

POLICY AND PROCEDURE ON ADMISSION

I. PURPOSE

The purpose of this policy is to establish procedures that ensure continuity of care during admission or service initiation including the company's admission criteria and processes.

II. POLICY

Services may be provided by the company as registered and licensed according to MN Statutes, chapter 245D and MN Statutes, chapter 245A. All services will be consistent with the person's service-related and protection-related rights identified in MN Statutes, section 245D.04. The company may provide services to persons with disabilities, including, but not limited to, developmental or intellectual disabilities, brain injury, mental illness, age-related impairments, or physical and medical conditions when the company is able to meet the person's needs.

Documentation from the admission/service initiation, assessments, and service planning processes related to the company's service provision for each person served and as stated within this policy will be maintained in the person's service recipient record.

III. PROCEDURE

Admission criteria

- A. Certain criteria will be used by this company to determine whether the company is able to develop services to meet the needs of the person as specified in their *Support Plan*. In addition to registration and licensed ability, the criteria includes:
 - 1. None.
- B. When a person and/or legal representative requests services from the company, a refusal to admit the person must be based upon an evaluation of the person's assessed needs and the company's lack of capacity to meet the needs of the person.
- C. The company must not refuse to admit a person based solely on the type of residential services the person is receiving or solely on the person's:
 - 1. Severity of disability.
 - 2. Orthopedic or neurological handicaps.
 - 3. Sight or hearing impairments.
 - 4. Lack of communication skills.
 - 5. Physical disabilities.
 - 6. Toilet habits.
 - 7. Behavioral disorders.
 - 8. Past failures to make progress.
- D. Documentation regarding the basis for the refusal will be completed using the *Admission Refusal Notice* and must be provided to the person and/or legal representative and case manager upon request. This documentation will be completed and maintained by the Designated Coordinator and/or Designated Manager or designee.

Admission process and requirements

- A. In the event of an emergency service initiation, the company must ensure that staff training on individual service recipient needs occurs within 72 hours of the direct support staff first having unsupervised contact with the person served. The company must document the reason for the unplanned or emergency service initiation and maintain the documentation in the person's service recipient record.
- B. The Designated Coordinator and/or Designated Manager will ensure that during the admission process the

Advantage PCA Services, Inc.

following will occur:

1. Each person to be served and/or legal representative is provided with the written list of the *Rights of Persons Served* that identifies the service recipient's rights according to MN Statutes, section 245D.04, subdivisions 2 and 3.
 - a. An explanation will be provided on the day of service initiation or within five (5) working days of service initiation and annually thereafter.
 - b. Reasonable accommodations will be made, when necessary, to provide this information in other formats or languages to facilitate understanding of the rights by the person and/or legal representative.
 2. An explanation and provision of copies (may be provided within five [5] working days of service initiation) of the following policies and procedures to the person and/or legal representative:
 1. *Policy and Procedure on Grievances*
 2. *Policy and Procedure on Temporary Service Suspension*
 3. *Policy and Procedure on Service Termination*
 4. *Policy and Procedure on Reporting and Reviewing of Maltreatment of Vulnerable Adults*
 5. *Policy and Procedure on Reporting and Reviewing of Maltreatment of Minors*
 3. Written authorization is obtained (and annually thereafter) by the person and/or legal representative for the following, as applicable only:
 - a. *Authorization for Medication and Treatment Administration*
 - b. *Agreement and Authorization for Injectable Medications*
 - c. *Authorization to Act in an Emergency*
 - d. *Standard Release of Information*
 - e. *Specific Release of Information*
 - f. *Financial Authorization*
 - i. This authorization may be obtained within five (5) working days of the service initiation meeting and annual thereafter.
 - g. The *Admission Form and Data Sheet* is signed by the person and/or legal representative and includes the date of admission or readmission, identifying information, and contact information for members of the support team or expanded support team and others as identified by the person or case manager.
- C. If a person's licensed health care professional or mental health professional has determined that a manual restraint would be medically or psychologically contraindicated, the company will not use a manual restraint to eliminate the immediate risk of harm and effectively achieve safety. This statement of whether or not a manual restraint would be medically or psychologically contraindicated will be completed as part of service initiation planning.

Admission process follow up and timelines

- A. The Designated Coordinator and/or Designated Manager or designee will ensure that the person's service recipient record is assembled according to company standards.
- B. Within 15 calendar days of service initiation, the Designated Coordinator and/or Designated Manager will complete a preliminary *Support Plan Addendum* that is based upon *Support Plan*. At this time, the person's name and date of admission will be added to the *Admission and Discharge Register* maintained by the Designated Coordinator and/or Designated Manager.
- C. Within 60 calendar days of service initiation, the support team or expanded support team will meet to assess and determine what services will be provided including how, when, and by whom services will be provided, and the person responsible for overseeing the delivery and coordination of services.
- D. The company must participate in service planning and support team meetings for the person served following stated timelines established in the *Support Plan Addendum* that is based upon *Support Plan* or as requested by the person and/or legal representative, the support team, or the expanded support team.
- E. The company will provide written reports regarding the person's progress or status as requested by the person

Advantage PCA Services, Inc.

and/or legal representative, the case manager, or the team.

POLICY AND PROCEDURE ON TEMPORARY SERVICE SUSPENSION

I. PURPOSE

The purpose of this policy is to establish determination guidelines and notification procedures for service suspension.

II. POLICY

It is the intent of the company to ensure continuity of care and service coordination between members of the support team including, but not limited to the person served, the legal representative and/or designated emergency contact, case manager, and other licensed caregivers during situations that may require or result in temporary service suspension. The company restricts temporary service suspension to specific situations according to MN Statutes, section 245D.10, subdivision 3.

III. PROCEDURE

The company recognizes that *temporary service suspension* and *service termination* are two separate procedures. The company must limit temporary service suspension to specific situations that are listed below. A temporary service suspension may lead to or include service termination or the company may do a temporary service suspension by itself. The company must limit service termination to specific situations that are listed in *Policy and Procedure on Service Termination*. A service termination may include a temporary service suspension or the company can do a service termination by itself.

- A. The company must limit temporary service suspension to situations in which:
 - 1. The person's conduct poses an imminent risk of physical harm to self or others and either positive support strategies have been implemented to resolve the issues leading to the temporary service suspension, but have not been effective and additional positive support strategies would not achieve and maintain safety, or less restrictive measures would not resolve the issues leading to the suspension;
 - 2. The person has emergent medical issues that exceed the company's ability to meet the person's needs; or
 - 3. The program has not been paid for services, except an interruption to a person's public benefits that has lasted less than 60 days does not constitute nonpayment.
- B. Prior to giving notice of temporary services suspension, the company must document actions taken to minimize or eliminate the need for service suspension. Action taken by the company must include, at a minimum:
 - 1. Consultation with the person's expanded/support team to identify and resolve issues leading to issuance of the suspension notice; and
 - 2. A request to the person's case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to temporary suspensions issued due to non-payment of services.
 - 3. If, based on the best interests of the person, the circumstances at the time of the notice were such that the company was unable to take the actions listed above, the company must document the specific circumstances and the reason for being unable to do so.
- C. The notice of temporary service suspension must meet the following requirements:
 - 1. This company must notify the person or the person's legal representative and case manager in writing of the intended temporary services suspension;
 - 2. The notice of temporary services suspension must be given on the first day of the services suspension;
 - 3. The notice must include the reason for the action; a summary of actions taken to minimize or eliminate the need for temporary services suspension as required under MN Statutes, section 245D.10, subdivision 3, paragraph (d); and why these measures failed to prevent the suspension.
 - 4. The company must use forms provided by the commissioner to report service suspensions.

Advantage PCA Services, Inc.

- D. During the temporary suspension period, the company must:
 - 1. Provide information requested by the person or case manager;
 - 2. Work with the expanded/support team to develop reasonable alternatives to protect the person and others and to support continuity of care; and
 - 3. Maintain information about the temporary service suspension, including the written notice of temporary services suspension, in the service recipient record.

- E. If, based on a review by the person's expanded/support team, the team determines the person no longer poses an imminent risk of physical harm to self or others, the person has a right to return to receiving services. If at the time of the temporary service suspension or at any time during the suspension, the person is receiving treatment related to the conduct that resulted in the service suspension, the expanded/support team must consider the recommendation of the licensed health professional, mental health professional, or other licensed professional involved in the person's care or treatment when determining whether the person no longer poses an imminent risk of physical harm to self or others and can return to the program. If the expanded/support team makes a determination that is contrary to the recommendation of a licensed professional treating the person, the company must document the specific reasons why a contrary decision was made.

POLICY AND PROCEDURE ON SERVICE TERMINATION

I. PURPOSE

The purpose of this policy is to establish determination guidelines and notification procedures for service termination.

II. POLICY

It is the intent of the company to ensure continuity of care and service coordination between members of the support team including, but not limited to the person served, the legal representative and/or designated emergency contact, case manager, other licensed caregivers, and other people identified by the person and/or legal representative during situations that may require or result in service termination. The company restricts service termination to specific situations according to MN Statutes, section 245D.10, subdivision 3a.

III. PROCEDURE

The company recognizes that *temporary service suspension* and *service termination* are two separate procedures. The company must limit temporary service suspension to specific situations that are listed in the *Policy and Procedure on Temporary Service Suspension*. A temporary service suspension may lead to or include service termination or the company may do a temporary service suspension by itself. The company must limit service termination to specific situations that are listed below. A service termination may include a temporary service suspension or the company can do a service termination by itself.

