

<b>Facility Name:</b> Middlesex Therapeutic Community Residence	
<b>Policy and Procedure:</b> Mandatory Reporting	
<b>Replaces Version Dated:</b> 04/25/17	<b>Effective Date:</b> 05/10/22

**Policy:**

The Middlesex Therapeutic Community Residence (MTCR) shall provide treatment to all residents in a safe environment. The staff have a responsibility and duty to protect the safety of residents and others as part of the clinical care offered during treatment. MTCR will not tolerate abuse, neglect, or exploitation of any resident by any person. Incidents of suspected abuse, neglect, or exploitation shall be reported as required by State and Federal laws and regulations. MTCR will not retaliate against any person for making a good faith report of resident mistreatment.

**Purpose:**

1. To ensure a safe and secure resident treatment environment.
2. To ensure compliance with State and Federal mandated reporting requirements.
3. To ensure appropriate documentation of significant events.

**Relevant Laws/Regulations:**

33 V.S.A. § 6903 et. seq. (*Reports of Abuse, Neglect and Exploitation of Vulnerable Adults*)

Licensing and Operating Regulations for Therapeutic Community Residences,<sup>1</sup> Section 5.16 (*Reporting Abuse, Neglect or Exploitation*)

**Procedure:**

**A. Reports of Abuse, Neglect or Exploitation**

*You do not have to prove or be certain that a vulnerable adult has been abused, exploited, or neglected in order to make a report; you only need to have reason to believe that abuse may have occurred or is still occurring. It is the responsibility of Adult Protective Services (APS) to investigate whether abuse, neglect or exploitation has occurred. It is also the job of the APS team to determine whether an individual is “vulnerable” as defined by relevant law.*

---

<sup>1</sup> [https://dail.vermont.gov/sites/dail/files/documents/Regulating\\_TCR\\_Adopted\\_Rule\\_2022.pdf](https://dail.vermont.gov/sites/dail/files/documents/Regulating_TCR_Adopted_Rule_2022.pdf)

## **What to report:**

- Any person, including any employee, volunteer, or consultant/contractor of MTCR, who knows of or has received information of or has reason to suspect that any resident has been abused, neglected, or exploited by any person shall ensure that a report is filed with APS as soon as possible and within 24 hours as described in section (b) below.
  - When a report is made to APS, you must notify the Program Director, Nurse Supervisor, or DMH Administrator On Call (if night/weekend/holiday). You must speak to a person. Leaving a voicemail/email/text message does not meet this requirement.
- If the alleged perpetrator of the suspected abuse is either the Nurse Supervisor or the Program Director contact the DMH Director of Mental Health Services or designee at 802-241-0090 or the DMH Administrator On Call. The DMH Director of Mental Health Services or designee shall determine whether an incident sufficiently gives rise to a suspicion of abuse, neglect, or exploitation of a vulnerable adult. If the DMH Director of Mental Health Services or designee determines that the facts support a suspicion of abuse, neglect, or exploitation, they shall ensure that a report is filed with Adult Protective Services as soon as possible and within 24 hours as described in section (b) below.
  - In such a case, the DMH Director of Mental Health Services or designee shall immediately take whatever other steps are necessary to ensure the safety of residents.
- Incidents involving resident- to- resident incidents, even minor ones, must be recorded in the resident's medical chart. Guardians or legal representatives must be notified pursuant to Resident Face Sheet, and a plan must be developed by the MTCR Psychologist or designee to address the behaviors.

## **How to report:**

1. **Report all suspected abuse to Adult Protective Services (APS) as soon as possible and within 24 hours.** The report shall first be made to APS in the Division of Licensing and Protection of the Department of Aging and Independent Living (DAIL). Reports must be made on-line via their webpage: <https://dlp.vermont.gov/aps/make-aps-report>.
  1. The report shall contain the names and addresses of the reporter as well as the names and addresses of the resident, the age of the resident, the nature of his or her illness, the nature and extent of the resident's abuse, neglect or exploitation together with any other information that the reporter believes may be helpful in establishing the cause of any injuries or reasons for the abuse, neglect or exploitation as well as information that may be helpful in protecting the resident from further abuse.

2. You will receive an email confirmation from APS once you file a report. This email must be forwarded to the Nurse Supervisor and Program Director.
2. **Complete a Resident Event Form.** Once an APS report is filed, you must fill out a Resident Event Form.
  1. All reports must be reported immediately to the DMH Quality Management Coordinator at 802-595-2444. Leave a message describing the event as well as sending a scanned copy of the Resident Event Form to [AHS.DMHquality@vermont.gov](mailto:AHS.DMHquality@vermont.gov).
  2. Send a scanned copy of the Resident Event Form to APS at [aps@vermont.gov](mailto:aps@vermont.gov).
  3. Send a scanned copy of the Resident Event Form to DAIL's Survey and Certification at [AHS.DAILIntake@vermont.gov](mailto:AHS.DAILIntake@vermont.gov).
  4. Leave the original form in the Program Director's Office.
3. **Cooperation with APS.** All staff, volunteers and consultants/contractors shall cooperate as necessary with APS officials or other appropriate officials, including law enforcement, relating to any investigations of resident mistreatment.
4. **Immunity from liability for reporting.** Any person who in good faith makes a report of suspected abuse, neglect, or exploitation of a resident at MTCR shall be immune from any liability, civil or criminal, for making the good faith report. No employer or supervisor may discharge, demote, transfer, reduce pay, benefits, or work privileges, prepare a negative work evaluation, or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this policy, by reason of the report. In addition, no individual, resident, family member or visitor shall be subject to any form of retaliation for making a good faith report of abuse, neglect or exploitation.
5. **Failure to report.** Any MTCR employee that fails to report or delays in reporting any suspected abuse, neglect or exploitation shall be subject to disciplinary action.
  1. In addition, failure to report could result in criminal charges. Penalties could include a \$500 fine, an additional \$500 fine for each 24-hour period that the incident is not reported, and up to a one-year prison term.

