

Community Mental Health Partnership of Southeast Michigan/PIHP	<i>Policy and Procedure</i> <i>Abuse and Neglect</i>
Department: Recipient Rights Author: Shane Ray	Local Policy Number (if used)
Regional Operations Committee Approval Date 3/22/2021	Implementation Date 3/22/2021

I. PURPOSE

The purpose of this policy is to establish guidelines for:

1. Protecting recipients from abuse and neglect.
2. Investigating and remediating allegations of abuse and neglect.

II. REVISION HISTORY

DATE	REV. NO.	MODIFICATION
5/18/10	1.0	Full policy revision
4/29/13	1.1	Template updated
1/13/17	1.2	Template Updated
2/13/20	1.3	3-year review Definition Changes
3/22/21	1.4	Definition additions

III. APPLICATION

This policy applies to all staff, students, volunteers, and contractual organizations receiving any funding directly or sub-contractually, within the provider network of the Community Mental Health Partnership of Southeast Michigan (CMHPSM).

IV. POLICY

It is the policy of the CMHPSM that recipients shall be protected from abuse and neglect during the provision of mental health services.

V. DEFINITIONS

Abuse Class I: A non-accidental act or provocation of another to act by an employee, contract employee or volunteer that caused or contributed to the death, serious physical harm, or sexual abuse of a recipient.

Abuse Class II: Abuse Class II is defined as any of the following:

1. A non-accidental act or provocation of another to act by an employee, contract employee or volunteer that caused or contributed to the non-serious physical harm of a recipient;
2. The use of unreasonable force on a recipient by an employee, contract employee or volunteer with or without apparent harm;
3. Any action, or provocation of another to act, by an employee, contract employee or volunteer which causes or contributes to, emotional harm to a recipient;
4. An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient;
5. Exploitation of a recipient by an employee, contract employee or volunteer.

Abuse Class III: The use of language, or other means of communication by an employee, contract employee or volunteer to degrade, threaten, or sexually harass a recipient.

Bodily Function: The usual action of any region or organ of the body.

Community Mental Health Partnership Of Southeast Michigan (CMHPSM): The Regional Entity that serves as the PIHP for Lenawee, Livingston, Monroe and Washtenaw for mental health, developmental disabilities, and substance use disorder services.

Community Mental Health Services Program (CMHSP): A program operated under chapter 2 of the Mental Health Code as a county community mental health agency, a community mental health authority, or a community mental health organization.

Criminal Abuse: Assault, criminal homicide, criminal sexual conduct, vulnerable adult abuse or child abuse as defined in the Michigan Penal Code, Act 328 of Public Acts of 1931.

Degrade: Degrade is defined as any of the following:

1. To treat humiliatingly: to cause somebody a humiliating loss of status or reputation or cause somebody a humiliating loss of self-esteem; make worthless; to cause a person to feel that they or other people are worthless and do not have the respect or good opinion of others. (syn) degrade, debase, demean, humble, humiliate. These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace.
2. Any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

Examples of behavior that is degrading and must be reported as abuse include but is not limited to:

- a. Swearing at recipients
- b. Using foul language at recipients
- c. Using racial or ethnic slurs at recipients
- d. Causing or prompting others to commit the actions listed above.

Emotional Harm: Impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

Exploitation: Any action by an employee, contract employee, or volunteer that involves the misappropriation or misuse of a recipient's property or funds for the benefit of an individual or individuals other than the recipient.