- A. The company must permit each person served to remain in the program or continue receiving services and must not terminate services unless:
 1. The termination is necessary for the person's welfare and the facility cannot meet the person's needs;
 2. The safety of the person others in the program, or staff is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the person or others;
 3. The health of the person others in the program, or staff would otherwise be endangered;
 4. The license holder has not been paid for services, except an interruption to a person's public benefits that has lasted less than 60 days does not constitute nonpayment;
 5. The program or license holder ceases to operate; or
 6. The person has been terminated by the lead agency from waiver eligibility.
- B. Prior to giving notice of service termination, the company must document actions taken to minimize or eliminate the need for termination. Action taken by the company must include, at a minimum:
 1. Consultation with the person's expanded/support team to identify and resolve issues leading to issuance of the termination notice; and
 2. A request to the case manager for intervention services as identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued due to the program not being paid for services.
 3. If, based on the best interests of the person, the circumstances at the time of the termination notice were such that the company was unable to take the action specified above, the company must document the specific circumstances and the reason for being unable to do so.
- C. The notice of service termination must meet the following requirements:
 1. The company must notify the person or the person's legal representative and the case manager in writing of the intended services termination; and
 2. The notice must include:
 - a. The reason for the action;
 - b. Except for a service termination when the program ceases to operate, a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required

Advantage PCA Services, Inc.

- under section 245D.10, subdivision 3a, paragraph (c), and why these measures failed to prevent the termination or suspension;
- c. The person's right to appeal the termination of services under MN Statutes, section 256.045, subdivision 3, paragraph (a); and
 - d. The person's right to seek a temporary order staying the termination of services according to the procedures in MN Statutes, section 256.045, subdivision 4a or 6, paragraph (c).
3. The company must use forms provided by the commissioner to report service terminations.
- D. Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given:
1. At least 60 days prior to termination when the company is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c).
 2. At least 30 days prior to termination for all other services licensed under Chapter 245D.
 3. This termination notice may be given in conjunction with a notice of temporary services suspension.
- E. During the service termination notice period, the company must:
1. Work with the expanded/support team to develop reasonable alternative to protect the person and others and to support continuity of care;
 2. Provide information requested by the person or case manager; and
 3. Maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

POLICY AND PROCEDURE ON GRIEVANCES

I. PURPOSE

The purpose of this policy is to promote service recipient right by providing persons served and/or legal representatives with a simple process to address complaints or grievances.

II. POLICY

Each person served and/or legal representative will be encouraged and assisted in continuously sharing ideas and expressing concerns in informal discussions with management staff and in support team meetings. Each concern or grievance will be addressed and attempts will be made to reach a fair resolution in a reasonable manner. Should a person and/or legal representative feel an issue or complaint has not or cannot be resolved through informal discussion, they should file a formal grievance. Staff and persons served and/or legal representatives will receive training regarding the informal and formal grievance procedure. This policy will be provided, orally and in writing, to all persons served and/or legal representatives. If a person served and/or legal representative feel that their formal complaint has not or cannot be resolved by other staff, they may bring their complaint to the highest level of authority in the program, the administrator, who may be reached at the following:

Name: Cindy Urbaniak

Address: 13954 Cypress Dr. Ste 102 Baxter, MN 56425

Telephone Number: 218-838-4543

The company will ensure that during the service initiation process that there is orientation for the person served and/or legal representative to the company's policy on addressing grievances. Throughout the grievance procedure, interpretation in languages other than English and/or with alternative communication modes may be necessary and will be provided upon request. If desired, assistance from an outside agency (i.e. ARC, MN Office of the Ombudsman, local county social service agency) may be sought to assist with the grievance.

Persons served and/or legal representatives may file a grievance without threat or fear of reprisals, discharge, or the loss of future provision of appropriate services and supports.

III. PROCEDURE

- A. All complaints affecting a person's health and safety will be responded to immediately by the manager.
- B. Direct support staff will immediately inform the manager of any grievances and will follow this policy and procedure. If at any time, staff assistance is requested in the complaint process, it will be provided. Additional information on outside agencies that also can provide assistance to the person served and/or legal representative are listed at the end of this procedure.
- C. If for any reason a person served and/or legal representative chooses to use the formal grievance process, they will then notify in writing or discuss the formal grievance with the manager will initially respond in writing within 14 calendar days of receipt of the complaint.
- D. If the person served and/or legal representative is not satisfied with the manager response, they will then notify in writing or discuss the formal grievance with the administrator, who will then respond within 14 calendar days.
- E. All complaints must and will be resolved within 30 calendar days of receipt of the complaint. If this is not possible, the administrator will document the reason for the delay and the plan for resolution.
- F. If the person served and/or legal representative believe their rights have been violated, they retain the option of contacting the county's Adult or Child Protection Services or the Department of Human Services. In

Advantage PCA Services, Inc.

addition, persons may contact advocacy agencies (listed at the end of this policy) and state they would like to file a formal grievance regarding their services, provider company, etc.

- G. As part of the complaint review and resolution process, a complaint review will be completed by the Director or the Designated Manager and documented by using the *Internal Review* form regarding the complaint. The complaint review will include an evaluation of whether:
1. Related policies and procedures were followed.
 2. The policies and procedures were adequate.
 3. There is a need for additional staff training.
 4. The complaint is similar to past complaints with the persons, staff, or services involved.
 5. There is a need for corrective action by the company to protect the health and safety of persons served.
- H. Based upon the results of the complaint review, the company will develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the company, if any.
- I. A written summary of the complaint and a notice of the complaint resolution to the person served and/or legal representative and case manager will be provided by using the *Complaint Summary and Resolution Notice* form. This summary will:
1. Identify the nature of the complaint and the date it was received.
 2. Include the results of the complaint review.
 3. Identify the complaint resolution, including any corrective action.
- J. The *Complaint Summary and Resolution Notice* will be maintained in the service recipient record.

Outside Agency Name	Telephone Number	Address and Email Address
ARC MN	952-920-0855 833-450-1494	641 Fairview Avenue N., St. Paul, MN 55104 www.arcminnesota.org info@arcminnesota.org
ARC Greater Twin Cities	(952) 920-0855 833-450-1494	641 Fairview Avenue N., St. Paul, MN 55104 www.arcminnesota.org info@arcminnesota.org
ARC Northland	(218) 726-4725	222 E Superior St, Suite 302, Duluth, MN 55802 www.arcnorthland.org info@arnorthland.org
Disability Law Center	1-800-292-4150	111 N. Fifth St., Suite 100, Minneapolis, MN 55403 www.mylegalaid.org info@mylegalaid.org
MN DHS-Licensing	(651) 431-6500	444 Lafayette Road, St. Paul, MN 55115 www.mn.gov/dhs/general-public/licensing/ dhs.info@state.mn.us
MN Office of the Ombudsman for Families (and Children)	1-888-234-4939	1450 Energy Drive, Suite 106 St. Paul, Minnesota 55108 http://mn.gov/ombudfam/
MN Office of the Ombudsman for MH/DD	(651) 757-1800 (800) 657-3506	332 Minnesota Street, Suite W1410, First National Bank Building, St. Paul, MN 55101 www.mn.gov/omhdd ombudsman.mhdd@state.mn.us
MN Office of the	(651) 431-2555	P.O. Box 64971, St. Paul, MN 55164

Advantage PCA Services, Inc.

Ombudsman for Long-Term Care	(800) 657-3591	www.mn.gov/ooltc MBA.OOLTc@state.mn.us
---------------------------------	----------------	---

MN Area on Aging:

Please select the specific row (below) for applicable telephone number or address based upon your location

	MN Area on Aging	Telephone Numbers	Address and Email Address: http://mn4a.org/aaas/
1.	Arrowhead Area Agency on Aging	Main: 218-722-5545 Toll Free: 1-800-232-0707 Fax: 218-529-7592	221 West 1st Street Duluth, Minnesota 55802 Serves: Aitkin, Carlton, Cook, Itasca, Koochiching, Lake & St. Louis counties.
2.	Central MN Council on Aging	Main: 320-253-9349 Fax: 320-253-9576	3333 W. Division St., Suite 217 St. Cloud, Minnesota 56301-3456 Serves: Benton, Cass, Chisago, Crow Wing, Isanti, Kanabec, Mille Lacs, Morrison, Pine, Sherburne, Stearns, Todd, Wadena, & Wright counties.
3.	Dancing Sky Area Agency on Aging	Main: 218-745-6733	109 South Minnesota Street Warren, Minnesota 56762 Serves: Becker, Beltrami, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Traverse & Wilkin.
4.	Metropolitan Area Agency on Aging	Main: 651-641-8612 Fax: 651-641-8618	3001 Broadway St. NE, Suite 170, Minneapolis, MN 55413 Serves: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, & Washington counties
5.	Indian Agency on Aging	218-679-2122	PO Box 27 Cass Lake, Minnesota 56633 Serves: Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Lower Sioux, Mille lacs, Prairie Island, Red Lake, Upper Sioux & White Earth reservations
6.	MN River Area Agency on Aging	507-387-1256	201 N. Broad St., Suite 102, Mankato, MN 56001 Serves: Big Stone, Blue Earth, Brown, Chippewa, Cottonwood, Faribault, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rock, Sibley, Swift, Waseca, Watonwan, & Yellow Medicine counties.
7.	Southeastern MN Area Agency on Aging	Main: 507-288-6944 Fax: 507-288-4823	2746 Superior Drive NW, Suite 300 Rochester, MN 55901 Serves: Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, & Winona counties

POLICY AND PROCEDURE ON DATA PRIVACY

I. PURPOSE

The purpose of this policy is to establish guidelines that promote service recipient rights ensuring data privacy and record confidentiality of persons served.

II. POLICY

According to MN Statutes, section 245D.04, subdivision 3, persons served by the program have protection-related rights that include the rights to:

- Have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the company.
- Access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule.

Orientation to the person served and/or legal representative will be completed at service initiation and as needed thereafter. This orientation will include an explanation of this policy and their rights regarding data privacy. Upon explanation, the Designated Manager and/or Designated Coordinator will document that this notification occurred and that a copy of this policy was provided.

