

August 29, 2011

To: Case Managers and Guardians/Legal Representatives

Pursuant to the Consolidated Rule Standards (MN Statutes 2002, section 245.07B, subdivision 9) we are informing you of several policy and procedure revisions at the Harry Meyering Center.

Copies of the revised policies and procedures that directly affect individuals served in regards to service provision or rights protections are included with this letter as per clause 3 of the above mentioned standard. This policy was implemented without 30 days prior notice to case managers and guardians/legal representatives in response to the Minnesota Department of Human Services granting HMC a waiver to provide services to an individual under the age of 18.

1. **Maltreatment of Minors – Homestead ICF**
 - a. Sets the guidelines for reporting maltreatment of individuals under the age of 18.

The revised policies that do not directly affect individuals served are listed with this letter as per clause 4 of the above mentioned standard.

1. **Equal Employment Opportunity Policy**
 - a. Updated discrimination categories as well as HR Director and address.
2. **Services Provided**
 - a. Updated description of SILS/SLS In-Home Services. No service changes were made.
3. **Fundraising Policy**
 - a. Clarifies which gifts are and are not accepted as donations and who is responsible for thank yous and reporting.
 - b. States the information that will be filed with the Attorney General's Office.
 - c. Clarifies when HMC's tax exempt number can be used for fund raising purposes.

Questions regarding any of the policy or procedure revisions can be directed to Judy Arzdorf, HMC Director of Program Services at 507.387.8281 or jarzdorf@harrymeyeringcenter.org.

Sincerely,

Judy Arzdorf
Director of Program Services
Harry Meyering Center

Maltreatment of Minors

Board Approved: August 24, 2011

Formal Adoption: August 24, 2011

Value: We value respectful communication which promotes and protects the interests of individuals served, employees, and the agency.

Value: We value an emotionally-safe environment which promotes security and a sense of well-being for all.

Any individual receiving services from the Harry Meyering Center who is younger than 18 years old is protected under the Maltreatment of Minors Act. The act establishes the system for reporting possible child abuse and neglect to government agencies that provide protective services for the child or conduct criminal investigations.

What to Report

A report should include enough information to identify the child involved, any persons responsible for the abuse or neglect (if known), and the nature and extent of the maltreatment and/or possible licensing violations. For reports concerning suspected abuse or neglect occurring within a licensed facility, the report should include any actions taken by the facility in response to the incident.

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

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

Sexual Abuse means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section [609.341](#), or by a person in a position of authority, as defined in section [609.341](#), subdivision 10, to any act which constitutes a violation of section [609.342](#) (criminal sexual conduct in the first degree), [609.343](#) (criminal sexual

conduct in the second degree), [609.344](#) (criminal sexual conduct in the third degree), [609.345](#) (criminal sexual conduct in the fourth degree), or [609.3451](#) (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections [609.321](#) to [609.324](#) or [617.246](#). Sexual abuse includes threatened sexual abuse.

Neglect means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means (see below for criteria for accidental):

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

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

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

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

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.

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

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

What else must be reported under the act?

A mandated reporter must report to law enforcement kidnapping or actions that deprive a parent of custodial or parenting time rights. This report does not trigger a local social services agency assessment.

What is not reported under the act?

Accidental means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

- (1) is not likely to occur or could not be prevented by due care; and
- (2) if occurring while a child is receiving services from a facility, happens with the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

Incidents that meet the criteria of accidental, still require an Incident Report.

Who Should Report Maltreatment of Minors

As an employee of Harry Meyering Center, you are legally required or mandated to report. If you know or have reason to believe a child is being or has been neglected or physically or sexually abused within the preceding three years you must immediately (within 24 hours) make a report to an outside agency (excluding weekends and holidays). Reports may be made internally by contacting the On-Call Designee or externally by contacting the appropriate external agencies (as listed below).

Mandated Reporters Include:

- 1.) professional or professional's delegate while engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or
- 2.) employed as a member of the clergy and received the information while engaged in ministerial duties.

All employees of HMC, consultants, and volunteers are considered to be "mandated reporters" as specified by M.S. 626.556. A list of employees and consultants is maintained by the Business Office. HMC uses the telephone list to meet this requirement. A list of current volunteers is maintained by the Director of Program Services.

Any person may voluntarily report abuse or neglect.

Where to Report

Employees of the facility are required to make an oral and written report regarding any incident of observed or suspected maltreatment of a minor. This report may be made externally by contacting the appropriate agencies listed below or internally by contacting on-call who will then contact the agencies below as required.

An oral report shall be made immediately (within 24 hours) by the reporting employee to the appropriate agency or agencies. A written report must then follow the oral report with 72 hours (excluding weekends and holidays).

The written report that is sent to the appropriate agencies will include the following:

- Child Protection Referral Form
- Internal Investigation Summary Form

1. **Immediate danger:** Call 911 if you have reason to believe the child is in immediate danger. Make your oral report to law enforcement. Your written report must follow within 72 hours.

2. No immediate danger: If you do not believe the child is in immediate danger, **call the county child protection number** if you believe the alleged perpetrator is a parent, guardian, family child care provider, family foster care provider, or juvenile correctional facility staff person.

