

# ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

## ADMINISTRATIVE PROCEDURE

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<b>CHAPTER</b> Recipient Rights	<b>CHAPTER</b> 05	<b>SECTION</b> 001	<b>SUBJECT</b> 0045
<b>SECTION</b> Recipient Rights	<b>SUBJECT</b> Reporting Suspected Abuse or Neglect		
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### I. APPLICATION:

- ☐ SCCCMHA Board
- ☒ SCCCMHA Providers & Subcontractors
- ☒ Direct-Operated Programs
- ☒ Community Agency Contractors
- ☒ Residential Programs
- ☒ Specialized Foster Care

### II. PURPOSE STATEMENT:

In accordance with the Michigan Compiled Laws and Michigan Department of Health and Human Services (MDHHS) Administrative Rules, St. Clair County Community Mental Health Authority (SCCCMHA) requires all employees and volunteers of SCCCMHA and its provider network to report all suspected incidents of abuse, neglect, exploitation, and endangerment of children and vulnerable adults residing independently, with family members, or in facilities licensed by Licensing and Regulatory Affairs to Protective Services, the Office of Recipient Rights, law enforcement, and/or Licensing and Regulatory Affairs, as applicable. For all instances of suspected and/or known criminal assault, criminal sexual conduct, or criminal homicide, a law enforcement agency must immediately be notified of the event.

### III. DEFINITIONS:

- A. Abuse: Non-accidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient that is committed by an employee, volunteer, or agent of a provider.
1. Abuse Class I: A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.
  2. Abuse Class II: Means any of the following:
    - a. A non-accidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to non-serious physical harm to a recipient.
    - b. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.
    - c. Any action or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to emotional harm to a recipient.
    - d. 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.

- e. Exploitation of a recipient by an employee, volunteer, or agent of a provider.
- 3. Abuse Class III: The use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient.
- B. Adult: A person, 18 years of age or older.
- C. Adult Protective Services (APS): The Department of Health and Human Services program responsible for investigating suspected abuse and neglect of vulnerable adults.
- D. Agent: Means an individual authorized to act on behalf of an entity including but not limited to an individual, contract provider, or intern/volunteer.
- E. Child: A person, under 18 years of age.
- F. Children's Protective Services (CPS): The Department of Health and Human Services program responsible for investigating suspected abuse and neglect of children.
- G. Degrade means:
  - 1. 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. Degrading behavior shall be further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.
- H. Immediately: Means without delay.
- I. Neglect: An act or failure to act committed by an employee or volunteer of the Michigan Department of Health and Human Services (MDHHS), a community mental health services program (CMHSP), or a licensed hospital; a service provider under contract with the MDHHS, CMHSP, or licensed hospital; or an employee or volunteer of a service provider under contract with the MDHHS, CMHSP, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled to receive.
  - 1. Neglect Class I: Means either of the following:
    - a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, and/or rules, policies, guidelines, written directives, procedures, or individual plans of service and caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.
    - b. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.
  - 2. Neglect Class II: Means either of the following:
    - a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, and/or rules, policies, guidelines, written directives, procedures, or individual plans of service and that caused or contributed to non-serious physical harm or emotional harm to a recipient.
    - b. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

3. Neglect Class III: Means either of the following:

- a. Acts of commission or omission by an employee, volunteer, or agent of a provider that result from non-compliance with a standard of care or treatment required by law, and/or rules, policies, guidelines, written directives, procedures, or individual plans of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse.
- b. The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.

- J. Office of Recipient Rights (ORR): The office created by the Michigan Mental Health Code that is subordinate only to the Executive Director/Chief Executive Officer and that is responsible for investigating, resolving, and assuring remediation of apparent or suspected recipient rights violations and assuring that mental health services are provided in a manner that respects and promotes the rights of recipients as guaranteed by Chapters 7 and 7A of the Michigan Mental Health Code, P.A. 258 of 1974.
- K. Recipient: Means an individual who receives mental health services from the Michigan Department of Health and Human Services (MDHHS), a community mental health services program, or a facility, or from a provider that is under contract with MDHHS or a community mental health services program.
- L. Threaten: Means to tell someone that you will hurt them or cause problems if they do not do what you want.
- M. Vulnerable Adult: A condition in which an adult is unable to protect himself or herself from abuse, neglect, exploitation, or endangerment because of a mental or physical impairment, or because of advanced age.