This company encourages data privacy in all areas of practice and will implement measures to ensure that data privacy is upheld according to MN Government Data Practices Act, section 13.46. The company will also follow guidelines for data privacy as set forth in the Health Insurance Portability and Accountability Act (HIPAA) to the extent the company performs a function or activity involving the use of protected health information and HIPAA's implementing regulations, Code of Federal Regulations, title 45, parts 160-164, and all applicable requirements. The Owner/CEO will exercise the responsibility and duties of the "responsible authority" for all program data, as defined in the Minnesota Data Practices, MN Statutes, chapter 13. Data privacy will hold to the standard of "minimum necessary" which entails limiting protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

III. PROCEDURE

Access to records and recorded information and authorizations

- A. The person served and/or legal representative have full access to their records and recorded information that is maintained, collected, stored, or disseminated by the company. Private data are records or recorded information that includes personal, financial, service, health, and medical information.
- B. Access to private data in written or oral format is limited to authorized persons. The following company personnel may have immediate access to persons' private data only for the relevant and necessary purposes to carry out their duties as directed by the *Support Plan* and/or *Support Plan Addendum*:
 1. Executive staff.
 2. Administrative staff.
 3. Financial staff.
 4. Nursing staff including assigned or consulting nurses.
 5. Management staff including the Designated Coordinator and/or Designated Manager.
 6. Direct support staff.
- C. The following entities also have access to persons' private data as authorized by applicable state or federal laws, regulations, or rules:
 1. Case manager.
 2. Child or adult foster care licensor, when services are also licensed as child or adult foster care.
 3. Minnesota Department of Human Services and/or Minnesota Department of Health.
 4. County of Financial Responsibility or the County of Residence's Social Services.
 5. The Ombudsman for Mental Health or Developmental Disabilities.

Advantage PCA Services, Inc.

6. US Department of Health and Human Services.
 7. Social Security Administration.
 8. State departments including Department of Employment and Economic Development (DEED), Department of Education, and Department of Revenue.
 9. County, state, or federal auditors.
 10. Adult or Child Protection units and investigators.
 11. Law enforcement personnel or attorneys related to an investigation.
 12. Various county or state agencies related to funding, support, or protection of the person.
 13. Other entities or individuals authorized by law.
- D. The company will obtain authorization to release information of persons served when consultants, sub-contractors, or volunteers are working with the company to the extent necessary to carry out the necessary duties.
- E. Other entities or individuals not previously listed who have obtained written authorization from the person served and/or legal representative have access to written and oral information as detailed within that authorization. This includes other licensed caregivers or health care providers as directed by the release of information.
- F. Information will be disclosed to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the person served or other individuals or persons. The Designated Coordinator and/or Designated Manager will ensure the documentation of the following:
1. The nature of the emergency.
 2. The type of information disclosed.
 3. To whom the information was disclosed.
 4. How the information was used to respond to the emergency.
 5. When and how the person served and/or legal representative was informed of the disclosed information.
- G. All authorizations or written releases of information will be maintained in the person's service recipient record. In addition, all requests made to review data, have copies, or make alterations, as stated below, will be recorded in the person's record including:
1. Date and time of the activity.
 2. Who accessed or reviewed the records.
 3. If any copies were requested and provided.

Request for records or recorded information to be altered or copies

- A. The person served and/or legal representative has the right to request that their records or recorded information and documentation be altered and/or to request copies.
- B. If the person served and/or legal representative objects to the accuracy of any information, staff will ask that they put their objections in writing with an explanation as to why the information is incorrect or incomplete.
1. The Designated Coordinator and/or Designated Manager will submit the written objections to the Owner/CEO who will make a decision in regards to any possible changes.
 2. A copy of the written objection will be retained in the person's service recipient record.
 3. If the objection is determined to be valid and approval for correction is obtained, the Designated Coordinator and/or Designated Manager will correct the information and notify the person served and/or legal representative and provide a copy of the correction.
 4. If no changes are made and distribution of the disputed information is required, the Designated Coordinator and/or Designated Manager will ensure that the objection accompanies the information as distributed, either orally or in writing.
- C. If the person served and/or legal representative disagrees with the resolution of the issue, they will be encouraged to follow the procedures outlined in the *Policy and Procedure on Grievances*.

Advantage PCA Services, Inc.

Security of information

- A. A record of current services provided to each person served will be maintained on the premises of where the services are provided or coordinated. When the services are provided in a licensed facility, the records will be maintained at the facility; otherwise, records will be maintained at the company's program office. Files will not be removed from the program site without valid reasons and security of those files will be maintained at all times.
- B. The Designated Coordinator and/or Designated Manager will ensure that all information for persons served are secure and protected from loss, tampering, or unauthorized disclosures. This includes information stored by computer for which a unique password and user identification is required.
- C. No person served and/or legal representative, staff, or anyone else may permanently remove or destroy any portion of the person's record.
- D. The company and its staff will not disclose personally identifiable information about any other person when making a report to each person and case manager unless the company has the consent of the person. This also includes the use of other person's information in another person's record.
- E. Written and verbal exchanges of information regarding persons served are considered to be private and will be done in a manner that preserves confidentiality, protects their data privacy, and respects their dignity.
- F. All staff will receive training at orientation and annually thereafter on this policy and their responsibilities related to complying with data privacy practices.

**POLICY AND PROCEDURE ON REPORTING AND REVIEW OF
MALTREATMENT OF VULNERABLE ADULTS**

I. PURPOSE

The purpose of this policy is to establish guidelines for the internal and external reporting and the internal review of maltreatment of vulnerable adults.

II. POLICY

Staff who are mandated reporters must report all of the information they know regarding an incident of known or suspected maltreatment, either internally or externally, in order to meet their reporting requirements under law. All staff of the company who encounter maltreatment of a vulnerable adult will take immediate action to ensure the safety of the person(s) served. Staff will define maltreatment of vulnerable adults as abuse, neglect, or financial exploitation and will refer to the definitions from Minnesota Statutes, section 626.5572 at the end of this policy. Staff are to conduct themselves in a supportive and respectful manner which does not maltreat Vulnerable Adults.

Staff will refer to the *Policy and Procedure on Reporting and Review of Maltreatment of Minors* regarding suspected or alleged maltreatment of persons 17 years of age or younger.

III. PROCEDURE

- A. Staff of the company who encounter maltreatment of a vulnerable adult, age 18 or older, will take immediate action to ensure the safety of the person or persons as well as the safekeeping of their funds and property. If a staff knows or suspects that a vulnerable adult is in immediate danger, they will call "911."
- B. If a staff knows or suspects that maltreatment of a vulnerable adult has occurred, they must make a report immediately (within 24 hours) internally to the company or externally to the Minnesota Adult Abuse Reporting Center. Should the staff choose to make a report directly to an external agency, they must make the report by notifying the Minnesota Adult Abuse Reporting Center.
- C. To make a report internally to the company, staff must make a verbal report to their supervisor or Designated Manager. The Designated Manager is the primary individual responsible for receiving internal reports of maltreatment and for forwarding internal reports to the Minnesota Adult Abuse Reporting Center. If there are reasons to believe that the Designated Manager is involved in the alleged or suspected maltreatment, the Designated Coordinator is the secondary individual responsible for receiving internal reports of maltreatment and for forwarding internal reports to the Minnesota Adult Abuse Reporting Center.
- D. To make a report externally to the Minnesota Adult Abuse Reporting Center staff can call **844-880-1574** or report at mn.gov/dhs/reportadultabuse/.
- E. When reporting the alleged or suspected maltreatment, either internally or externally, staff will include as much information as known and will cooperate with any subsequent investigation.
- F. For internal reports of suspected or alleged maltreatment, the person who received the report will:
 1. Contact the Minnesota Adult Abuse Reporting Center if the report is determined to be suspected or alleged maltreatment.
 2. Ensure an *Incident and Emergency Report* has been completed.
 3. Inform the case manager within 24 hours of reporting maltreatment, unless there is reason to believe that the case manager is involved in the suspected maltreatment. The person who received the report will disclose to the case manager the:
 - a. Nature of the activity or occurrence reported
 - b. The agency that received the report

Advantage PCA Services, Inc.

4. Complete and mail the *Notification to an Internal Reporter* to the home address of the staff who reported the maltreatment within two working days in a manner that protects the reporter's confidentiality. The notification must indicate whether or not the company reported externally to the Minnesota Adult Abuse Reporting Center. The notice must also inform the staff that if the company did not report externally and they are not satisfied with that decision, they may still make the external report to the Minnesota Adult Abuse Reporting Center themselves. It will also inform the staff that they are protected against any retaliation if they decide to make a good faith report to the Minnesota Adult Abuse Reporting Center on their own.
- G. When the company has knowledge that an internal or external report of alleged or suspected maltreatment has been made, an internal review will be completed. The Designated Manager is the primary individual responsible for ensuring that internal reviews are completed for reports of maltreatment. If there are reasons to believe that the Designated Manager is involved in the alleged or suspected maltreatment, the Designated Coordinator is the secondary individual responsible for ensuring that internal reviews are completed.
- H. The *Internal Review* will be completed within 30 calendar days. The person completing it will:
 1. Ensure an *Incident and Emergency Report* has been completed.
 2. Contact the lead investigative agency if additional information has been gathered.
 3. Coordinate any investigative efforts with the lead investigative agency by serving as the company contact, ensuring that staff cooperate, and that all records are available.
 4. Complete an *Internal Review* which will include the following evaluations of whether:
 - a. Related policies and procedures were followed
 - b. The policies and procedures were adequate
 - c. There is a need for additional staff training
 - d. The reported event is similar to past events with the vulnerable adults or the services involved
 - e. There is a need for corrective action by the license holder to protect the health and safety of the vulnerable adult(s)
 5. Complete the *Alleged Maltreatment Review Checklist* and compile together all documents regarding the report of maltreatment.
- I. Based upon the results of the internal review, the company will develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the company, if any.
- J. Internal reviews must be made accessible to the commissioner immediately upon the commissioner's request for internal reviews regarding maltreatment.
- K. The company will provide an orientation to the internal and external reporting procedures to all persons served and/or legal representatives. This orientation will include the telephone number and website for the Minnesota Adult Abuse Reporting Center. This orientation for each new person to be served will occur within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.
- L. Staff will receive training on this policy, MN Statutes, section 245A.65 and sections 626.557 and 626.5572 and their responsibilities related to protecting persons served from maltreatment and reporting maltreatment. This training must be provided within 72 hours of first providing direct contact services and annually thereafter.

