

TO: LICENSED CHILD CARE PROVIDERS
FROM: OLMSTED COUNTY LICENSORS
RE: LEGISLATIVE UPDATES
MAILED: NOVEMBER 8, 2002

UPDATE TO PROVIDER POLICY

Minnesota Statutes, section 245A.145, subdivision 1, requires all licensed child care providers to develop policies and procedures for reporting suspected child maltreatment and licensing complaints about the operation of the day care program. By July 1, 2002, the policy must be provided to the parent of all children in care at the time of enrollment and be made available upon request. Children currently enrolled in the program are also included in this change. The policy must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment and the county licensing agency for family and group family child care providers. In addition, it requires DHS to print the telephone number for the licensing agency in bold and large font on the license issued to child care providers.

Attached is a reporting policy that you can attach to your provider policy for parents to sign. It includes the definitions of abuse and neglect directly from the maltreatment of minors act. Having this document signed, dated, and attached to your policy will fulfill the new requirements.

To receive more information on legislative updates, you can log on to:
www.revisor.leg.state.mn.us Click on Laws, Statutes, and Rules; go to Session Laws; select 2002 Session; then click on the appropriate chapter for the legislation of interest to you.

REPORTING POLICY FOR LICENSED FAMILY CHILD CARE PROGRAM

Who Should Report Child Abuse and Neglect

- Any person may voluntarily report abuse or neglect.
- If you work with children in a licensed facility, you are legally required or mandated to report and cannot shift the responsibility or reporting to anyone else. 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 twenty-four [24] hours) make a report to an outside agency.

Where to Report

- If you know or suspect that a child is an immediate danger, call 9-1-1.
- Reports regarding incidents of suspected abuse or neglect of children occurring at a family child care program, within a family or in the community should be made to the **local county social services agency at 285-7009**. Or you may contact your local law enforcement at 285-8580.
- If your report does not involve possible abuse or neglect, but does involve possible violations of Minnesota Statutes or Rules that govern the facility, you should call your local county social services agency – **Day Care Licensing Unit at 285-7009**.

What to Report

- Definitions of maltreatment are contained in the Reporting of Maltreatment of Minors Act, Minnesota Statutes, Section 626.556 (see attached).
- A report to any of the above agencies should contain 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.
- An oral report of suspected abuse or neglect made to one of the above agencies by a mandated reporter must be followed by a written report to the same agency within seventy-two (72) hours, exclusive of weekends and holidays.

Retaliation Prohibited

Minnesota Statutes, Section 626.556, Subd. 4a, states that 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 had occurred.

Failure to Report

- Pursuant to Minnesota Statutes, Section 626.556, subd. 6, a mandated reporter who knows or has reason to believe a child is or had been neglected or physically or sexually abused and fails to report is guilty of a misdemeanor. 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.

THIS REPORTING POLICY MUST BE PROVIDED TO THE PARENTS OF ALL CHILDREN AT THE TIME OF ENROLLMENT IN THE CHILD CARE PROGRAM AND MUST BE MADE AVAILABLE UPON REQUEST.

Signature: _____

SEE ATTACHMENT A FOR DEFINITIONS OF ABUSE AND NEGLECT.

ATTACHMENT A

Minnesota Statutes, Section 626.556, Subdivision 2. Definitions. As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

- (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 offense under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.
- (b) **“Person Responsible for the Child’s Care”** means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching and coaching.
- (c) **“Neglect”** means:
 - (1) failure by 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;
 - (3) failure to provide for necessary supervision of 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.09, Subdivision 3;
 - (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 non-medical purpose, as evidenced by withdrawal symptoms in 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 normal range for the child’s age and state of development, with due regard to the child’s culture.
- (d) **“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 adverse 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 non-accidental injury to a child under eighteen (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 one (1) 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.