Legal Representative: A legal representative is defined as any of the following:

1. A court-appointed guardian;
2. A parent with legal custody of a minor recipient;
3. In the case of a deceased recipient, the executor of the estate or court appointed personal representative;

4. A patient advocate under a durable power of attorney or other advanced directive.

Neglect Class I: Neglect Class I is defined as either of the following:

1. Acts of commission or omission by an employee, contract employee or volunteer, which result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, procedures, written directives, or individual plan of service, and which causes, or contributes to the death or serious physical harm to or sexual abuse of a recipient; or,
2. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

Neglect Class II: Neglect Class II is defined as either of the following:

1. Acts of commission or omission by an employee, contract employee or volunteer which result from noncompliance with a standard of care required by law, rules, policies, guidelines, procedures, written directives, or individual plan of service which cause, or contribute to, non-serious physical harm, or emotional harm, to a recipient; or,
2. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

Neglect Class III: Neglect Class III is defined as either of the following:

1. Acts of commission or omission by an employee, contract employee or volunteer, which result from noncompliance with a standard of care required by law, rules, policies, guidelines, procedures, written directives or individual plan of service which either placed or could have placed, a recipient at risk of physical harm or sexual abuse;
2. The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.

Non-Serious Physical Harm: Physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.

Physical Management: A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself, herself, or others.

Regional Entity: The entity established under section 204b of the Michigan Mental Health Code to provide specialty services and supports.

Serious Physical Harm: Physical damage suffered by a recipient that a physician or registered nurse determine caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.

Sexual Abuse: Sexual Abuse is defined as any of the following:

1. Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, being 750.520b to MCL 750.520e involving an employee, contract employee, volunteer, or agent of a provider and a recipient.

2. Any sexual contact or sexual penetration involving an employee, contract employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act, or an adult foster care facility and a recipient.
3. Any sexual contact or sexual penetration of a recipient involving an employee, contract employee, or volunteer and a recipient for whom the employee, contract employee, or volunteer provides direct services.

Sexual Contact: The intentional touching of the recipient's, employee's, contract employee's or volunteer's intimate parts (genitals, buttocks, breasts, groin, inner thigh, or rectum); or the touching of the clothing covering the immediate area of the recipient's, employee's, contract employee's or volunteer's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for any of the following:

1. Revenge.
2. To inflict humiliation.
3. Out of anger.

Sexual Harassment: Any action, by any person, which can be construed as:

1. Sexual advances toward a recipient.
2. Requests for sexual favors from a recipient.
3. Conduct or communication of a sexual nature toward a recipient.

Sexual Penetration: Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or any object into the genital or anal openings of another person's body, but emission of semen is not required.

Threaten: To tell someone that you will hurt them or cause problems if they do not do what you want.

Examples threatening behavior:

- a. Language or other means of communication that implies intentions of injury or punishment against recipient.
- b. To express a deliberate intention to deny the well-being, safety, or happiness of somebody unless the person does what is being demanded.

Unreasonable Force: Physical management or force that is applied by an employee, contract employee, or volunteer, to a recipient in one or more of the following circumstances:

1. There is no imminent risk of serious or non-serious physical harm to the recipient, staff or others.
2. The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency.
3. The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service.
4. The physical management or force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.

VI. STANDARDS

- A. All staff members are responsible for safeguarding recipients from abuse and neglect.
- B. Any staff member who has knowledge of apparent or suspected recipient abuse or neglect shall ensure that it is immediately verbally reported to the Office of Recipient Rights and other appropriate entities as required by law and in accordance with the Michigan Mental Health Code. This includes any and all incidents that the staff, students, volunteers and/or contractual agencies have either witnessed or received reports of that constitute or may constitute abuse or neglect as defined in this policy, whether or not the staff believes the allegation to be true.
- C. Failure to report abuse and neglect shall subject the employee to administrative and disciplinary action, up to and including termination.

