependence on institutional services, particularly vulnerable to abuse, neglect, or exploitation.
- To establish guidelines that Agency staff will follow to assure safety of all clients and protection of their rights to refuse care and/or treatment.

DEFINITIONS

Vulnerable or “At Risk” Adult: anyone eighteen (18) years of age or older, who regardless of where the person is living, is unable or unlikely to protect himself from or report abuse, neglect or exploitation by others without assistance because of mental or physical function impairment or his/her emotional status.

- In Colorado, an “at risk”, adult includes an individual eighteen (18) years or older and who is susceptible to mistreatment (meaning abuse, neglect or exploitation) or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs, or is a person with an intellectual and developmental disability; or is seventy years or older.



- In North Carolina, the "Protection of the Abused, Neglected, or Exploited Disabled Adult Act" defines a "disabled adult" as any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to an intellectual disability, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.
- In Texas, a "vulnerable adult", means a person 60 years of age or older or a person with a disability.

Child/Minor: anyone under eighteen (18) years of age.

Abuse, Neglect and Exploitation mean:

In Arizona:

Child "abuse" and "neglect" include any of the following done to a minor: physical injury, abuse, child abuse, sexual abuse, sexual conduct, sexual assault, molestation, sexual exploitation, incest, child prostitution, unlawful mutilation, surreptitious photographing, videotaping, filming or digitally recording or viewing a minor in violation of ARS 13-3019, furnishing harmful items to a minor by means of electronic mail, personal messaging or other direct internet communication; public sexual indecency to a minor, bestiality, death, or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature; or the denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant less than one year of age.

Vulnerable adult "abuse", "neglect" or "exploitation" include: Intentional infliction of physical harm; injury caused by negligent acts or omissions; unreasonable confinement, or sexual abuse or sexual assault; deprivation of food, water, medication, medical services, shelter, supervision, cooling, heating, or other services needed to maintain minimum physical or mental health; or the illegal or improper use of a vulnerable adult or his or her resources for another's profit or advantage.

Arizona DDD further defines abusive treatment to include:

1. Physical abuse by inflicting pain or injury to a member. This includes hitting, kicking, pinching, slapping, pulling hair, or any sexual abuses;
2. Emotional abuse which includes ridiculing or demeaning a member, making derogatory remarks to a member or cursing directed towards a member; and
3. Programmatic abuse which is the use of an aversive stimuli technique that has not been approved as part of such person's Individual Support Plan (ISP) and which is not contained in the rules and regulations adopted pursuant to A.R.S. § 36-561(B). This includes isolation or restraint of a member.

Arizona DDD defines neglect to include:

1. Intentional lack of attention to physical needs of members such as toileting, bathing, meals, and safety;
2. Intentional failure to report health problems or changes in health condition to immediate supervisor or nurse;
3. Sleeping on duty or abandoning workstation; and
4. Intentional failure to carry out a prescribed treatment plan for a member.

In Colorado:

“Abuse” or “child abuse or neglect” means an act or omission in one of the following categories that threatens the health or welfare of a child: (i) Any case in which a child exhibit evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained, the history given concerning such conditions is at variance with the degree or type of such condition or death; or circumstances indicate that such condition may not be the product of an accidental occurrence; (ii) any case in which a child is subjected to unlawful sexual behavior; (iii) any case in which a child is a child in need of services because the child’s parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take; (iv) Any case in which a child is subjected to emotional abuse, meaning an identifiable and substantial impairment of the child’s intellectual or psychological functioning or development or a substantial risk of impairment of the child’s intellectual or psychological functioning or development; (v) Any case in which, in the presence of a child, or on the premises where a child is found, or where a child resides, a controlled substance is manufactured or attempted to be manufactured; (vi) Any case in which a child tests positive at birth for either a schedule I or a schedule II controlled substance, unless the child tests positive for a schedule II controlled substance as a result of the mother’s lawful intake of such substance as prescribed.

