MANDATED REPORTING OF MALTREATMENT AND INTERNAL REVIEW
POLICY FOR VULNERABLE ADULTS AND MINORS

Policy:
A. PossAbilities will protect the adults served by our programs who are vulnerable to maltreatment and report known or suspected maltreatment of vulnerable adults.
B. PossAbilities will protect children served by our programs whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse.
C. PossAbilities will not retaliate against any mandated reporter for reports made in good faith.
D. The agency will not retaliate against a vulnerable adult or a minor with respect to whom a report is made.
E. PossAbilities will comply fully with Minnesota Statutes and cooperate with the Minnesota Department of Human Services or other authorities in the course of any investigation regarding vulnerable adults or children.

Policy Distribution
A. A copy of this policy will be posted at each facility owned or leased by PossAbilities of Southern Minnesota.
B. A copy of this policy will be included in all agency Policy & Procedure manuals and Board of Director notebooks.
C. A copy of this policy will be provided to all agency mandated reporters, service participants and legal representatives.

Policy Training & Orientation Procedures for Participants
A. Upon service initiation the Program Director or Coordinator will provide the participant and/or their authorized or legal representative with a copy of this policy and orientation to the internal and external reporting procedures within 24 hours of admission to services, or for participants who would benefit from a later orientation, the orientation may take place within 72 hours of admission.
B. The Program Director or Coordinator will assure the participant and/or their authorized or legal representative signs the Participant Orientation/Training Verification indicating receipt of orientation to this policy and procedures.
C. The Program Director or Coordinator will assure all documentation regarding this orientation is placed in the participant's individual program file.
**Policy Training & Orientation Procedures for Staff**

A. The Program Director or Coordinator will provide each new staff with a copy of this policy and orientation to the policy and procedures **within 72 hours** of first providing direct contact services to a vulnerable adult or minor.

B. The Program Director or Coordinator will provide each new staff with a copy of the Program Abuse Prevention Plan (for facilities owned or leased by PossAbilities only) and orientation to the plan **within 72 hours** of first providing direct contact services to a vulnerable adult or minor.

C. The Program Director or Coordinator will provide each new staff with training on Individual Abuse Prevention Plans for all participants the staff will be working with **before** they provide unsupervised direct contact with the participant.

D. The Program Director, Coordinator or Designated Trainer will provide each staff with training on this policy and procedure annually.

E. The Program Director or Coordinator will assure documentation regarding the orientation and annual training is placed in the individual staff file.

**Program Abuse Prevention Plan Development and Review**

A. The Program Director(s) or Coordinator(s) in conjunction with the Health & Safety Work Group, will conduct an annual assessment of the population, environment and physical plant for facilities owned or leased by PossAbilities and develop a Program Abuse Prevention Plan for each facility.
   - Population assessment will include an evaluation of the following factors: age, gender, mental functioning, physical and emotional health or behavior of the individuals receiving services; the need for specialized programs of care for individuals, the need for staff training to meet identified individual needs and any knowledge of previous maltreatment that is relevant to minimizing risk of maltreatment of individuals receiving service.
   - Physical plant assessment will include an evaluation of the following factors: the condition and design of the building as it relates to safety of individuals receiving services and the existence of areas in the building that are difficult to supervise.
   - Environmental assessment will include an evaluation of the following factors: the location of the program in a particular neighborhood or community, the traffic patterns in the area, the type of grounds and terrain surrounding the building; the type of internal programming and the program’s staffing patterns.
   - The annual assessment will include corrective action(s) and a timetable for the identified corrective action needed to minimize risk(s) for the individuals receiving service.

B. The Program Director or Coordinator will assure that a copy of the Program Abuse Prevention Plan is posted in a prominent place in the facility.

C. A copy of this policy will be provided to all agency mandated reporters, service participants and legal representatives.

D. The Program Director or Coordinator will assure PossAbilities’ Board of Directors reviews each facilities Program Abuse Prevention plan at least annually.
Vulnerable Adults

**Individual Abuse Prevention Plan Development and Review**

A. The Program Director, Coordinator, Specialist or Consultant assigned to the participant, in conjunction with the participant and their authorized or legal representative, if applicable, will develop an Individual Abuse Prevention Plan for each vulnerable adult receiving services from PossAbilities as part of the initial individual program plan.

B. The Individual Abuse Prevention Plan will contain:
   - An assessment of the participant’s susceptibility to maltreatment when it indicates the need for measures in addition to the specific measures identified in the Program Abuse Prevention Plan (discussed above); and
   - The plan must include a statement of measures to be taken to minimize the risk of maltreatment of the participant. This includes identifying referrals that are made when the participant is susceptible to abuse outside the scope or control of the licensed services.
   - A statement of the specific measures to be taken to minimize the risk of maltreatment to that participant within the scope of the services being provided by PossAbilities of Southern Minnesota.
   - If the assessment indicates that the vulnerable adult does not need specific risk reduction measures in addition to those identified in the program abuse prevention plan, the individual abuse prevention plan must document this determination.