Advantage PCA Services, Inc.

MINNESOTA STATUTES, SECTION 626.5572 DEFINITIONS

Subdivision 1. **Scope.**

For the purpose of section [626.557](#), the following terms have the meanings given them, unless otherwise specified.

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; or
- (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 contact with the vulnerable adult that is not therapeutic conduct and a reasonable person would consider a sexual act or any nonconsensual sexual interaction with the vulnerable adult, including but not limited to:

- (1) making, viewing, or sharing sexual images or videos with or of the vulnerable adult; and
- (2) using oral, written, gestured, or electronic communication that is sexually harassing, including but not limited to unwelcome sexual advances or requests for sexual favors.

(d) 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.

(e) 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.

(f) 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

Advantage PCA Services, Inc.

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.

(g) 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.

(h) 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. 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; 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 the vulnerable adult 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. 17. **Neglect.**

(a) Neglect means neglect by a caregiver or self-neglect.

(b) "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

Advantage PCA Services, Inc.

(2) which is not the result of an accident or therapeutic conduct.

(c) “Self-neglect” means neglect by a vulnerable adult of the vulnerable adult’s own food, clothing, shelter, health care, financial management, 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.

(d) 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;

(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;

(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.

(e) 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.

(f) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (d), 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 (d), clause (5), item (iv), (v), or

Advantage PCA Services, Inc.

(vi). This must not alter the lead agency's determination of mitigating factors under section [626.557, subdivision 9c](#), paragraph (f).

**POLICY AND PROCEDURE ON REPORTING AND REVIEW OF
MALTREATMENT OF MINORS**

I. PURPOSE

The purpose of this policy is to establish guidelines for the reporting and internal review of maltreatment of minors (children) in care.

II. POLICY

Staff who are mandated reporters must report externally all of the information they know regarding an incident of known or suspected maltreatment of a child, in order to meet their reporting requirements under law. All staff of the company who encounter maltreatment of a minor will take immediate action to ensure the safety of the child. Staff will define maltreatment as sexual abuse, physical abuse, or neglect and will refer to the definitions from MN Statutes, chapter 260E at the end of this policy. Mandated reporters must immediately report if a child required to be enrolled in school has at least seven unexcused absences in the current school year and is at risk of educational neglect.

Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, the county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being maltreated. Staff of the company cannot shift the responsibility of reporting maltreatment to an internal staff person or position. In addition, if a staff knows or has reason to believe a child is being or has been maltreated within the preceding three years, the staff must immediately (as soon as possible but within 24 hours) make a report to the local welfare agency, agency responsible for assessing or investigating the report, police department, the county sheriff, tribal social services agency, or tribal police department.

Staff will refer to the *Policy and Procedure on Reporting and Review of Maltreatment of Vulnerable Adults* regarding suspected or alleged maltreatment of individuals 18 years of age or older.

III. PROCEDURE

- A. Staff of the company who encounter maltreatment of a child, age 17 or younger, will take immediate action to ensure the safety of the child or children. If a staff knows or suspects that a child is in immediate danger, they will call "911" or local law enforcement.
- B. Staff mandated to report maltreatment within a licensed facility will report the information to the agency responsible for licensing the facility. If the mandated reporter is unsure of what agency to contact, they will contact the county agency and follow their direction.
- C. Staff who know or suspect that a child has been maltreated but is not in immediate danger will report to:
 1. The local child welfare agency if an alleged perpetrator is a parent, guardian, family child care provider, family foster care provider, or an unlicensed personal care provider.
 2. The Minnesota Department of Human Services, Licensing Division, 651-431-6600, if alleged maltreatment was committed by a staff person at a child care center, residential treatment center (children's mental health), group home for children, minor parent program, shelter for children, chemical dependency treatment program for adolescents, waived services program for children, crisis respite program for children, or residential program for children with developmental disabilities.
 3. Minnesota Department of Health, Office of Health Facility Complaints, 651-201-4200 or 800-369-7994, if alleged maltreatment occurred in a home health care setting, hospital, regional treatment center, nursing home, intermediate care facility for the developmentally disabled, licensed and unlicensed care attendants, or federally certified psychiatric residential treatment facility.

- D. Reports regarding incidents of maltreatment of children occurring within a family or in the community should be

Advantage PCA Services, Inc.

made to the local county social services agency or local law enforcement referencing the phone numbers contained within this policy.

- E. When verbally reporting the alleged maltreatment to the external agency, the mandated reporter will include as much information as known to identify the child, any persons responsible for the maltreatment (if known), and the nature and extent of the maltreatment, and the name and address of the reporter.
- F. If the report of suspected maltreatment within the company, the report should also include any actions taken by the company in response to the incident. If a staff attempts to report the suspected maltreatment internally, the person receiving the report will remind the staff of the requirement to report externally.
- G. A verbal report of suspected maltreatment that is made to one of the listed agencies by a mandated reporter must be followed by a written report to the same agency within 72 hours, exclusive of weekends and holidays.
- H. When the company has knowledge that an external report of alleged or suspected maltreatment has been made, an internal review will be completed. The Designated Manager is the primary individual responsible for ensuring that internal reviews are completed for reports of maltreatment. If there are reasons to believe that the Designated Manager is involved in the alleged or suspected maltreatment, the Designated Coordinator is the secondary individual responsible for ensuring that internal reviews are completed.
- I. The *Internal Review* will be completed within 30 calendar days. The person completing it will:
 - 1. Ensure an *Incident and Emergency Report* has been completed.
 - 2. Contact the lead investigative agency if additional information has been gathered.
 - 3. Coordinate any investigative efforts with the lead investigative agency by serving as the company contact, ensuring that staff cooperate, and that all records are available.
 - 4. Complete an *Internal Review* which will include the following evaluations of whether:
 - a. Related policies and procedures were followed
 - b. The policies and procedures were adequate
 - c. There is a need for additional staff training
 - d. The reported event is similar to past events with the children or the services involved
 - e. There is a need for corrective action by the license holder to protect the health and safety of the children in care
 - 5. Complete the *Alleged Maltreatment Review Checklist* and compile together all documents regarding the report of maltreatment.
- J. Based upon the results of the internal review, the company will develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the company, if any.
- K. Internal reviews must be made accessible to the commissioner immediately upon the commissioner's request for internal reviews regarding maltreatment.
- L. Staff will receive training on this policy, MN Statutes, section 142B.54 and chapter 260E and their responsibilities related to protecting children in care from maltreatment and reporting maltreatment. This training must be provided within 72 hours of first providing direct contact services and annually thereafter.

EXTERNAL AGENCIES

COUNTY	DAY	EVENING/WEEKEND
AITKIN	(218) 927-7200 or (800) 328-3744	(218) 927-7400
ANOKA	(763)-324-1440	(763)-324-1440

Advantage PCA Services, Inc.

BECKER	(218) 847-5628	(218) 847-2661
BELTRAMI	(218)-333-8245	(218)-333-9111
BENTON	(320) 968-5087	(320) 968-7201
BIG STONE	(320) 839-2555	(320)-839-3558
BLUE EARTH	(507) 304-4444	(507) 304-4319
BROWN	(507) 354-8246	(507) 233-6700
CARLTON	(218) 879-4511	(218) 384-3236
CARVER	(952) 361-1600	(218) 295-4622
CASS	(218) 547-1340	(218) 547-1424
CHIPPEWA	(320) 269-6401	(320) 269-2121
CHISAGO	(651) 213-5600	(651) 257-4100
CLAY	(218) 299-7139	(218) 299-5151
CLEARWATER	(218) 694-6164	(218) 694-6226
COOK	(218) 387-3620	(218) 387-3030
COTTONWOOD	(507) 831-1891 or (507) 847-4000	(507) 831-1375
CROW WING	(218) 824-1140	(218) 829-4749
DAKOTA	(952) 891-7459	(952) 891-7171
DODGE	(507) 431-5725	(507) 635-6200
DOUGLAS	(320) 762-2302	(320) 762-8151
FARIBAULT	(507) 238-4757 or (507) 526-3265	(507) 526-5148
FILLMORE	(507) 765-2175	(507) 765-3874
FREEBORN	(507) 377-5400	(507) 377-5205
GOODHUE	(651) 385-3200	(651) 385-3155
GRANT	(320) 634-7755 or (218) 685-8200	(218) 685-8280
HENNEPIN	(612) 348-3552	(612) 348-3552
HOUSTON	(507) 725-5811	(507) 725-3379
HUBBARD	(218) 732-1451	(218) 732-3331
ISANTI	(763) 689-1711	(763) 689-2141
ITASCA	(218) 327-2941	(218) 326-8565
JACKSON	(507) 847-4000 or (507) 831-1891	(507) 847-4420
KANABEC	(320) 679-6350	(320) 679-8400
KANDIYOHI	(320) 231-7800	(320) 235-1260
KITTSO	(218) 843-2689 or (800) 672-8026	(218) 843-3535
KOOCHICHING	(218) 283-7000	(218) 283-4416
LAC QUI PARLE	(320) 598-7594	(320) 598-3720
LAKE	(218) 834-8432	(218) 834-8385

Advantage PCA Services, Inc.