Vulnerable or “at risk” adult “abuse,” “mistreatment” and “caretaker neglect” include: The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation; Confinement or restraint that is unreasonable under generally accepted caretaking standards; Subjection to criminal sexual conduct or contact; caretaker neglect, including the failure to secure or provide timely adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health or safety of the at-risk adult (unless the withholding of medical treatment, medication, medical procedure is device, is in accordance with a valid medical directive or order or palliative Plan of Care); the use of deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk person of the use, benefit, or possession of anything of value; the employment of services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk person; forcing, compelling, coercing, or enticing an at- risk person to perform services for the profit or advantage of the person or another person against the will of the at-risk person; or misusing the property of an at-risk person in a manner that adversely affects the at-risk person's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

In North Carolina:

“Abuse” and “neglect” are often used interchangeably, however, each type of maltreatment is distinct. Abuse is the intentional maltreatment of a child and can be physical, sexual, or emotional in nature. Neglect, on the other hand, is the failure to give children the necessary care they need.



§ 108A-101. Definitions. (a) The word "abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.

In NC, NCGS 7B-301(a) states that if any person has cause to suspect that any child is abused, neglected, dependent, or has died as a result of maltreatment, shall report the matter to the director of social services in the county where the child resides or is found. This report may be made orally, by telephone, or in writing. The report must include information known to the reporter, including the following: the child's name and address; the name and address of the child's parent, guardian or caretaker; the child's age; the names and ages of other children in the home; the present whereabouts of the child if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the reporter believes might be helpful in establishing the need for protective services or court intervention.

Under NCGS 7B-309, any person who makes a report, cooperates with the county social services in a protective services assessment, testifies in any judicial proceeding resulting from a protective services report or assessment or otherwise participates in the Child Protective Services program, is immune from any civil or criminal liability, provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

In NC, under 'Caylee's Law' (NCGS 14-318.5), requires reports to law enforcement when the parent of a child under age 16 does not know where the child is and has not had contact with the child for 24 hours. This law requires any person 'who reasonably suspects the disappearance of a child [under age 16] and who reasonably suspects the child may be in danger' to report those suspicions to law enforcement if the provider reasonably suspects that a child under age 16 has disappeared and may be danger. A child is considered to have 'disappeared' if the parent or other person responsible for supervising the child does not know the child's location and has not had contact with the child for a 24-hour period.

In Texas:

"Abuse" and "neglect" of a minor include: mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning; causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children, indecency with a child, sexual assault, or aggravated sexual assault; failure to make a reasonable effort to prevent sexual conduct harmful to a child; compelling or encouraging the child to engage in sexual conduct, including compelling or encouraging the child in a manner that constitutes an offense of trafficking



of persons, prostitution, or compelling prostitution; causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene or pornographic; the current use by a person of a controlled substance, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; causing, expressly permitting, or encouraging a child to use a controlled substance; causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child; or knowingly causing, permitting, encouraging, engaging in, or allowing a child to be, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child; placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child; failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child; the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused; placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse committed against another child; or the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

“Abuse,” “neglect” or “exploitation” of a vulnerable adult include: the failure to provide for one’s self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services; the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an elderly person or person with a disability that involves using, or attempting to use, the resources of the elderly person or person with a disability, including the person’s social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the person; the negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to an elderly person or person with a disability by the person’s caretaker, family member, or other individual who has an ongoing relationship with the person; or sexual abuse of an elderly person or person with a disability, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Section 21.08 Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person’s caretaker, family member, or other individual who has an ongoing relationship with the person.



Neglect (see also, definition of “abuse”): The failure by a caregiver to supply the vulnerable adult/child with necessary food, clothing, shelter, health care or supervision or

- a. Failure to provide medical care for physical or mental health needs;
- b. Failure to meet the individual needs for affection, attention, and emotional nurturance;
- c. Failure to protect from health or safety hazards.

Exploitation (see also, definition of “abuse, neglect and exploitation”): The use of an incapacitated, vulnerable or “at risk: adult or his resources for another’s profit or advantage.

Sexual Exploitation: any person who knowingly promotes, aides, or assists, employs, uses, persuades, induces, or coerces a child to engage in prostitution or a live performance involving obscene sexual conduct; any person who depicts a child in print, film, photograph or slide in which a slide is engaged in sexual conduct.