VII. EXHIBITS

- A. Report on Recipient Abuse
- B. Report of Actual or Suspected Child Abuse or Neglect - DHS 3200

VIII. REFERENCES

Reference:	Check if applies:	Standard Numbers:
Michigan Mental Health Code, Public Act 258 of 1974 as amended	X	330.1700(a), 330.1722, 330.1723, 330.1778
MDHHS Administrative Rules	X	330.7001, 330.7035
Michigan Penal Code, Act 328 of Public Acts of 1931	X	
CMHSP Provider Contract – Attachment A	X	
P.A. 519 of 1982, Adult Protective Services	X	
Child Protection Law, Public Act 238 of 1975, as amended	X	
42 C.F.R. (Code of Federal Regulations) Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, Final Rule	X	
MDHHS Revised Plan for Procurement of Medicaid Specialty Prepaid Health Plans	X	

IX. PROCEDURES

WHO	DOES WHAT
All CMH or contractual agency staff, students, and volunteers	1) Upon discovery of apparent or suspected abuse or neglect, takes immediate action

	<p>to protect, comfort and ensure treatment of the recipient as necessary.</p> <ol style="list-style-type: none"> 2) Ensures that emergency medical personnel are notified immediately if necessary due to any injury. 3) If sexual abuse is suspected, ensures that the recipient is offered to be taken to a hospital for an examination, which may include a Sexual Assault Kit. 4) Immediately verbally reports apparent or suspected abuse or neglect to direct supervisor, recipient's Supports Coordinator/Client Services Manager and the legal representative, if applicable. 5) Immediately verbally reports apparent or suspected abuse or neglect to the Rights Officer. This shall occur by no later than the next business day. 6) Immediately verbally notifies the appropriate public agency as required by law regarding any apparent or suspected abuse, neglect, sexual abuse, or death of any recipient. 7) Immediately verbally notifies or ensures that immediate verbal notification is made to Protective Services in accordance with PA 238, Child Protection Law or PA 519. Immediately notifies or ensures that Licensing is notified if the incident occurred in a licensed residential setting. 8) If there is reasonable cause to suspect that criminal abuse has occurred, immediately notifies or ensures immediate verbal notification to the appropriate law enforcement agency with a written report (Report on Recipient Abuse) to follow within 72 hours. 9) Distributes the Report on Recipient Abuse as follows: <ol style="list-style-type: none"> a) Original copy to applicable law enforcement agency. b) Copies to:
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	<ul style="list-style-type: none"> i) Recipient record (with names of alleged abuser(s) and reporting person redacted). ii) Adult/Child protective services, as applicable. iii) Licensing consultant, as applicable. iv) Office of Recipient Rights <p>10) Recipient to recipient simple assault is not required to be reported to law enforcement. It is not required to make a report to law enforcement of alleged abuse that:</p> <ul style="list-style-type: none"> a) Occurred more than one year prior to being revealed, or b) Did not occur at a CMHPSM or provider site nor was committed by an employee, contract employee, student or volunteer. <p>11) Provides assistance to Protective Services and/or police agency if requested. However, 42 C.F.R. (Code of Federal Regulations) Part 2 prohibits disclosure of any alcohol or drug abuse treatment information after the initial report of child abuse or neglect has been made unless there is either an appropriate court order or consent.</p> <p>12) Documents on an Incident Report Form the death, serious injury, suspected abuse, neglect, or sexual abuse of a recipient. For recipients under the age of 18, attaches a copy of the Report of Actual or Suspected Child Abuse or Neglect, DHS-3200 to the Incident Report Form. Submits the Incident Report and if applicable, the DHS-3200 to the Rights Officer immediately if possible, but by no later than the next business day. Writing an Incident Report <u>does not</u> meet the requirement of making a verbal report of apparent or suspected abuse/neglect to the Rights Office.</p>
Recipient Rights Officer	<ul style="list-style-type: none"> 1) Upon receipt of abuse or neglect allegation: <ul style="list-style-type: none"> a) Determines if there is reasonable cause to suspect abuse or neglect. b) Ensures that the recipient is protected

	<p>from further mistreatment.</p> <ul style="list-style-type: none">c) Ensures that all of the procedures have been followed as outlined in this policy.d) Informs local Director/Designee. <p>2) If abuse or neglect allegation involves a CMH or contractual agency staff, student, or volunteer, immediately initiates an independent investigation in compliance with CMHPSM Policy: <u>Office of Recipient Rights</u>.</p> <p>3) Upon substantiated allegations of abuse or neglect:</p> <ul style="list-style-type: none">a) Requests remediation that will prevent future recurrence.b) Requests firm and fair discipline against the perpetrator of abuse/neglect in compliance with agency policy.
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Exhibit A: Report on Recipient Abuse