C. The Program Director, Coordinator, Specialist or Consultant assigned to the participant will assure the initial Individual Abuse Prevention Plan is reviewed and revised as needed as part of the participant’s 45 day review.

D. The Program Director, Coordinator, Specialist or Consultant assigned to the participant, along with the participant and their support team, will review and update the Individual Abuse Prevention Plan at least annually based on the participant’s needs, changes and any reports of maltreatment in relation to the participant.

E. The Program Director, Coordinator, Specialist or Consultant assigned to the participant will assure the participant and/or their authorized or legal representative approve, sign and date the Individual Abuse Prevention Plan.

F. The Program Director, Coordinator, Specialist or Consultant assigned to the participant will assure a copy of the signed Individual Abuse Prevention Plan is placed in the participant’s individual program file.

**Procedures for Reporting Maltreatment of Vulnerable Adult**

A. All PossAbilities staff are considered mandated reporters and must make a report if you know or suspect that a vulnerable adult has been maltreated. The report must be made immediately but no longer than 24 hours from when you had knowledge that the incident occurred.
B. PossAbilities staff must report maltreatment of vulnerable adults as defined in Minnesota Statutes Section 656.5572 (see Appendix A)

C. PossAbilities staff who negligently or intentionally fail to report suspected maltreatment of a vulnerable adult are liable for damages caused by the failure to report and may be subject to disciplinary action or termination from employment.

D. Reports can be made either externally or internally to:
   - External Report – Contact the Minnesota Adult Abuse Reporting Center at 844-880-1574.
   - Internal Report – Make an initial verbal report to a Program Director, Coordinator or the Executive Director. You must report to someone who is not involved in the alleged or suspected maltreatment. Complete the PossAbilities Maltreatment Incident Internal Report within 24 hours of the verbal report and submit to a Program Director, Coordinator or the Executive Director.

E. An external or internal report should contain, at a minimum, the following information:
   - Information to identify the vulnerable adult;
   - Information to identify the staff or caregiver(s) involved in the incident;
   - The nature and extent of the suspected maltreatment;
   - Any evidence of previous maltreatment;
   - The name and address of the reporter;
   - The time, date and location of the incident; and
   - Any other information that the reporter believes might be helpful in investigating the suspected maltreatment.

**Procedures for Receipt of Internal Report**

A. When an internal report is received, the Program Director, Coordinator or Executive Director, is responsible for deciding if a report to the Minnesota Adult Abuse Reporting Center is required.

B. The Program Director, Coordinator or Executive Director will make the report to the Minnesota Adult Abuse Reporting Center as soon as possible, but no longer than 24 hours from the time of initial knowledge of the internal report.

C. Within two working days, the Program Director, Coordinator or Executive Director receiving the report must provide the mandated reporter with a copy of the Confidential Mandated Reporter Notification.

**Procedure for Internal Review of Maltreatment Report**

A. When PossAbilities has reason to know that an internal or external report of alleged or suspected maltreatment has been made, the program must complete an internal review and take corrective action, if necessary, to protect the health
and safety of vulnerable adults receiving services. The internal review will be initiated within 24 working hours of receiving the report.

B. The internal review will be completed by a Program Director, Coordinator or Executive Director. The internal review may not be completed by someone involved in the alleged or suspected maltreatment.

C. The Program Director, Coordinator or Executive Director will complete the written *Internal Review of Maltreatment* form that includes an evaluation of whether:
   - Related policies and procedures were followed;
   - The policies and procedures were adequate;
   - There is a need for additional staff training;
   - The reported event is similar to past events with the participants or the services involved; and
   - There is a need for corrective action by PossAbilities to protect the health and safety of vulnerable adults receiving services.

D. Based on the results of the internal review PossAbilities will develop, document and implement a corrective action plan as necessary to correct current lapses and prevent future lapses in performance by staff or PossAbilities as an agency.

E. The Program Director, Coordinator or Executive Director will assure a copy of the *Internal Review of Maltreatment* form is placed in the agency’s Maltreatment Investigations file.

F. A copy of the *Internal Review of Maltreatment* form will be provided to the Minnesota Department of Human Services upon request.

**Minors**

*Procedures for Reporting Maltreatment of a Minor*

A. All PossAbilities staff are considered mandated reporters and must make a report to an outside agency if you know or suspect that a minor has been neglected or physically or sexually abused within the preceding three years. The report must be made immediately but no longer than 24 hours from when you had knowledge that the incident occurred.

B. PossAbilities staff must report maltreatment of minors as defined in Minnesota Statutes Section 656.556 (see Appendix B)

C. PossAbilities staff who negligently or intentionally fail to report suspected maltreatment of a minor is guilty of a misdemeanor and may be subject to disciplinary action or termination from employment. In addition, a mandated reporter that fails to report maltreatment that is found to be serious or recurring may be disqualified from employment in positions in programs licensed by the Department of Human Services, Department of Health and unlicensed Personal Care Provider Organizations.

D. If you know or suspect that a child is in immediate danger you must call 911.
E. All reports of suspected abuse or neglect of children occurring at PossAbilities must be made to the Department of Human Services, Licensing Division’s Maltreatment Intake line at 651-431-6600.