LAKE OF THE WOODS	(218) 634-2642	(218) 634-1143
LE SUEUR	(507) 357-8288	(507) 357-4440
LINCOLN	(888) 964-8407	(507) 694-1664
LYON	(888) 964-8407	(507) 537-7666
MAHNOMEN	(218) 935-2568	(218) 935-2255
MARSHALL	(218) 745-5124	(218) 745-5411
MARTIN	(507) 238-4757 or (507) 526-3265	(507) 238-4481
MC LEOD	(320) 864-3144	(320) 864-3134
MEEKER	(320) 693-5300	(320) 693-5400
MILLE LACS	(320) 983-8208	(320) 983-8245
MORRISON	(320) 632-7800 or (800) 269-1464	(320) 632-9233
MOWER	(507) 437-9701	(507) 437-9400
MURRAY	(888) 964-8407	(507) 836-6168
NICOLLET	(507) 934-8559	(507) 931-1570
NOBLES	(507) 295-5213	(507) 295-5213
NORMAN	(218) 784-5437	(218) 784-7114
OLMSTED	(507) 328-6130	(507) 535-5625
OTTER TAIL	(218) 998-8150	(218) 998-8555
PENNINGTON	(218) 681-2880	(218) 681-6161
PINE	(320) 591-1570	(320) 629-8380
PIPESTONE	(888) 964-8407	(507) 825-1100
POLK	(218) 281-3127	(218) 281-0431
POPE	(320) 634-7755 or (218) 685-8200	(320) 634-5411
RAMSEY	(651) 266-4500	(651) 266-4500
RED LAKE	(218) 253-4131	(218) 253-2996
REDWOOD	(888) 964-8407	(507) 637-4036
RENVILLE	(320) 523-2202	(320) 523-1161
RICE	(507) 332-6115	(800) 422-1286
ROCK	(888) 964-8407	(507) 283-5000
ROSEAU	(218) 463-2411	(218) 463-1421
SCOTT	(952) 496-8959	(952) 496-8484
SHERBURNE	(763) 765-4000	(763) 765-3500
SIBLEY	(507) 237-4000	(507) 237-4330
ST. LOUIS	N. (218) 471-7128 or S. (218) 726-2012	(218) 625-3581
STEARNS	(320) 650-5837	(320) 251-4240

Advantage PCA Services, Inc.

STEELE	(507) 431-5725	(507) 444-3800
STEVENS	(320) 208-6600	(320) 208-6500
SWIFT	(320) 843-3160	(320) 843-3133
TODD	(320) 732-4500	(320) 732-2157
TRAVERSE	(320) 634-7755 or (218) 685-8200	(320) 422-7800
WABASHA	(651) 565-3351	(651) 565-3361
WADENA	(218) 631-7605	(218) 631-7600
WASECA	(507) 431-5725	(507) 835-0510
WASHINGTON	(651) 430-6457	(651) 275-7400
WATONWAN	(507) 375-3294 or (888) 299-5941	(507) 375-3121
WILKIN	(218) 643-7161	(218) 643-8544
WINONA	(507) 457-6500	(507) 457-6368
WRIGHT	(763) 682-7449	(763) 682-7400
YELLOW MEDICINE	(320) 564-2211	(320) 564-2130

DEPARTMENT OF HUMAN SERVICES LICENSING DIVISION MALTREATMENT INTAKE: 651-431-6600

MINNESOTA STATUTES, CHAPTER 260E.03 DEFINITIONS

As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

Subd. 12. **Maltreatment.** "Maltreatment" means any of the following acts or omissions:

- (1) egregious harm under subdivision 5;
- (2) neglect under subdivision 15;
- (3) physical abuse under subdivision 18;
- (4) sexual abuse under subdivision 20;
- (5) substantial child endangerment under subdivision 22;
- (6) threatened injury under subdivision 23;
- (7) mental injury under subdivision 13; and
- (8) maltreatment of a child in a facility

Subd. 5. **Egregious harm.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

- (1) conduct towards a child that constitutes a violation of sections [609.185](#) to [609.2114](#), [609.222](#), [subdivision 2](#), [609.223](#), or any other similar law of any other state;
- (2) the infliction of "substantial bodily harm" to a child, as defined in section [609.02](#), [subdivision 7a](#);
- (3) conduct towards a child that constitutes felony malicious punishment of a child under section [609.377](#);
- (4) conduct towards a child that constitutes felony unreasonable restraint of a child under section [609.255](#), [subdivision 3](#);
- (5) conduct towards a child that constitutes felony neglect or endangerment of a child under section [609.378](#);
- (6) conduct towards a child that constitutes assault under section [609.221](#), [609.222](#), or [609.223](#);
- (7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section [609.322](#);
- (8) conduct towards a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a);

Advantage PCA Services, Inc.

(9) conduct towards a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a); or
(10) conduct toward a child that constitutes criminal sexual conduct under sections [609.342](#) to [609.345](#)

Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (8), 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) 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;
- (6) medical neglect, as defined in section 260C.007, subdivision 6, clause (5);
- (7) chronic and severe use of alcohol or a controlled substance by a person responsible for the child's care that adversely affects the child's basic needs and safety; or
- (8) emotional harm from a pattern of behavior that 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.

(b) Nothing in this chapter 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.

(c) This chapter 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.

(d) Nothing in this chapter shall be construed to mean that a child who has a mental, physical, or emotional condition is neglected solely because the child remains in an emergency department or hospital setting because services, including residential treatment, that are deemed necessary by the child's medical or mental health care professional or county case manager are not available to the child's parent, guardian, or other person responsible for the child's care, and the child cannot be safely discharged to the child's family.

Subd. 18. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury under subdivision 13, or threatened injury under subdivision 23, 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 125A.0942 or 245.825.

(b) Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that 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.

(c) For the purposes of this subdivision, actions that are not reasonable and moderate include, but are not limited to, any of the following:

Advantage PCA Services, Inc.

- (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 that 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) striking a child who is at least age one but under age four on the face or head, which results in an injury;
- (9) purposely giving a child:
 - (i) poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child; or
 - (ii) other substances that substantially affect the child's behavior, motor coordination, or judgment; that result in sickness or internal injury; or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
- (11) 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

Subd. 20. **Sexual abuse.** "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, or by a person in a current or recent position of authority, to any act that 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), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse, which includes the status of a parent or household member who has committed a violation that 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).

Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means that a person responsible for a child's care, 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 under subdivision 5;
- (2) abandonment under section 260C.301, subdivision 2;
- (3) neglect under subdivision 15, paragraph (a), 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;
- (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- (8) criminal sexual conduct under sections 609.342 to 609.3451;
- (9) solicitation of children to engage in sexual conduct under section 609.352;
- (10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (11) use of a minor in sexual performance under section 617.246; or
- (12) parental behavior, status, or condition that mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

Subd. 23. **Threatened injury.** (a) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Advantage PCA Services, Inc.

(b) Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in subdivision 17, who has:

- (1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;
- (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (3), or a similar law of another jurisdiction;
- (3) committed an act that 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 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.

(c) A child is the subject of a report of threatened injury when the local welfare agency receives birth match data under section 260E.14, subdivision 4, from the Department of Human Services.

Subd. 13. **Mental injury.** "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.

POLICY AND PROCEDURE ON ANTI-FRAUD

I. PURPOSE

The purpose of this policy is to provide information regarding the prevention, elimination, monitoring, and reporting of fraud, abuse, and improper activities of government funding in order to obtain and maintain integrity of public funds.

II. POLICY

A holder of a license that is issued by Minnesota Department of Human Services (DHS), pursuant to MN Statutes, chapter 245A [Human Services Licensing Act], and who has enrolled to receive public governmental funding reimbursement for services is required to comply with the enrollment requirements as a licensing standard. Pursuant to Minnesota Statutes, section 256B.0445, subdivision 2, a provider licensed under chapter 245A must designate an individual as the provider's Public Funds Compliance Officer responsible for implementing and overseeing the compliance program required under section 256B.044, subdivision 8.

Government funds may be from state or federal governments, to include, but not be limited to: Minnesota's Medical Assistance, Medicaid, Medicare, Brain Injury (BI) Waiver, Community Alternative Care (CAC) Waiver, Community Access for Disability Inclusion (CADI) Waiver, Developmental Disability (DD) Waiver, Elderly Waiver (EW), and Minnesota's Alternative Care (AC) program. The company has a longstanding practice of fair and truthful dealing with persons served, families, health professionals, and other businesses. Management, staff, contractors, and other agents of the company shall not engage in any acts of fraud, waste, or abuse in any matter concerning the company's business, mission, or funds.

III. PROCEDURE

A. Definition: "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in an unauthorized benefit to the person or another person or an act, promise to act, or omission made with the intent to obtain a benefit in a manner that is prohibited. Fraud includes:

- (1) submitting an application for provider status knowing that the application misrepresents, conceals, or fails to disclose any material information;
- (2) intentionally submitting a claim for reimbursement under this chapter, knowing or having reason to know the claim is ineligible for reimbursement in whole or in part;
- (3) providing documentation or other information requested by the commissioner having knowledge that it is false in any material respect; and
- (4) any act that constitutes the commission, or attempt or conspiracy to commit, a violation of any of the following:
 - (i) section 256.98 (wrongfully obtaining assistance);
 - (ii) section 609.467 (medical assistance fraud);
 - (iii) section 609.48 (perjury), involving making a false statement related to medical assistance or the receipt of public money;
 - (iv) section 609.496 (concealing criminal proceeds) or 609.497 (engaging in business of concealing criminal proceeds), involving proceeds consisting of public money;
 - (v) section 609.52 (theft), involving theft of property consisting of public money;
 - (vi) section 609.542 (illegal remuneration);

Advantage PCA Services, Inc.

(vii) section 609.625 (aggravated forgery) or 609.63 (forgery), involving falsely filing any record, account, or other document with any state agency or department or falsely making or altering any record, account, or other document filed with any state agency or department;

(viii) section 609.821 (financial transaction card fraud), involving a public assistance benefit;

(ix) a felony listed in United States Code, title 42, section 1320a-7b(b)(1) or (2), subject to any safe harbors established in Code of Federal Regulations, title 42, section 1001.952; and

(x) any other act that constitutes fraud under applicable federal law.