Report on Recipient Abuse
CONFIDENTIAL

Community Mental Health
Partnership of Southeast Michigan

REPORT ON RECIPIENT ABUSE
(as required by Public Act 224 of 1986)

IN THE MATTER OF:
Name of Recipient:
Person/Agency Responsible for Recipient:
Street Address:
City, State, Zip Code:
Telephone Number:
TO:
Law Enforcement Agency:
Street Address:
City, State, Zip Code:
Telephone Number:
Follow-up to an oral report given to your agency on:

REPORT OF SUSPECTED ABUSE

Alleged abuser(s):	
Please indicate cause and manner of abuse where incident occurred:	

Signature/Title of Reporting Person

Date

Cc: Office of Recipient Rights
Clinical File, with alleged abuser's and reporting person's names blacked out
CMH Director/Designee
MDHHS Adult Protective Services/Child Protective Services
Office of Children and Adult Licensing (LARA) if applicable

REPORT ON RECIPIENT ABUSE – FILE IN RELEASE OF INFO SECTION

REPORT OF ACTUAL OR SUSPECTED CHILD ABUSE OR NEGLECT
Michigan Department of Health and Human Services

Was complaint phoned to MDHHS? <input type="checkbox"/> Yes <input type="checkbox"/> No ▶ If yes, Log # _____ ▶ If no, contact Centralized Intake (855-444-3911) Immediately				
INSTRUCTIONS: REPORTING PERSON: Complete items 1-19 (20-28 should be completed by medical personnel, if applicable). Send to Centralized Intake at the address list on page 2.				1. Date _____
2. List of child(ren) suspected of being abused or neglected (Attach additional sheets if necessary)				
NAME	BIRTH DATE	SOCIAL SECURITY #	SEX	RACE
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
3. Mother's name _____	_____	_____	_____	_____
4. Father's name _____	_____	_____	_____	_____
5. Child(ren)'s address (No. & Street) _____	6. City _____	7. County _____	8. Phone No. _____	
9. Name of alleged perpetrator of abuse or neglect _____	10. Relationship to child(ren) _____			
11. Person(s) the child(ren) living with when abuse/neglect occurred _____	12. Address, City & Zip Code where abuse/neglect occurred _____			
13. Describe injury or conditions and reason for suspicion of abuse or neglect _____ _____ _____				
14. Source of Complaint (Add reporter code below)				
01 Private Physician/Physician's Assistant	11 School Nurse	42 MDHHS Facility Social Worker		
02 Hosp/Clinic Physician/Physician's Assistant	12 Teacher	43 DMH Facility Social Worker		
03 Coroner/Medical Examiner	13 School Administrator	44 Other Public Social Worker		
04 Dentist/Registar Dental Hygienist	14 School Counselor	45 Private Agency Social Worker		
05 Audiologist	21 Law Enforcement	46 Court Social Worker		
06 Nurse (Not School)	22 Domestic Violence Providers	47 Other Social Worker		
07 Paramedic/EMT	23 Friend of the Court	48 FIS/ES Worker/Supervisor		
08 Psychologist	25 Clergy	49 Social Services Specialist/Manager (CPS, FC, etc.)		
09 Marriage/Family Therapist	31 Child Care Provider	56 Court Personnel		
10 Licensed Counselor	41 Hospital/Clinic Social Worker			
15. Reporting person's name _____	Report Code (see above) _____	15a. Name of reporting organization (school, hospital, etc.) _____		
15b. Address (No. & Street) _____	15c. City _____	15d. State _____	15e. Zip Code _____	15f. Phone No. _____
16. Reporting person's name _____	Report Code (see above) _____	16a. Name of reporting organization (school, hospital, etc.) _____		
16b. Address (No. & Street) _____	16c. City _____	16d. State _____	16e. Zip Code _____	16f. Phone No. _____
17. Reporting person's name _____	Report Code (see above) _____	17a. Name of reporting organization (school, hospital, etc.) _____		
17b. Address (No. & Street) _____	17c. City _____	17d. State _____	17e. Zip Code _____	17f. Phone No. _____
18. Reporting person's name _____	Report Code (see above) _____	18a. Name of reporting organization (school, hospital, etc.) _____		
18b. Address (No. & Street) _____	18c. City _____	18d. State _____	18e. Zip Code _____	18f. Phone No. _____
19. Reporting person's name _____	Report Code (see above) _____	19a. Name of reporting organization (school, hospital, etc.) _____		
19b. Address (No. & Street) _____	19c. City _____	19d. State _____	19e. Zip Code _____	19f. Phone No. _____