F. All reports of suspected abuse or neglect of children occurring within a family or the community should be made to the local county social services agency at:
   o Dodge County  507-635-6170 (day) 507-635-6200 (eve/wknd)
   o Fillmore County  507-765-2175 (day) 507-765-3874 (eve/wknd)
   o Goodhue County  651-385-3232 (day) 651-385-3155 (eve/wknd)
   o Houston County  507-725-5811 or 507-725-5838 Ext.1288 (day) 507-725-3379 (eve/wknd)
   o Mower County  507-437-9700 (day) 507-437-9400 (eve/wknd)
   o Olmsted County  507-328-6400 (day) 507-281-6248 (eve/wknd)
   o Rice County  507-332-6115 (day) 1-800-422-1286 (eve/wknd)
   o Steele County  507-444-7500 (day) 507-451-8232 (eve/wknd)
   o Wabasha County  651-565-3351 (day) 651-565-3361 (eve/wknd)
   o Winona County  507-457-6500 (day) 507-457-6368 (eve/wknd)

or local law enforcement by calling 911 or:
   o Dodge County  507-635-6200
   o Fillmore County  507-765-3874
   o Goodhue County  651-385-3155
   o Houston County  507-725-3379
   o Mower County  507-437-9400
   o Olmsted County  507-285-8580
   o Rice County  507-332-6100
   o Steele County  507-451-8232
   o Wabasha County  651-565-3361
   o Winona County  507-457-6368

G. Reports that involve possible violations of Minnesota Statutes or Rules that govern the facility should be reported to the Department of Human Services, Licensing Division at 651-431-6500.

H. An oral report of suspected abuse or neglect made to one of the above agencies must be followed by a written report to the same agency within 72 hours, exclusive of weekends and holidays.

I. An external report should contain, at a minimum, the following information:
   - Information to identify the child involved;
   - Any persons responsible for the abuse or neglect, if known;
   - The nature and extent of the suspected maltreatment and/or possible licensing violations;
   - Any evidence of previous maltreatment;
   - The name and address of the reporter;
   - The time, date and location of the incident; and
   - Any other information that the reporter believes might be helpful in investigating the suspected maltreatment.
Procedure for Internal Review of Maltreatment Report

A. When PossAbilities has reason to know that an external report of alleged or suspected maltreatment has been made, the program must complete an internal review and take corrective action, if necessary, to protect the health and safety of minors receiving services. The internal review will be initiated within 24 working hours of receiving the report.

B. The internal review will be completed by a Program Director, Coordinator or the Executive Director. The internal review may not be completed by someone involved in the alleged or suspected maltreatment.

C. The Program Director, Coordinator or Executive Director will complete the written Internal Review of Maltreatment form that includes an evaluation of whether:
   - Related policies and procedures were followed;
   - The policies and procedures were adequate;
   - There is a need for additional staff training;
   - The reported event is similar to past events with the participants or the services involved; and
   - There is a need for corrective action by PossAbilities to protect the health and safety of minors receiving services.

D. Based on the results of the internal review PossAbilities will develop, document and implement a corrective action plan as necessary to correct current lapses and prevent future lapses in performance by staff or PossAbilities as an agency.

E. The Program Director, Coordinator or Executive Director will assure a copy of the Internal Review of Maltreatment form is placed in the agency’s Maltreatment Investigations file.

F. A copy of the Internal Review of Maltreatment form will be provided to the Minnesota Department of Human Services upon request.
APPENDIX A

MN STATUTE 626.5572
VULNERABLE ADULTS DEFINITIONS

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 at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, 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-hold 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 section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, 256B.0653 to 256B.0656, and 256B.0659; 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.

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. 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; and
4. use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. 

(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. 17. Neglect.

"Neglect" means:

(a) 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) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(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 (c).


"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.

APPENDIX B

MN STATUTE 626.556
MALTREATMENT OF MINORS DEFINITIONS

Subd. 2. Definitions.

(c) **Substantial child endangerment** means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

1. egregious harm as defined in section 260C.007, subdivision 14;
2. sexual abuse as defined in paragraph (d);
3. abandonment under section 260C.301, subdivision 2;
4. neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
5. murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
6. manslaughter in the first or second degree under section 609.20 or 609.205;
7. assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
8. solicitation, inducement, and promotion of prostitution under section 609.322;
9. criminal sexual conduct under sections 609.342 to 609.3451;
10. solicitation of children to engage in sexual conduct under section 609.352;
11. malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
12. use of a minor in sexual performance under section 617.246; or
13. parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

(d) **Sexual abuse** means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse which includes the status of a parent or
household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(f) **Neglect** means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;
2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;
4. failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;
5. nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;
6. prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;
7. "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);
8. chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or
9. emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) **Physical abuse** means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any
physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;
(2) striking a child with a closed fist;
(3) shaking a child under age three;
(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
(5) unreasonable interference with a child's breathing;
(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
(7) striking a child under age one on the face or head;
(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(m) **Mental injury** means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) **Threatened injury** means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;
(2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;
(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or
(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201.
subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.