IV. STANDARDS:

- A. A mental health professional, a person employed by or under contract with the MDHHS, a licensed facility, or a community mental health services program, or a person employed by a provider under contract with the MDHHS, a licensed facility, or a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient immediately shall make or cause to be made, by telephone or otherwise, an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred or to the state police. Within 72 hours after making the oral report, the reporting individual shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.
- B. Penalties for not reporting suspected abuse: A person who has cause to suspect abuse of a recipient and intentionally violates P.A. 224 of 1986 and P.A. 32 of 1988, by not reporting the incident, shall be guilty of a misdemeanor and be responsible for civil liability of the damages proximately caused by the violation.
- C. Penalties for filing a false report: A person found guilty of knowingly filing a false report shall be guilty of a misdemeanor and be responsible for the civil liability of the damages proximately caused by the violation.
- D. An investigation shall be initiated by the Office of Recipient Rights immediately in cases involving alleged abuse or neglect of a recipient.
- E. SCCCMHA shall assure through its Executive Director/Chief Executive Officer and Office of Recipient Rights that appropriate action is taken against those who have engaged in abuse or neglect, and/or retaliation/harassment, and that the action taken will help prevent recurrence of the violation.

V. PROCEDURES:

## **Any Staff Member/Volunteer Providing Services**

1. Obtains knowledge of, suspects, or has reasonable cause to believe a child, vulnerable adult, or any SCCCMHA recipient is being or has been abused, neglected, exploited or endangered shall immediately take steps to protect the recipient and report their concern to their supervisor/chain of command and the Office of Recipient Rights.
3. Contacts Protective Services immediately to make an oral report of the apparent or suspected abuse or neglect. Note: An employee who wishes his/her identity to remain confidential, subject only to disclosure with consent or by court order, shall state this when making their oral report to Protective Services.
4. Contacts law enforcement immediately to make an oral report in cases of suspected abuse, assault, criminal sexual conduct, or criminal homicide.
5. Forwards written report within 72 hours using Report of Actual or Suspected Child Abuse or Neglect (MDHHS 3200), and forwards Incident Report (Form #057)/electronic report (OASIS) to the Office of Recipient Rights before the end of their shift.

## **VI. REFERENCES:**

- A. Michigan Mental Health Code, Public Act 258 of 1974, Sections 330.1722 and 330.1723
- B. MDHHS Administrative Rules 330.7001 and 330.7035

## **VII. EXHIBITS:**

- A. MDHHS Requirements for Reporting Abuse and Neglect poster (06/2018)

## **VIII. REVISION HISTORY:**

Dates Issued: 10/84, 10/85, 11/88, 06/91, 08/93, 01/98, 01/00, 12/01, 12/03, 12/05, 12/07, 02/10, 11/12, 05/13, 11/13, 10/14, 11/14, 11/15, 11/16, 11/17, 11/18, 01/19, 01/20, 01/21, 01/22, 01/23.