## **Definitions:**

### **Vulnerable Adult**

Most elders and people with disabilities successfully manage their own lives and can provide for their own care without assistance. They are not automatically defined as "vulnerable adults" simply because of age or disability. The term "vulnerable adult" has a very specific meaning as defined by Vermont law under Title 33 of the Vermont Statutes Annotated ([33 V.S.A. §6902](#)). A person is a vulnerable adult if he/she is:

1. is age 18 or older; and
2. is a resident of a licensed facility such as a nursing or community care home; or
3. is a patient in a psychiatric unit or hospital; or

4. has received personal care services for longer than one month; or
5. regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability.

### **Abuse**

Vermont law provides a broad definition of “abuse” as it applies to vulnerable adults.

Abuse is defined as:

1. Any treatment of a vulnerable adult which places his or her life, health, or welfare in jeopardy or which results in impairment of health.
2. Any conduct committed with intent to cause or reckless disregard of unnecessary pain, harm, or suffering unnecessary or unlawful confinement or restraint of a vulnerable adult.
3. Intentionally subjecting a vulnerable adult to behavior which results in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress.
4. Any sexual activity with a vulnerable adult by a caregiver who volunteers for or is paid by a care-giving facility or program. (This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse, nor to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult).
5. Administration of a drug, substance, or preparation to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.

### **Neglect**

Neglect may be a single incident or repeated conduct which results in physical or psychological harm. "Neglect" is defined as:

1. Failing to provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services.
2. Not protecting a vulnerable adult from abuse, neglect, or exploitation by others.
3. Failure to carry out a plan of care for a vulnerable adult when such failure results in physical or psychological harm or a substantial risk of death to the vulnerable adult.
4. Not reporting significant changes in the health status of a vulnerable adult to a physician, nurse, or immediate supervisor, when the caregiver is employed by an organization that offers, provides, or arranges for personal care.

### **Exploitation**

Vermont statutes define exploitation of a vulnerable adult as:

1. Willfully using, withholding, transferring, or disposing of funds or property of a vulnerable adult for the wrongful profit or advantage of another.
2. Acquiring possession, control or an interest in funds or property of a vulnerable adult through undue harassment or fraud.
3. Forcing a vulnerable adult against his or her will to perform services for the profit or advantage of another.
4. Any sexual activity with a vulnerable adult when the vulnerable adult does not consent or is incapable of resisting due to age, disability or fear of retribution or hardship.

## **B. Internal Response**

1. **Nurse Supervisor responsibility:** Immediately upon making a report or upon receiving notice that a report of abuse, neglect or exploitation has been filed with APS, the Nurse Supervisor or designee shall take the following steps:
  - a. **Resident safety.** Evaluate the safety of the resident who is the subject of the report and take action as necessary to protect the resident from harm.
  - b. **Physician exam.** When indicated, arrange for a physician to examine and assess the resident that may have been victim of mistreatment for any impact of the suspected mistreatment. The physician shall prepare a written statement of findings and a copy of the report will be included in the resident chart.
  - c. **Remove/re-assign staff.** Consult with the Program Director or designee regarding the need to immediately remove or re-assign staff.
2. **Program Director responsibility** As soon as possible after making a report or receiving notice that a report of abuse, neglect or exploitation has been made, the Program Director or designee shall:
  - a. **Resident safety:** Evaluate the safety of the resident who is the subject of the report and take action as necessary to protect the resident from harm.
  - b. **Determine whether there is reason to believe that a criminal act occurred:** If the Program Director or designee determines that there is any reason to believe that a criminal act has occurred, they shall:
    1. Ensure that the scene of event has been secured until the full investigation is initiated. Securing the scene shall include, but is not limited to:

- a. safeguarding all potential evidence from possible contamination.
    - b. responding to any issues that may involve blood borne pathogens.
    - c. securing relevant documentation.
    - d. referral of residents involved in allegations of sexual abuse or sexual assault to emergency room for examination.
  - 2. Notify the Division of Licensing and Protection, Report any alleged criminal incidents to the Commissioner of Mental Health and Department of Mental Health General Counsel.
  - c. **Remove/re-assign staff:** After consultation with the Nurse Supervisor or designee, temporarily remove/re-assign any staff involved in any allegation from contact with the resident that may have been the victim of mistreatment until the investigation by APS has concluded.
  - d. **Other disciplinary action:** Determine whether other disciplinary action is warranted and proceed pursuant to relevant personnel procedures.
3. **Systems Review and Response:**
- 1. **Review If Indicated:** Should the Program Director determine a further review is indicated, they shall:
    - 1. Convene a meeting of MTCR leadership and other appropriate staff to review and analyze all reports of abuse. The review should consider:
      - a. Trends and/or patterns of suspected abuse, neglect, or exploitation, including:
        - 1. Categories of residents that are more likely to be involved in suspected mistreatment
        - 2. Categories of staff that are more likely to be involved in suspected mistreatment
        - 3. Other facts, circumstances or conditions that are similar among the reports of mistreatment
      - b. All ideas and suggestions for policy, procedural, educational, or other management or operational changes that might reduce the incidence of suspected abuse in the future

<b>Approved by</b>	<b>Signature</b>	<b>Date</b>
<b>Emily Hawes Commissioner Department of Mental Health</b>		