Sexual Assault: sexual battery, molestation, rape, incest, sodomy, oral copulation, or penetration of a genital or anal opening by a foreign object.

Persons Mandated to Report: all professional and nonprofessional caregivers who have knowledge of the abuse or neglect of a vulnerable adult/child, have reasonable cause to believe that a vulnerable adult/child is being or has been abused or neglected, or who have knowledge that a vulnerable adult/child has sustained a physical injury which is not reasonably explained by the history of injuries of the vulnerable adult/child that has been provided by the caregiver(s).

PROCEDURE

1. Employee/Agency Responsibilities:
 - a. To assess the vulnerability status of each client upon admission. A client’s susceptibility to abuse, including self-abuse and neglect, includes:
 - i. Physical components, such as impairments and the ability of the client and/or caregiver to provide adequate care.
 - ii. Mental impairments, such as mental disabilities, Alzheimer’s disease, disorientation, confusion etc.
 - iii. Emotional status, such as passive personality, depression, etc.
 - iv. Physical environment, such as safety in or outside the home.
 - b. Assessment of vulnerabilities is a component of the comprehensive assessment and is incorporated into the clinical record. This information with plan will be addressed in the Plan of Care, as necessary.
 - c. When abuse, neglect or exploitation is suspected or identified, the employee is to report the observations or findings.
 - d. Internal reporting:
 - i. The employee must immediately make an oral report by phone or otherwise to the Director of Clinical Services or Administrator.
 - ii. The employee must complete a written report of the suspected abuse and/or neglect. (See below for state specific requirements for reporting timeframes and types of report required).
 - iii. The Director of Clinical Services/designee will review the information presented and investigate to determine if this a reportable event.



- iv. Upon receipt of the report and initiation of the investigation, the DCS will immediately notify the Agency Administrator, who will follow the Serious Event, Complaint, Allegation (SECA) protocol.
 - v. If determined to be a reportable event, the information will then be reported to the appropriate law enforcement Agency, social service Agency or Adult/Child Protection Agency by the Administrator or an appropriate designee.
- e. External Reporting:

Arizona:

- Report child abuse/neglect immediately to a peace officer, to the Department of Child Safety or to a tribal law enforcement or social services Agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report must be made to a peace officer only. The DCS Statewide Toll-Free Child Abuse Hotline is 1-888- 767-2445.
- Report vulnerable adult abuse/neglect/exploitation immediately by phone or in person to a peace officer or to Adult Protective Services by calling 877-767-2385 or online at <https://des.az.gov/services/aging-and-adult/adult-protective-services/file-aps-report-online>.
- Report abuse/neglect of a Division of Developmental Disabilities (DDD) member immediately by phone to the DDD Incident Reporting Line 602-375-1403 or 1-855-375-1403 and complete the written report online [DDD FOCUS Qualified Vendor Incident Management System (IMS)].

Colorado:

- Report child abuse/neglect immediately to the county department, the local law enforcement Agency or through the child abuse reporting hotline system (1-800-264-5427). Reports must be promptly followed by a written report.
- Report at risk adult abuse, exploitation, caretaker neglect, mistreatment, or self- neglect, or where there is reasonable cause to believe an at-risk adult has been mistreated or is at imminent risk of mistreatment to local law enforcement within twenty-four (24) hours after making the observation or discovery.

North Carolina:

- Report child abuse/neglect immediately to the county department of Social Services, the local law enforcement Agency. Reports must be promptly followed by a written report.
- Report at risk adult abuse, exploitation, caretaker neglect, mistreatment, or self- neglect, or where there is reasonable cause to believe an at-risk adult has been mistreated or is at imminent risk of mistreatment to local law enforcement within twenty-four (24) hours after making the observation or discovery.

Texas:

Report of child abuse/neglect and/or vulnerable abuse/neglect/exploitation to be made within 24 hours of first suspecting abuse to local or state law enforcement Agency or the Department of Family and Protective Services. DFS Abuse Hotline: 1-800-252-5400. Reports can also be made online: <https://www.txabusehotline.org>.