- B. Public Funds Compliance Officer: This company has designated the Administrator as their Public Funds Compliance Officer. The Public Funds Compliance Officer is responsible for implementing and overseeing the compliance program consistent with federal program integrity guidance issued by CMS or the United States Department of Health and Human Services Office of the Inspector General.
- C. Reporting responsibility: Employees, volunteers, agents, contractors and subcontractors must report known or suspected fraud, waste or abuse. An internal report may be made to their supervisor or to the Public Funds Compliance Officer. An external report can be made to the Office of the Inspector General by emailing OIG.InvestigationsDHS@state.mn.us, by calling 651-431-2650 or 800-657-3750, or by completing the MN DHS Fraud Reporting Tool: <https://tnt02.agileapps.dhs.mn.gov/networking/WebFormV2.jsp?sid=943f9bdf86164298a917ccb14937500b&cid=2056597742&oid=f3ebd9728b1f442a862131b023c54354>.
- D. Requirement of good faith: Anyone filing a complaint concerning a violation or suspected violation of the law or regulation requirements must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.
- E. Confidentiality: Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.
- F. No retaliation: No staff person who in good faith reports a violation of a law or regulation requirements will suffer harassment, retaliation, or adverse employment consequences. A staff who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.
- G. Report acknowledgement: The Public Funds Compliance Officer, or designee, will acknowledge receipt of the reported violation or suspected violation by writing a letter (or email) to the complainant within ten (10) business days, noting that the allegations will be investigated.
- H. Responding to allegations of improper conduct: The Public Funds Compliance Officer is responsible for responding to allegations of improper conduct related to the provision or billing of medical assistance services. This may include, but is not limited to: investigating, interviewing applicable individuals involved, reviewing documents, asking for additional assistance, seeking input on process of the investigation, or seeking input on medical assistance laws and regulations interpretations to address all complaints and allegations concerning potential violations. The Administrator or its designee will implement corrective action to remediate any resulting problems.
- I. Evaluation and monitoring for internal compliance: On a regular schedule and as needed, the Administrator, or its designee, will run routine financial reports to review financial information for accuracy and compliance.

Advantage PCA Services, Inc.

On a regular schedule and as needed, the Administrator, or its designee, will review standard operations and procedures to ensure that they remain compliant.

- J. Promptly reporting errors: The Administrator will promptly report to DHS any credible evidence of violations of federal and state laws or regulations governing medical assistance.
- K. Recovery of overpayment: Upon discovery of a medical assistance overpayment, the company will report and return the overpayment within 60 days after discovery, or by the date any corresponding cost report is due, whichever is later, in accordance with federal law.
- L. Training: Employees, volunteers, agents, contractors and subcontractors, including billing personnel, will be trained on applicable federal and state laws and program requirements.
- M. Documentation: The provider must maintain documentation that, upon employment and annually thereafter, staff providing a service have attested to reviewing and understanding the following statement: "It is a federal crime to provide materially false information on service billings for medical assistance or services provided under a federally approved waiver plan as authorized under Minnesota Statutes, sections 256B.0913, 256B.0915, 256B.092, and 256B.49."

POLICY AND PROCEDURE ON ALCOHOL AND DRUG USE

I. PURPOSE

The purpose of this policy is to establish guidelines regarding the use of alcohol, prescription/legal drugs, chemicals, or illegal drugs while employees (also referred to as staff), subcontractors, and volunteers are on duty, whether they are at the program site, transporting persons served, or with persons in the community.

II. POLICY

It is not permissible for employees, subcontractors, and volunteers to be on duty, transporting a person(s) served, driving on company business, or accompanying a person served into the community when under the influence of alcohol or illegal drugs or impaired by any chemicals or prescription/legal drugs.

The company will give the same consideration to employees, subcontractors, and volunteers with chemical dependency issues as it does to those having other health issues. Voluntarily seeking assistance for such an issue will not jeopardize employment, whereas performance, attendance, or behavioral issues will.

The company will train employees, subcontractors, and volunteers on the company's alcohol and drug policy.

III. PROCEDURE

- A. Any employee, subcontractor, or volunteer, while directly responsible for persons served, are prohibited from abusing any prescription/legal drugs, or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care including alcohol, prescription/legal drugs, or illegal drugs.
- B. Any employee, subcontractor, or volunteer reporting or returning to work, whose behavior reflects the consumption of alcoholic beverages or the use of drugs, may be referred for an immediate medical evaluation to determine fitness for work and may be suspended without pay until deemed able to return to work.
- C. When prescription or over-the-counter drugs may affect behavior and performance, the employee, subcontractor, and volunteer must inform the Designated Coordinator and/or Designated Manager. Re-assignment, light duty assignment, or temporary relief from duties may be required.
- D. At any time, the sale, purchase, transfer, use, or possession of illegal drugs or alcohol, and/or the involvement in these activities of any individual under the legal age of consumption during work hours or at a program site will result in disciplinary action up to and including termination. Law enforcement will be notified as determined by the Designated Coordinator and/or Designated Manager.
- E. Employees will immediately take necessary action up to and including contact of medical professionals, "911," and/or contact of law enforcement at any time a person served is believed to be under the influence of illegal drugs, is believed to be under the influence of alcohol under the legal age of consumption, or is believed to be a victim of potential alcohol poisoning.
- F. Prescription drugs that belong to an employee, subcontractor, or volunteer are to be stored in a location that is not accessible to any person served.
- G. Employees, subcontractors, or volunteers are not allowed to store alcoholic beverages at a program site. Persons served may store alcoholic beverages at a program site; however, based on a person's vulnerabilities or other related concerns, alcoholic beverages may be prohibited at any or all times from a program site.
- H. As a condition of continuing employment, under certain circumstances, employees, subcontractors, and volunteers may be required to submit to drug and/or alcohol testing. Drug or alcohol testing may be required when there is a reasonable suspicion that an individual is currently abusing a drug or alcohol, is under the influence of drugs or alcohol while on duty, or has violated any of the procedures in this policy.

Advantage PCA Services, Inc.

- I. Failure to complete the testing or upon receiving positive test results are cause for disciplinary action up to and including termination. A positive test result may be explained or a request to pay for a confirmatory result made to Advantage PCA.

POLICY AND PROCEDURE ON THE DEATH OF A PERSON SERVED

I. PURPOSE

The purpose of this policy is to establish guidelines for anticipating the death of a person served. In addition, this policy establishes the response and reporting guidelines for when death occurs of a person served.

II. POLICY

When the death of a person served is anticipated, the priority is to ensure that the person's dignity is preserved and that the wishes of the person and/or legal representative are complied with to the greatest extent possible. In the event that a person dies, staff will ensure proper response and reporting of the death.

III. PROCEDURE

- A. If a person served develops a life threatening illness or sustains a life threatening injury from which the attending physician indicates death is anticipated, the Designated Coordinator and/or Designated Manager will ensure that the legal representative, case manager, other service providers, and the company staff are notified immediately (family members and others may be notified by the legal representative).
- B. If possible, the Designated Coordinator and/or Designated Manager will ensure that a support team meeting or conference call is scheduled.
- C. In coordination with the support team and in anticipation of the person's death, the Designated Coordinator and/or Designated Manager, assigned nurse or nurse consultant, if any, and legal representative will determine whether the person served will reside at a hospital, other facility, or at home.
- D. The Designated Coordinator and/or Designated Manager will ensure that the support team makes a decision in regards to an advance directive.
 1. Staff will act as if all persons under state guardianship have "do resuscitate" status unless consent has been given by the Guardianship Unit at the MN Department of Human Services for an advanced directive.
 2. At the request of the support team, the Designated Coordinator and/or Designated Manager will help obtain an advanced directive order by supplying information to the case manager from the physician so that a summary report may be submitted to the Guardianship Unit.
 3. The Designated Coordinator and/or Designated Manager and staff will not take a formal position on whether or not such an advanced directive order should or should not be issued. Staff will work to implement the wishes of the legal representative including helping to arrange and implement all physicians' orders. Staff who cannot in good conscience help obtain or implement particular physicians' orders will report this to the Designated Coordinator and/or Designated Manager.
 4. The Designated Coordinator and/or Designated Manager will review and document the status of all advanced directives regularly with the case manager (consent for advance directive orders for state wards expire annually and must be reauthorized by the Guardianship Unit at the MN Department of Human Services).
- E. The Designated Coordinator and/or Designated Manager, in coordination with the support team, will develop a plan describing the protocol to be followed upon death, including notifications.
- F. The Designated Coordinator and/or Designated Manager will coordinate with the support team to determine what services the program needs to deliver to meet the needs of the person served, including but not limited to additional supervision, specialized staff training, and implementation and documentation of all physician and nursing orders, including advanced directives.
- G. The Designated Coordinator and/or Designated Manager and assigned nurse or nurse consultant, if any, will ensure that staff are trained in, implement, and document all physician and nursing orders related to the person's anticipated death as well as the agreed upon protocol upon witnessing or discovering the death.

Advantage PCA Services, Inc.

