


COMMUNITY MENTAL HEALTH OF OTTAWA COUNTY
RECIPIENT RIGHTS

CHAPTER: 1	SECTION: 6	SUBJECT: RECIPIENT RIGHTS
TITLE: ABUSE & NEGLECT REPORTING		
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LAST REVISED/EFFECTIVE DATE: 03/22/2021		
ISSUED AND APPROVED BY:  EXECUTIVE DIRECTOR		

I. PURPOSE:

To assure the timely reporting and investigation of allegations of abuse and neglect.

II. APPLICATION:

All Community Mental Health of Ottawa County (CMHOC) staff and contract agency staff as specified by contract, interns, and volunteers.

III. DEFINITIONS:

Abuse: a non-accidental physical or emotional harm to a recipient, or sexual contact with or without sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or by an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

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.

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 causes or contributes 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.

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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.

Abuse (DHHS): All suspected cases or incidents of individuals, not less than 18 years of age, who are at risk because of harm or threatened harm to adult's health or welfare caused by another person. This includes but is not limited to non-accidental physical or mental injury, sexual abuse, or maltreatment.

Assault: An intentional act to physically injure another person by force, or forces unlawfully directed toward the person of another, under such circumstances as creates a well-founded fear of imminent peril, coupled with the apparent present ability to effectuate the attempt, if not presented.

Degrade: Means any of the following:

- a. treat humiliatingly – to cause somebody or something a humiliating loss of status or reputation, or cause somebody a humiliating loss of self-esteem
- b. make worthless – to cause people to feel that they or other people are worthless and do not have the respect or good opinion of others. Degrade is synonymous with terms such as abase, debase, demean, humble, humiliate . . . these verbs mean to deprive self-esteem or self-worth, to shame or disgrace.
- c. Any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.
- d. Examples of behavior that is degrading; and must be reported as abuse includes, but is not limited to the following:
 - Swearing at recipients
 - Using foul language at recipients
 - Using racial or ethnic slurs toward or about recipients
 - Making emotionally harmful remarks toward recipients
 - Causing or promoting 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.

Employee: Means an individual who works for compensation or a volunteer, including a student, who works without compensation for a CMHOC program or for an agency or service under contract with CMHOC.

Exploitation: Means an action by an employee, volunteer, or agent of a provider 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.

Humiliation: The action of humiliating someone or the state of being humiliated (i.e. embarrassment, mortification, shame, indignity, disgrace, discredit, belittlement, loss of face, put down, etc.).

Immediate: present, at once, without delay; action is or must be taken either instantly or without any considerable loss of time.

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Intimate Parts: The genitalia, buttock, or breast of a person as well as the groin, inner thigh and rectum.

Neglect: an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, community mental health services program, or licensed hospital; or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

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 in noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, procedures, written directives, or Individual Plan of Service and causes or contributes 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.

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 noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, procedures, written directives, or plan of service and that cause or contribute to non-serious physical harm or emotional harm to the recipient.
- b. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

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 noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, procedures, written directives, or plan 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.

Neglect (DHHS): All suspected cases of incidents of individuals who are at risk because of harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation (self-neglect) or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare.

Non-Serious Physical Harm: Means physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determines could not to 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.

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Recipient: Any person for whom Community Mental Health of Ottawa County is responsible for arranging, contracting for and/or coordinating the provision of services.

Serious Physical Harm: Means physical damage suffered by a recipient that a physician or registered nurse determines 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: Means any of the following:

- i) Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, MCL 750.520b to MCL 750.520e involving employee, volunteer, or agent of a provider and recipient.
- ii) Any sexual contact or sexual penetration involving an 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.
- iii) Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.

Sexual Contact: The intentional touching of the recipient's or employee's intimate parts or the touching of clothing covering the immediate area of the recipient's or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for sexual purpose, or in a sexual manner for any of the following:

- i) revenge
- ii) to inflict humiliation
- iii) out of anger.

Sexual Harassment: Sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient as defined in title VII of the civil rights act of 1991.

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

Therapeutic De-Escalation: An intervention, the implementation of which is incorporated in the individualized written plan of service, wherein the recipient is placed in an area or room, accompanied by staff who shall therapeutically engage the recipient in behavioral de-escalation techniques and debriefing as to the cause and future prevention of the target behavior.

Threaten: means any of the following:

- a. to utter intentions of injury or punishment against

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- 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, volunteer, or agent of a provider to a recipient in one or more of the following circumstances:

- i) There is no imminent risk of serious or non-serious physical harm to the recipient, staff, or others.
- ii) The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency.
- iii) The physical management used is not in compliance with emergency interventions authorized in the recipient's individual plan of service.
- iv) 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.

IV. POLICY:

It is the policy of CMHOC that all recipients of mental health services are free from abuse and neglect. Alleged violations of abuse or neglect (apparent or suspected) will be reported to the Office of Recipient Rights. Investigations will be consistent with the requirements of the Michigan Mental Health Code.

V. PROCEDURE:

- A. All CMHOC employees, contract employees, interns, and volunteers will report any suspicion or allegation of abuse or neglect of a recipient immediately either in person, by phone, voicemail, cell phone, fax, or e-mail to the following agencies as required:
1. CMHOC Office of Recipient Rights.
 2. Administration
 3. Ottawa County Department of Health and Human Services
 - Adult or Child Protective Services in accordance with their definition of abuse and neglect reporting.
 4. LARA – Department of Licensing and Regulatory Affairs, if applicable.
 5. Law Enforcement
 - Local law enforcement will be notified if the suspected abuse involves assault, criminal homicide or criminal sexual conduct, vulnerable adult abuse, child abuse, and/or exploitation.
 6. Any other agency as required by law.
- B. Any employee, contract employee, intern, or volunteer making such a report of suspected abuse or neglect shall not be dismissed or penalized for making the report and will be protected by the Michigan Whistleblower's Protection Act.
- C. 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 (Section 330.1723(2)).

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- D. Investigations of abuse and neglect allegations will be conducted by the Recipient Rights Office.
- E. If an allegation is found to be substantiated, the agency will take firm and fair disciplinary action and remedial action as appropriate.
- F. All CMHOC employees, contract employees, interns, and volunteers are required to cooperate with recipient rights investigations.
- G. All ensuing investigations will be in compliance with CMHOC's policy 1.7 Recipient Rights Complaints.

VI. ATTACHMENT:
None Applicable

VII. REFERENCE:
Michigan Mental Health Code
Administrative Rules
MDHHS-ORR Attachment B/Policy Review Standards