

**SHIAWASSEE COUNTY COMMUNITY MENTAL HEALTH AUTHORITY**  
**POLICY AND PROCEDURE MANUAL**

Section: Recipient Rights  
Policy Number: 3  
Subject: **Abuse and Neglect**

Effective Date: 2/24/97  
Last Revision Date: 5/9/16  
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**Policy**

It shall be the policy of the Shiawassee County Community Mental Health Authority (SCCMHA) that a recipient of Board-sponsored services shall not be physically, sexually, or otherwise abused or subjected to neglect.

It shall also be the policy of the Shiawassee County Community Mental Health Authority to respond immediately to complaints of alleged or suspected abuse and/or neglect of a vulnerable adult.

It shall also be the policy of the Shiawassee County Community Mental Health Authority to take firm and appropriate disciplinary action up to and including termination of employment for substantiated abuse or neglect.

**Purpose**

To ensure the right of recipients of the Shiawassee County Community Mental Health Authority to be free from abuse and/or neglect under those circumstances for which the Board has responsibility for their protection.

To ensure that Shiawassee County Community Mental Health Authority provide enrollees/recipients of services the right to be free from any form of exploitation, coercion, discipline, convenience or retaliation.

To ensure compliance with the Michigan Mental Health Code and the Michigan Department of Health and Human Services, Administrative Rules.

**Application**

This policy applies to all employees, independent contractors, and contract agencies of the Shiawassee County Community Mental Health Authority.

**Definitions**

Abuse: Non-accidental physical or emotional harm to a recipient or sexual contact with or 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 an 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

- 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 nonserious 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.

Abuse - Class III: "Abuse class III" means 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.

Act: means mental health code, 1974 PA 258, MCL 330.1001 et seq.

Anatomical Support: Body positioning or a physical support ordered by a physical or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning. All other applications of appliances that restrict a resident's movement, regardless of their stated purpose, shall be considered physical restraint.

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

Degrade: 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.
- C. Synonyms include degrade, abase, debase, demean, humble humiliate. These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace.
- D. 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.

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

1. Swearing at recipients.
2. Using foul language at recipients.
3. Using racial or ethnic slurs toward or about recipients.
4. Making emotionally harmful remarks toward recipients.
5. 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 and as determined by a mental health professional.

Exploitation: 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.

Force: Non-accidental physical contact with or physical strength exerted against the body of a recipient by an employee, volunteer, or agent of a provider that is not an approved physical management technique or that is not used to prevent the recipient from harming himself, herself, or others or from causing substantial property damage.

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 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

- A. Acts of commission or omission by an employee, volunteer, or agency of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, 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

- A. Act of commission or omission by an employee, volunteer, or an agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures or individual plan of service and that cause or contribute to nonserious 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.

Neglect - Class III

- A. Act 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, written directives, procedures, or individual 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.

Nonserious Physical Harm: Physical damage suffered by a recipient 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

Protective Device: A device or physical barrier to prevent the recipient from causing serious self-injury associated with documented and frequent incidents of the behavior. A protective

device as defined in this subdivision and incorporated in the written individual plan of service shall not be considered a restraint as defined in subdivision (q) of this sub rule.

Provider: The department, each community mental health services program, each licensed hospital, each psychiatric unit and each psychiatric partial hospitalization program licensed under section 137 of the act, their employees, volunteers, and contractual agents.

Psychotropic Drug: Any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.

Restraint: "Restraint" means the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

Serious Physical Harm: 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: Any of the following:

- A. Criminal sexual conduct as defined by section 520b to 520c of 1931 PA 318, being MCL 750.520b to MCL 750.520e involving an employee, volunteer or, or agent of a provider and a recipient.
- B. 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.
- C. 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: Intentional touching of the recipient's or employee's intimate parts or the touching of the clothing covering the immediate area of the recipient's or employee's intimate parts, if that intention touching can reasonably be 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: Sexual advances to a recipient, requests for sexual favors from a recipient, or other 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 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: Threaten means any of the following:

- A. To utter intentions of injury or punishment against
- B. To express a deliberate intention to deny the well-being, safety, or happiness of somebody unless the person does what is being demanded.