- H. When discovering a person served who appears to have died, all staff will treat the situation as if it were a medical emergency and will take the following steps:
 - 1. Staff will call “911” and provide first aid and/or CPR to the extent they are qualified, unless the person served has an advanced directive.
 - 2. Staff will notify all required persons including the Designated Coordinator and/or Designated Manager and assigned nurse or nurse consultant, if any.
 - 3. When an authorized person, such as a physician or paramedic, determines that the person served is deceased, the Designated Coordinator and/or Designated Manager will ensure the County Coroner’s office is notified and will ensure that the body is not moved until the coroner arrives.
 - 4. The Designated Coordinator and/or Designated Manager will notify the following individuals or entities within 24 hours of the death, or receipt of information that the death occurred, unless the company has reason to know that the death has already been reported:
 - a. Legal representative or designated emergency contact
 - b. Case manager
 - c. MN Office of the Ombudsman for Mental Health and Developmental Disabilities and the Department of Human Services Licensing Division using the required reporting forms. These forms include the *Death Reporting Form* and *Death or Serious Injury Report Fax Transmission Cover Sheet*.
 - d. Adult or Child Foster Care licensing authority, as applicable
 - 5. The Designated Coordinator and/or Designated Manager will discuss with the legal representative any funeral arrangements and notifications and will offer to assist the family/legal representative as needed.
 - 6. The Owner/CEO will be responsible for sending the notification letter “Notification Letter to Next-of-Kin” from the MN Office of the Ombudsman for Mental Health and Developmental Disabilities to the next of kin and for offering to arrange grief counseling for staff and other involved persons.
- I. Upon the death of the person, any funds or other property of the person will be surrendered to the person’s legal representative or given to the executor or administrator of the estate in exchange for an itemized receipt. A written inventory that was completed regarding the person’s funds or property will be placed in their file with signatures obtained from the legal representative, executor, or administrator of the estate.
- J. The company will conduct an internal review of incident of deaths that occurred while services were being provided and that were not reported by the program as alleged or suspected maltreatment, for identification of incident patterns and implementation of corrective action as necessary to reduce occurrences.
- K. The Designated Manager will complete and document the internal review related to the report of death and will add the person’s name to the *Admission and Discharge Register*. The internal review will include an evaluation of whether:
 - 1. Related policies and procedures were followed.
 - 2. The policies and procedures were adequate.
 - 3. There is a need for additional staff training.
 - 4. The reported event is similar to past events with the persons or the services involved.
 - 5. There is a need for corrective action by the company to protect the health and safety of person served.
- L. Based upon the results of the internal review, the company will develop, document, and implement a corrective action plan for the program designed to correct current lapses and prevent future lapses in performance by the individuals or the company, if any.

POLICY AND PROCEDURE ON EMERGENCY USE OF MANUAL RESTRAINT

I. PURPOSE

The purpose of this policy is to promote service recipient rights and protect the health and safety of persons served during behavioral situations without the allowance of using an emergency use of manual restraint (EUMR). This policy will also promote appropriate and safe interventions needed when addressing behavioral situations.

II. POLICY

It is the policy of this company that emergency use of manual restraint is **not allowed** at any time. This policy contains content requirements of MN Statutes, section 245D.061, subdivision 9 for policy and procedures regarding emergency use of manual restraint. According to MN Statutes, section 245D.02, subdivision 8a, emergency use of manual restraint is defined as “using a manual restraint when a person poses an imminent risk of physical harm to self or others and is the least restrictive intervention that would achieve safety. Property damage, verbal aggression, or a person’s refusal to receive or participate in treatment or programming on their own do not constitute an emergency.”

III. PROCEDURE

Positive support strategies

- A. The company will attempt to de-escalate a person’s behavior before it poses an imminent risk of physical harm to self or others. Some of the following procedures could be used to de-escalate the situation and are options that could be implemented by staff. This is not a fully inclusive list of options that could include:
1. A calm discussion between the person served and direct support staff regarding the situation, the person’s feelings, their responses, and alternative methods to handling the situation, etc.
 2. A staff suggesting or recommending that the person participate in an activity they enjoy as a means to self-calm.
 3. A staff to suggest or remind that the person served has options that they may choose to spend time alone, when safety permits, as a means to self-calm.
 4. The individualized strategies that have been written into the person’s *Support Plan* and/or *Support Plan Addendum*, or *Positive Support Transition Plan*.
 5. The implementation of instructional techniques and intervention procedures that are listed as “**Permitted actions and procedures**” as defined in Letter B of this **Positive support strategies** section.
 6. A combination of any of the above.
- B. **Permitted actions and procedures** include the use of instructional techniques and intervention procedures used on an intermittent or continuous basis. If used on a continuous basis, it must be addressed in the person’s *Support Plan Addendum*. These actions include:
1. Physical contact or instructional techniques that are the least restrictive alternative possible to meet the needs of the person and may be used to:
 - a. Calm or comfort a person by holding that person with no resistance from that person.
 - b. Protect a person known to be at risk or injury due to frequent falls as a result of a medical condition.
 - c. Facilitate the person’s completion of a task or response when the person does not resist or the person’s resistance is minimal in intensity or duration.
 - d. Block or redirect a person’s limbs or body without holding the person or limiting the person’s movement to interrupt the person’s behavior that may result in injury to self or others with less than 60 seconds of physical contact by staff.
 - e. Redirect a person’s behavior when the behavior does not pose a serious threat to the person or others and the behavior is effectively redirected with less than 60 seconds of physical contact by staff.
 2. Restraint may be used as an intervention procedure to:
 - a. Allow a licensed health care professional to safely conduct a medical examination or to provide medical treatment ordered by a licensed health care professional.
 - b. Assist in the safe evacuation or redirection of a person in the event of an emergency and the person is

Advantage PCA Services, Inc.

- at imminent risk of harm.
- c. Position a person with physical disabilities in a manner specified in their *Support Plan Addendum*. Any use of manual restraint allowed in this paragraph must comply with the restrictions stated in the section of this policy **Restrictive Intervention**.
- 3. Use of adaptive aids or equipment, orthotic devices, or other medical equipment ordered by a licensed health professional to treat a diagnosed medical condition do not in and of themselves constitute the use of mechanical restraint.
- 4. Positive verbal correction that is specifically focused on the behavior being addressed.
- 5. Temporary withholding or removal of objects being used to hurt self or others.

Prohibited Procedures

The company and its staff are prohibited from using the following:

- A. Chemical restraints
- B. Mechanical restraints
- C. Manual restraint
- D. Time out
- E. Seclusion
- F. Any other aversive or deprivation procedures
- G. As a substitute for adequate staffing
- H. For a behavioral or therapeutic program to reduce or eliminate behavior
- I. Punishment
- J. For staff convenience
- K. Prone restraint, metal handcuffs, or leg hobbles
- L. Faradic shock
- M. Speaking to a person in a manner that ridicules, demeans, threatens, or is abusive
- N. Physical intimidation or a show of force
- O. Containing, restricting, isolating, secluding, or otherwise removing a person from normal activities when it is medically contraindicated or without monitoring the person served
- P. Denying or restricting a person's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the person's functioning. When the temporary removal of the equipment or device is necessary to prevent injury to the person or others or serious damage to the equipment or device, the equipment or device must be returned to the person as soon as imminent risk of injury or serious damage has passed.
- Q. Painful techniques, including intentional infliction of pain or injury, intentional infliction of fear of pain or injury, dehumanization, and degradation
- R. Hyperextending or twisting a person's body parts
- S. Tripping or pushing a person
- T. Requiring a person to assume and maintain a specified physical position or posture
- U. Forced exercise
- V. Totally or partially restricting a person's senses
- W. Presenting intense sounds, lights, or other sensory stimuli
- X. Noxious smell, taste, substance, or spray, including water mist
- Y. Depriving a person of or restricting access to normal goods and services, or requiring a person to earn normal goods and services
- Z. Token reinforcement programs or level programs that include a response cost or negative punishment component
- AA. Using a person receiving services to discipline another person receiving services
- BB. Using an action or procedure which is medically or psychologically contraindicated
- CC. Using an action or procedure that might restrict or obstruct a person's airway or impair breathing, including techniques whereby individuals use their hands or body to place pressure on a person's head, neck, back, chest, abdomen, or joints
- DD. Interfering with a person's legal rights, except as allowed by MN Statutes, section 245D.04, subdivision 3, paragraph (c).

Advantage PCA Services, Inc.

Restrictive Intervention:

A restrictive intervention means prohibited procedures identified in MN Statutes, section 245D.06, subdivision 5; prohibited procedures identified in MN Rules, part 9544.006; and the emergency use of manual restraint.

A restricted procedure must not:

- A. Be implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury as defined in MN Statutes, chapter 260E.
- B. Be implemented with an adult in a manner that constitutes abuse or neglect as defined in MN Statutes, section 626.5572, subdivisions 2 or 17.
- C. Be implemented in a manner that violates a person's rights identified in MN Statutes, section 245D.04.
- D. Restrict a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, or necessary clothing, or to any protection required by state licensing standards and federal regulations governing the program.
- E. Deny the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin.
- F. Be used as a substitute for adequate staffing, for the convenience of staff, as punishment, or as a consequence if the person refuses to participate in the treatment of services provided by the company.
- G. Use prone restraint (that places a person in a face-down position).
- H. Apply back or chest pressure while a person is in the prone or supine (face-up) position.
- I. Be implemented in a manner that is contraindicated for any of the person's known medical or psychological limitations.

Positive Support Transition Plans (PSTP)

The company must and will develop a *Positive Support Transition Plan* on forms provided by the Department of Human Services and in the manner directed for a person served who requires intervention in order to maintain safety when it is known that the person's behavior poses an immediate risk of physical harm to self or others. A PSTP must be developed in accordance with MN Statutes, section 245D.06, subdivision 8 and MN Rules, part 9544.0070 for a person who has been subjected to three (3) incidents of EUMR within 90 days or four (4) incidents of EUMR within 180 days. This *Positive Support Transition Plan* will phase out any existing plans for the emergency use or programmatic use of restrictive interventions prohibited under MN Statutes, Chapter 245D and MN Rules, Chapter 9544.