# REQUIREMENTS FOR REPORTING ABUSE AND NEGLECT

	Section 723, Public Act 258 of 1974 as amended (Mental Health Code-Recipient Abuse)	Public Act 238 of 1975 (Child Protection Law)	Public Act 519 of 1982 (Adult Protective Services Law)	Section 723, Public Act 258 of 1974 as amended (Mental Health Code-Criminal Abuse)
<b>WHERE is the report made?</b>	To the <b>OFFICE of RECIPIENT RIGHTS (ORR)</b> at your Hospital or Community Mental Health Services Program (CMHSP)  A list of local rights offices can be found at: <a href="http://tinyurl.com/orroffices">http://tinyurl.com/orroffices</a>	To the MDHHS Office of Children's Protective Services (CPS)	To the MDHHS Office of Adult Protective Services (APS)	To the Michigan State Police (MSP) or Local Sheriff or Local Police Department
		<b>ADULT OR CHILDRENS PROTECTIVE SERVICES HOTLINE 855-444-3911</b>		<b>MSP 517-332-2521</b>
<b>WHAT must be reported?</b>	Sexual, Physical, Emotional or Verbal Abuse, Neglect, Serious Injury, Death, Retaliation or Harassment	Sexual, Physical or Mental Abuse, Neglect, Sexual Exploitation	Sexual, Physical or Mental Abuse, Neglect, Maltreatment, Exploitation	Assault (other than patient-patient assault/battery), Criminal Sexual Abuse, Homicide, Vulnerable Adult Abuse, Child Abuse
<b>WHO is required to report?</b>	All employees, contract employees, or volunteers of Michigan Department of Health and Human Services, Community Health Services Programs, Licensed Private Psychiatric Hospitals	Physicians, nurses, coroners, medical examiners, dentists, licensed emergency care personnel, audiologists, psychologists, social workers, school administrators, teachers, counselors, law enforcement officers, and child care providers.	Any person employed by an agency licensed to provide, anyone who is licensed, registered, or certified to provide health care, education, social, or other human services, law enforcement officers and child care providers.	All employees, contract employees of: Michigan Department of Health and Human Services, Community Mental Health Services Programs, Licensed Private Psychiatric Hospitals; All mental health professionals.
<b>WHAT is the CRITERIA for reporting?</b>	<b>You must report if you:</b> Suspect a recipient has been abused or neglected or any allegations of abuse or neglect made by a recipient.	<b>You must report if you:</b> Have reasonable cause to suspect a child has been abused, neglected, or sexually exploited.	<b>You must report if you:</b> Have reasonable cause to suspect or believe an adult has been abused, neglected, exploited or maltreated.	<b>You must report if you:</b> Suspect a recipient or vulnerable adult has been abused or neglected, sexually assaulted, or if you suspect a homicide has occurred. You do not have to report if the incident occurred more than one year before your knowledge of it.
<b>WHEN must the report be made and in what format?</b>	A verbal report must be made immediately. A written report on an incident report form must be made before the end of your shift.	A verbal report must be made immediately. A written report on DHS form 3200 must be made within 72 hours.	A verbal report must be made immediately. A written report at the discretion of the reporting person.	A verbal report must be made immediately. A written report must be made within 72 hours of the oral report
<b>TO WHOM are reports made?</b>	To your immediate supervisor <b>and</b> to the Recipient Rights Office at your agency or hospital	Report to Protective Services Reporting Hotline 855-444-3911	Report to Protective Services Reporting Hotline 855-444-3911	The law enforcement agency for the county or city in which the alleged violation occurred or the State Police. A copy of the written report goes to the chief administrator of the agency responsible for the recipient.
<b>If there is more than one person with knowledge must all of them make a report?</b>	Not necessarily. Reporting should comply with the policies and procedures set up by each agency.	<b>Someone</b> who has knowledge must report or cause a report to be made in the case of a school, hospital or agency, one report is adequate.	<b>Everyone</b> who has knowledge of a violation or an alleged violation must make a report. MDHHS has typically accepted one report from agencies.	<b>Someone</b> who has knowledge must report or cause a report to be made.
<b>Is there a penalty for failure to report?</b> <b>YES</b>	Disciplinary action may be taken and you may be held liable.	You may be held liable. Failure to report is also a criminal misdemeanor.	You may be held liable and have to pay a \$500 fine.	The law states that failure to report or false reporting is a criminal misdemeanor.
<b>Is it necessary to report to more than one agency?</b> <b>YES</b>	Each of these laws requires that the designated agency be contacted, if an allegation is suspected to have occurred, which falls under its specific jurisdiction. There are several references in each law indicating that reporting to one agency does not absolve the reporting person from the responsibility of having to report to other agencies, as statutorily required.			
<b>Are there other agencies to which a report can be made?</b>  <b>YES</b>	<p><b>The Bureau of Community and Health Systems (LARA)</b> is responsible for investigating abuse and neglect in <b>Nursing Homes, Hospitals and Home Health Care</b>. Call the <b>NURSING HOME ABUSE HOTLINE 1-800-882-6006</b></p> <p><b>The Michigan Attorney General's Office</b> has an <b>Abuse Investigation Unit</b> which may also investigate abuse in <b>Nursing Homes</b>. Call the <b>ATTORNEY GENERAL HEALTH CARE FRAUD HOTLINE 1-800-24-ABUSE/ 1-800-242-2873</b></p> <p><b>The LARA Adult Foster Care (AFC) Division</b> is responsible for investigating abuse or neglect in a licensed foster care home. Call <b>The Bureau of Community and Health Systems COMPLAINT INTAKE UNIT 1-866-856-0126</b></p>			