Blue Earth County Intake phone: 304-4444 (After hours/weekends phone: 304-4319)
Fax: 304-4387

3. No immediate danger: **Call the MN Dept. Of Health, Office of Health Facility Complaints (800-369-7994)** if the alleged maltreatment occurred in a home health care setting, hospital, regional treatment center, nursing home, or ICF/MR.
4. No immediate danger: **Call the MN Dept. of Education, (651-582-8546)** if the alleged perpetrator is employed by any type of school, when the child is a student of the school.
5. No immediate danger: **Call local law enforcement agency (911)** if the alleged perpetrator is someone outside the family and not a staff person at a facility. (I.e. athletic club staff and baby sitters)
6. No immediate danger: **Call DHS Division of Licensing (651-297-4123)** if the alleged maltreatment was committed by a staff person at Harry Meyering Center, a child care center, residential treatment center, group home for children, minor parent program, shelter for children, chemical dependency treatment program for adolescents, waived services program for children, crisis respite service program for children, or residential service program for children with developmental disabilities.

Failure to Report

A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony.

In addition, a mandated reporter who fails to report maltreatment that is found to be serious or recurring maltreatment may be disqualified from employment in positions allowing direct contact with persons receiving services from programs licensed by the Department of Human Services and by the Minnesota Department of Health, and unlicensed Personal Care Provider Organizations.

Malicious and reckless reports

Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Retaliation Prohibited

An employer of any mandated reporter shall not retaliate against the mandated reporter for reports made in good faith or against a child with respect to whom the report is made. The Reporting of Maltreatment of Minors Act contains specific provisions regarding civil actions that can be initiated by mandated reporters who believe that retaliation has occurred.

Internal Review

An investigation and an internal review shall be conducted for every report of observed or suspected Maltreatment of a Minor as soon as HMC becomes aware a report has been made. The purpose of the Internal Review is to take corrective action, if necessary, to protect the health and safety of the minor involved in the report.

Additionally as a part of completing the investigation, an **internal review** will be completed and corrective action will be taken as necessary to protect the health and safety of minors in HMC's care when HMC has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The internal review shall include:

1. An evaluation of whether related HMC policies and procedures were followed;
2. An evaluation of whether the policies and procedures were adequate;
3. An evaluation of whether there is a need for additional staff training;
4. An evaluation of whether the reported event is similar to past events with the minor(s) or the services involved;
5. An evaluation of whether there is a need for corrective action by HMC to protect the health and safety of minors receiving care.

Internal Review Process

- a. The Program Director or their designee shall conduct an investigation of the incident, and will cooperate with the law enforcement and agency assigned to investigate the alleged maltreatment. If the allegation identifies the Program Director as perpetrator, the Director of Program Services will be designated as Internal Investigator. If the allegation identifies the Director of Program Services as perpetrator, the Executive Director will be designated as Internal Investigator.
- b. The Internal Investigator and the outside investigative authorities will have access to all reports available regarding the alleged or suspected maltreatment. To the extent possible, the identity of the reporter will not be disclosed.
- c. In conducting any investigation, the Internal Investigator will comply with the provisions of Personnel Policies as it relates to questioning any employee where the employee may be the subject of disciplinary action. Any employee suspected of maltreatment may be suspended at the discretion of the Program Director or their designee.
- d. The Internal Investigator, if not the Program Director, will provide a written report of the investigation to the Program Director.
- e. Within 24 hours of making a maltreatment report, the Program Director or designee will inform the consumer's legal representative and case manager of the report unless there is a reason to believe that the legal representative or case manager is involved in the suspected maltreatment. The information disclosed will include:

1. the nature of the activity or occurrence reported,
2. the agency that receives the report, and
3. the telephone number of the MN Department of Health, Office of Facility Complaints

When the **investigation** has been completed, the Program Director or their designee will determine the appropriate disciplinary action, if any. The employee suspected of maltreatment shall be notified promptly of the results of the investigation in a manner deemed appropriate.

1. If the allegation is false, no report will be filed in the employee's personnel file.
2. If the report cannot be substantiated or disproved, no report shall be filed in the employee's personnel file; however, reports and material gathered on the incident shall be retained by the Program Director.
3. If the allegation is proven, appropriate disciplinary action will be assessed to the employee.
4. If the employee remains employed, a program will be devised to prevent reoccurrence of this behavior. This may include, but not be limited to, training, individual coaching, additional supervision, and/or reassignment of duties.

Based on the results of this internal review, HMC will develop, document and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or HMC as a company, if any lapses were identified.

Documentation

All documentation related to the report of maltreatment, internal investigation, corrective action, correspondence with appropriate agencies, notifications to legal representative and case manager and any additional training will be maintained in a confidential location within the Program Director's Office.

This information must be made available to the commissioner upon request.

Staff Training

The license holder must provide training to all staff related to the mandated reporting responsibilities as specified in the Reporting of Maltreatment of Minors Act (Minnesota Statutes, section 626.556). The license holder must document the provision of this training in individual personnel records, monitor implementation by staff, and ensure that the policy is readily accessible to staff, as specified under Minnesota Statutes, section 245A.04, subdivision 14.

All HMC employees will be informed of their responsibility to report maltreatment of minors.

1. All newly employed staff members will receive training on this policy within 72 hours of employment from the designated trainer. All students, volunteers, and new employees will receive an explanation of the policy as part of orientation to their position.

2. Orientation to this policy, MN Statute section 626.556 (Reporting Maltreatment of Minors) will be provided as a part of the "New Employee Orientation."
3. Annually all staff will receive training on M.S. 626.556 and this policy.
4. Copies of this policy will be in each Policy and Procedures Manual at each site via the HMC website and will be available, upon request. The internal and external reporting policy will also be posted at each site.

President, Board of Directors

Date