Alternative measures to be used because manual restraints are not allowed in emergencies

- A. This company does not allow the emergency use of manual restraint; therefore, the following alternative measures must be used by staff to achieve safety when a person's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies have not achieved safety.
 - 1. Staff will continue to utilize the positive support strategies as defined in the **Positive support strategies** section listed above.
 - 2. If other persons served are in the immediate area of the person whose conduct poses an imminent risk of physical harm, staff will ask other persons to leave the area to another area of safety. If a person served is unable to leave the area independently, staff will provide the minimum necessary physical assistance to guide the person to safety.
 - 3. Objects, that may potentially be used by the person that may be used which would increase the risk of physical harm, will be removed until the person is calm and then immediately returned. These objects may include sharps, fragile items, working implements, etc.
 - 4. If the person's conduct continues to pose an imminent risk of physical harm to self or others, staff will call the mental health crisis line or mental health crisis intervention team (if available for the person) and follow any directions provided to them.
 - 5. If no other positive strategy or alternative measure was effective in de-escalating the person's behavior, staff will contact "911" for assistance.
 - 6. While waiting for law enforcement to arrive, staff will continue to offer the alternative measures listed here, if it remains safe to do so.

Emergency use of manual restraint not allowed

Advantage PCA Services, Inc.

If the positive support strategies were not effective in de-escalating or eliminating the person's behavior, staff will contact "911" for assistance

Reporting of emergency use of manual restraint

- A. While it is the policy of this agency to not allow the emergency use of manual restraint, if a staff witnesses or suspects an emergency use of manual restraint was used they should report the incident of emergency use of manual restraint according to the following process and will contain all required information per MN Statutes, sections 245D.06, subdivision 1 and 245D.061, subdivision 5.
- B. Within 24 hours of the emergency use of manual restraint, the company will make a verbal report regarding the incident to the legal representative or designated emergency contact and case manager. If other persons served were involved in the incident, the company will not disclose any personally identifiable information about any other person when making the report unless the company has the consent of the person.
- C. Within three (3) calendar days of the emergency use of manual restraint, the staff who implemented the emergency use of manual restraint will report, in writing, to the Designated Coordinator and/or Designated Manager the following information:
 1. The staff and person(s) served who were involved in the incident leading up to the emergency use of manual restraint.
 2. A description of the physical and social environment, including who was present before and during the incident leading up to the emergency use of manual restraint.
 3. A description of what less restrictive alternative measures were attempted to de-escalate the incident and maintain safety before the manual restraint was implemented. This description must identify the when, how, and how long the alternative measures were attempted before the manual restraint was implemented.
 4. A description of the mental, physical, and emotional condition of the person who was restrained, and other persons involved in the incident leading up to, during, and following the manual restraint.
 5. Whether there was any injury to the person who was restrained or other persons involved, including staff, before or as a result of the manual restraint use.
 6. Whether there was a debriefing with the staff, and, if not contraindicated, with the person who was restrained and other persons who were involved in or who witnessed the restraint, following the incident. The outcome of the debriefing will be clearly documented and if the debriefing could not occur at the time of the incident, the report will identify whether a debriefing is planned in the future.
- D. Within five (5) working days of the emergency use of manual restraint, the Designated Manager will complete and document an internal review of each report of emergency use of manual restraint. The internal review will include an evaluation of whether:
 1. The person's served service and support strategies developed according to MN Statutes, sections 245D.07 and 245D.071 need to be revised.
 2. Related policies and procedures were followed.
 3. The policies and procedures were adequate.
 4. There is a need for additional staff training.
 5. The reported event is similar to past events with the persons, staff, or the services involved.
 6. There is a need for corrective action by the company to protect the health and safety of the person(s) served.
- E. Based upon the results of the internal review, the company will develop, document, and implement a corrective action plan for the program designed to correct current lapses and prevent future lapses in performance by the individuals or the company, if any. The Designated Manager will ensure that the corrective action plan, if any, must be implemented within 30 days of the internal review being completed.
- F. Within five (5) working days after the completion of the internal review, the Designated Coordinator and/or Designated Manager will consult with the person's expanded support team following the emergency use of

Advantage PCA Services, Inc.

manual restraint. The purpose of this consultation is to:

1. Discuss the incident and to define the antecedent or event that gave rise to the behavior resulting in the manual restraint and identify the perceived function the behavior served.
 2. Determine whether the person's served *Support Plan Addendum* needs to be revised to positively and effectively help the person maintain stability and to reduce or eliminate future occurrences requiring emergency use of manual restraint.
- G. Within five (5) working dates of the expanded support team review, the Designated Coordinator and/or Designated Manager will submit, using the DHS online *Behavioral Intervention Reporting Form* (DHS-5148-ENG-1), the following information to the Department of Human Services and the Office of the Ombudsman for Mental Health and Developmental Disabilities:
1. The report of the emergency use of manual restraint.
 2. The internal review and corrective action plan, if any.
 3. The written summary of the expanded support team's discussion and decision.
- H. The following written information will be maintained in the person's service recipient record:
1. The report of an emergency use of manual restraint incident that includes:
 - a. Reporting requirements by the staff who implemented the restraint
 - b. The internal review of emergency use of manual restraint and the corrective action plan, with information about implementation of correction within 30 days, if any
 - c. The written summary of the expanded support team's discussion and decision
 - d. The notifications to the expanded support team, the Department of Human Services, and the MN Office of the Ombudsman for Mental Health and Developmental Disabilities
 2. The PDF version of the completed and submitted DHS online *Behavioral Intervention Reporting Form* (DHS-5148-ENG-1). An email of this PDF version of the *Behavioral Intervention Reporting Form* will be sent to the MN-ITS mailbox assigned to the license holder.

Staff training requirements

- A. The company recognizes the importance of having qualified and knowledgeable staff that are competently trained to uphold the rights of persons served and to protect persons' health and safety. All staff will receive orientation and annual training according to MN Statutes, section 245D.09, subdivisions 4, 4a, and 5. Orientation training will occur within the first 60 days of hire and annual training will occur within a period of 12 months.
- B. Within 60 calendar days of hire, the company provides orientation on:
1. The safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint; and
 2. Staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, MN Rules, part 9544.0060, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe.
- C. Before staff may implement an emergency use of manual restraint, and in addition to the training on this policy and procedure and the orientation and annual training requirements, staff must receive training on emergency use of manual restraints that incorporates the following topics:
1. Alternatives to manual restraint procedures including techniques to identify events and environmental factors that may escalate conduct that poses an imminent risk of physical harm to self or others.
 2. De-escalation methods, positive support strategies, and how to avoid power struggles
 3. Simulated experiences of administering and receiving manual restraint procedures allowed by the company on an emergency basis
 4. How to properly identify thresholds for implementing and ceasing restrictive procedures
 5. How to recognize, monitor, and respond to the person's physical signs of distress including positional asphyxia

Advantage PCA Services, Inc.

6. The physiological and psychological impact on the person and the staff when restrictive procedures are used
 7. The communicative intent of behaviors
 8. Relationship building.
- D. For staff that are responsible to develop, implement, monitor, supervise, or evaluate positive support strategies, *Positive Support Transition Plans*, or *Emergency Use of Manual Restraint*, the staff must complete a minimum of eight (8) hours of core training from qualified individuals prior to assuming these responsibilities. Core training must include the following:
- a. De-escalation techniques and their value
 - b. Principles of person-centered service planning and delivery and how they apply to direct support services provided by staff
 - c. Principles of positive support strategies such as positive behavior supports, the relationship between staff interactions with the person and the person's behavior, and the relationship between the person's environment and the person's behavior
 - d. What constitutes the use of restraint, including chemical restraint, time out, and seclusion
 - e. The safe and correct use of manual restraint on an emergency basis, according to MN Statutes, section 245D.061
 - f. Staff responsibilities related to prohibited procedures under MN Statutes, section 245D.06, subdivision 5; why the procedures are not effective for reducing or eliminating symptoms or interfering behavior; and why the procedures are not safe
 - g. Staff responsibilities related to restricted and permitted actions and procedure according to MN Statutes, section 245D.06, subdivisions 6 and 7
 - h. Situations in which staff must contact 911 services in response to an imminent risk of harm to the person or others
 - i. Procedures and forms staff must use to monitor and report use of restrictive interventions that are part of a *Positive Support Transition Plan*
 - j. Procedures and requirements for notifying members of the person's expanded support team after the use of a restrictive intervention with the person
 - k. Understanding of the person as a unique individual and how to implement treatment plans and responsibilities assigned to the license holder
 - l. Cultural competence
 - m. Personal staff accountability and staff self-care after emergencies.
- E. Staff who develop positive support strategies, license holders, executives, managers, and owners in non-clinical roles, must complete a minimum of four (4) hours of additional training. Function-specific training must be completed on the following:
- a. Functional behavior assessment
 - b. How to apply person-centered planning
 - c. How to design and use data systems to measure effectiveness of care
 - d. Supervision, including how to train, coach, and evaluate staff and encourage effective communication with the person and the person's support team.
- F. License holders, executives, managers, and owners in non-clinical roles must complete a minimum of two (2) hours of additional training. Function-specific training must be completed on the following:
- a. How to include staff in organizational decisions
 - b. Management of the organization based upon person-centered thinking and practices and how to address person-centered thinking and practices in the organization
 - c. Evaluation of organizational training as it applies to the measurement of behavior change and improved outcomes for persons receiving services.
- G. Annually, staff must complete four (4) hours of refresher training covering each of the training topics listed in items D, E, and F above.

Advantage PCA Services, Inc.

- H. For each staff, the license holder must document, in the personnel record, completion of core training, function-specific training, and competency testing or assessment. Documentation must include the following:
 - a. Date of training
 - b. Testing or assessment completion
 - c. Number of training hours per subject area
 - d. Name and qualifications of the trainer or instructor.
- I. The license holder must verify and maintain evidence of staff qualifications in the personnel record. The documentation must include the following:
 - a. Education and experience qualifications relevant to the staff's scope of practice, responsibilities assigned to the staff, and the needs of the general population of persons served by the program; and
 - b. Professional licensure, registration, or certification, when applicable.