If the Agency has cause to believe that a client served by the Agency has been abused, neglected, or exploited by an Agency employee, the Agency must report the information within 24 hours to the Department of Family and Protective Services, DFS Abuse Hotline: 1-800-252-5400 or through the secure website: <https://www.txabusehotline.org> and Texas



HHS at 1-800-458-9858. The Agency will follow the processes in TAC 40 Part 19 Chapter 711 when the alleged perpetrator is a direct provider.

2. Reporting information: The report must include and identify:
 - a. The vulnerable adult/child (name, address, telephone number, age). In Colorado, the child's age, sex, and race. In Arizona, the nature and extent of the adult's vulnerability.
 - b. The caregiver (name, address, age, address, and contact information). In Colorado, child abuse reports must include the family composition.
 - c. The nature and extent of the suspected abuse, neglect, or exploitation (subjective and objective data).
 - d. The person responsible for the abuse, neglect, or exploitation (name, address).
 - e. When and where the abuse, neglect, or exploitation occurred (date, time, address, place).
 - f. Any evidence of previous abuse, neglect, or exploitation.
 - g. Person making the report (name, address, telephone number). In Colorado, when reporting child abuse, any action taken by the reporting source.
 - h. Any additional information pertinent to the suspected abuse or neglect or exploitation.
 - i. Any additional information that may be required by law.
3. Agency personnel should use reasonable judgment in reporting, making sure that the abuse, neglect, or exploitation is apparent, and not merely hearsay.
4. The following are a list of common indicators for abuse/neglect in children and adults. The presence of these findings is an indication that the situation needs further investigation and should be used only as a guide:
 - a. Possible indicators of abuse/neglect in children:
 - i. Unexplained or poorly explained physical injuries (bruises, burn).
 - ii. Vaginal and/or anal soreness, tears, bruises, frequent UTIs.
 - iii. Inappropriate sexual behavior in prepubescent children.
 - iv. Self-inflicted injuries and suicide attempts.
 - v. Aggression and impulsive destructive behavior.
 - vi. History of nightmares, sleep disorders, enuresis, encopresis.
 - vii. Failure to thrive symptoms that are not explained by
 - viii. family's socioeconomic status.
 - ix. Resisting or flinching during physical examination.
 - b. Possible indicators of abuse/neglect in dependent adults:
 - i. Unexplained or poorly explained physical injuries.
 - ii. Reluctance to speak freely when caregiver or family members present.
 - iii. Poor personal hygiene, pressure ulcers, medication noncompliance.
 - iv. Symptoms of dehydration or malnutrition.
 - v. Symptoms of depression.
 - vi. Suicidal ideation/attempts.
 - vii. Unexplained withdrawals from client funds.
5. Any person making a report in good faith will have immunity from any civil liability that otherwise might result from this reporting. Failure to report is a crime and exposes the non-reporter to potential civil damages and criminal penalties.
 - a. Retaliation against a person who in good faith reports abuse, neglect or exploitation is prohibited.
 - b. Retaliation against a vulnerable adult or child who is the subject of a report is prohibited.



6. Any person who intentionally makes a false report is guilty of a crime and may be liable for criminal penalties and any actual civil damages suffered by the person or persons so reported.

Agency Responsibilities:

- a. To admit clients for whom, care can be safely provided. Clients may be discharged when they are in a safe environment or under the care of an appropriate caregiver or Agency.
- b. To provide staff education regarding vulnerable adult/child protection and related Agency policies.
 - i. Education regarding abuse, neglect and exploitation will be included in orientation to all new employees.
 - ii. As new information becomes available, in-service training will be provided to all employees.
 - iii. Employees will be educated to perform a vulnerability assessment upon admission and when indicated on clients.
- c. Review vulnerability assessments during the quarterly clinical record review process.
- d. Maintain a record of all vulnerable adults/children reported by the Agency.
- e. Retain records as directed by state law and Agency guidelines.
- f. Maintain client confidentiality and rights during the reporting and investigation process, as appropriate.