Time Out: Voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome.

Unreasonable Force: The use of 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

- A. There is no imminent risk of serious or nonserious physical harm to the recipient, staff or others.
- B. The physical management used is not in compliance with techniques approved by the provider and the responsible mental health agency.
- C. The physical management used is not in compliance with the emergency interventions authorized in the recipient's individual plan of service.
- D. 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.

Volunteer: An individual who, without compensation, performs activities for the Shiawassee County Community Mental Health Authority or an entity under contract to the Shiawassee County Community Mental Health Authority under specified conditions.

## **Standards**

- A. Shiawassee County Community Mental Health Authority (SCCMHA) employees, volunteers, or independent contractors shall report all suspected cases of abuse or neglect to the SCCMHA Recipient Rights Director and to any external agencies mandated by statute to receive and investigate complaints of suspected abuse or neglect which the Board is required by the Michigan Mental Health Code and the Michigan Department of Health and Human Services Administrative Rules to inform.
1. Suspected cases of abuse and neglect are to be reported to the rights office and to the staff's supervisor immediately. Any staff person that allegations of abuse or neglect have been filed against may be suspended from work until completion of the recipient rights investigation, until the outcome of the investigation has been determined and until the written report has been submitted to the provider of services.
  2. Reports of suspected abuse or neglect are to be made to the Recipient Rights Director and may be verbal or in writing using the Recipient Rights complaint form. If the original complaint is made verbally, a written complaint must be filed with the Recipient Rights Director within seventy-two (72) hours of discovery of the suspected abuse or neglect.
  3. A SCCMHA employee, volunteer, or independent contractor shall also report suspected cases of abuse or neglect within twenty-four (24) hours, either verbally or in writing, to the SCCMHA Chief Executive Officer; the Shiawassee County Department of Human Services, Adult Protective Services; the Department of Health and Human Services, Licensing Division if the suspected abuse or neglect occurred in an AIS or AFC home; and, if the suspected abuse involves assault, homicide, or sexual contact, to a local law enforcement agency or to the state police. Within seventy-two (72) hours of making a verbal report of suspected abuse or neglect, the reporting person shall file a written report to the SCCMHA Chief Executive Officer and to the external agencies who received the verbal report.
- B. A SCCMHA employee, volunteer, or independent contractor shall not be dismissed, sanctioned, or in any way penalized for making the report.
- C. The SCCMHA Recipient Rights Director shall begin an Office of Recipient Rights investigation immediately upon receiving the initial report of a suspected case of abuse or neglect.
- D. If the SCCMHA Recipient Rights Director substantiates the allegation of abuse or neglect the SCCMHA Chief Executive Officer shall implement prompt remedial action and firm and appropriate disciplinary action. Any disciplinary action shall be in accordance with Board personnel policies and procedures, the applicable bargaining agreement, or Board policies and procedures for volunteers. Sanctions against

independent contractors for substantiated abuse or neglect shall be stated in the contract terms and shall be enforced, as applicable, by the Board.

- E. Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal.

A provider shall do both of the following:

1. Establish written policies and procedures, which adopt and incorporate the definitions of abuse class I, abuse class II, or abuse class III and neglect as neglect class I, neglect class II, or neglect class III as described in rule 7001.
2. Provide for a prompt and thorough review of charges of abuse that is fair to both recipient alleged to have been abused and the charged employee, volunteer, or agent of a provider.

- F. Duty to report abuse or neglect under other law is not relieved by this policy.

### **Compliance**

External: Michigan Mental Health Code  
Michigan Department of Health and Human Services Administrative Rules

Approved by:   
Board Chairperson

9-26-2016  
Date

  
Chief Executive Officer

9/28/16  
Date



Review/Revision Dates:

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