TO BE COMPLETED BY MEDICAL PERSONNEL WHEN PHYSICAL EXAMINATION HAS BEEN DONE

20. Summary report and conclusions of physical examination (Attach Medical Documentation)		
21. Laboratory report		22. X-Ray
23. Other (specify)		24. History or physical signs of previous abuse/neglect <input type="checkbox"/> YES <input type="checkbox"/> NO
25. Prior hospitalization or medical examination for this child		
DATES		PLACES
26. Physician's Signature		27. Date 28. Hospital (if applicable)
<small>The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.</small>		<small>AUTHORITY: P.A. 238 of 1975. COMPLETION: Mandatory. PENALTY: None.</small>

INSTRUCTIONS

GENERAL INFORMATION:

This form is to be completed as the written follow-up to the oral report (as required in Sec. 3 (1) of 1975 PA 238, as amended) and mailed to Centralized Intake for Abuse & Neglect. Indicate if this report was phoned into MDHHS as a report of suspected CA/N. If so, indicate the Log # (if known). The reporting person is to fill out as completely as possible items 1-19. Only medical personnel should complete items 20-28.

Mail this form to:
Centralized Intake for Abuse & Neglect
5321 28th Street Court S.E.
Grand Rapids, MI 49548

OR

Fax this form to 616-977-8900 or 616-977-8050 or 616-977-1158 or 616-977-1154

OR

email this form to MDHHS-CPS-CIGroup@michigan.gov

1. Date – Enter the date the form is being completed.
2. List child(ren) suspected of being abused or neglected – Enter available information for the child(ren) believed to be abused or neglected. Indicate if child has a disability that may need accommodation.
3. Mother's name – Enter mother's name (or mother substitute) and other available information. Indicate if mother has a disability that may need accommodation.
4. Father's name – Enter father's name (or father substitute) and other available information. Indicate if father has a disability that may need accommodation.
- 5.-7. Child(ren)'s address – Enter the address of the child(ren).
8. Phone – Enter phone number of the household where child(ren) resides.
9. Name of alleged perpetrator of abuse or neglect – Indicate person(s) suspected or presumed to be responsible for the alleged abuse or neglect.
10. Relationship to child(ren) – Indicate the relationship to the child(ren) of the alleged perpetrator of neglect or abuse, e.g., parent, grandparent, babysitter.
11. Person(s) child(ren) living with when abuse/neglect occurred – Enter name(s). Indicate if individuals have a disability that may need accommodation.
12. Address where abuse / neglect occurred.
13. Describe injury or conditions and reason of suspicion of abuse or neglect – Indicate the basis for making a report and the information available about the abuse or neglect.
14. Source of complaint – Check appropriate box noting professional group or appropriate category.

Note: If abuse or neglect is suspected in a hospital, also check hospital.

MDHHS Facility – Refers to any group home, shelter home, halfway house or institution operated by the Department of Health and Human Services. Refers to any institution or facility operated by the Department of Health and Human Services.

15.-19 - Reporting person's name - Enter the name and address of person(s) reporting this matter.