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PERSONNEL
(Manual Section)

RECIPIENT RIGHTS:
ABUSE AND NEGLECT – POLICY 3805

Approval of Policy:	Dated:
Original Inception Date:	January 12, 1995
Policy Last Reviewed:	March 6, 2026
Last Revision of Policy Approved:	June 17, 2024

•1 POLICY:

Any employee, volunteer, or agent of a provider of the Agency who abuses and/or neglects an individual served in any way shall be subject to immediate discipline. Complaints from an individual served or informant regarding an employee, volunteer, or agent of a provider of the Agency shall be thoroughly investigated by Recipient Rights staff and if substantiated, immediate discipline (up to possible dismissal) shall occur.

All employees, volunteers, or agents of a provider of the Agency are responsible for safeguarding the rights of individuals served; this includes protecting all individuals served from abuse or neglect and the reporting of abuse and neglect. Any staff member who has knowledge of recipient abuse or neglect shall insure that it is immediately 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 or volunteer has either witnessed or received report 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. Failure to report abuse and neglect shall subject the employee to disciplinary action, up to and including termination. Refer to Exhibit A for further explanation of mandatory reporting.

•2 APPLICATION:

All staff

•3 DEFINITIONS:

Abuse: Non-accidental physical or emotional harm to a recipient, or sexual contact, with or without sexual penetration, with 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 a community mental health services program, or by an employee or volunteer of a service provider under contract with the community mental health services program.

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, sexual abuse of, or serious physical harm to an individual served.

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 non-serious physical harm to an individual served; or
B) The use of unreasonable force on an individual served by an employee, volunteer, or agent of a provider with or without apparent harm; or,
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 an individual served; or,
D) An action taken on behalf of an individual served by a provider who assumes the individual 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 an individual served by an employee, volunteer, or agent of a provider.

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 an individual served.

Neglect: An act or failure to act committed by an employee or volunteer of a community mental health services program; a service provider under contract with the community mental health services program; or an employee or volunteer of a service provider under contract with the community mental health services program, that denies a recipient the standard of care or treatment to which they are entitled under PA 258 of 1974.

Neglect, Class I:

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, written directives, procedures, or individual plans of service and causes or contributes to the death, sexual abuse of, or serious physical harm to an individual served.
B) The failure to report apparent or suspected abuse Class I or neglect Class I of an individual served when the abuse or neglect results in the death of, or serious physical harm to, the individual served.

Neglect, Class II:

A) Acts of commission or omission by an employee, volunteer, or agent of a provider which result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plans of service and that cause or contribute to non-serious physical harm or emotional harm, to an individual served; or,

B) The failure to report apparent or suspected abuse Class II or neglect Class II of an individual served when the abuse or neglect results in non-serious physical harm to the individual.

Neglect, Class III:

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, rules, policies, guidelines, written directives, procedures, or individual plans of service and that either placed or could have placed an individual served at risk of physical harm or sexual abuse; or,

B) The failure to report apparent or suspected abuse Class III or neglect Class III of an individual served when the abuse or neglect places an individual at risk of serious or non-serious harm.

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

Criminal Abuse: Assault (other than individual served 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: Means any of the following:

- treat humiliatingly; to cause somebody or something a humiliating loss of status or reputation, or cause somebody a humiliating loss of self-esteem
- 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
- (*syn*) degrade, abase, debase, demean, humble, humiliate: These verbs mean to deprive of self-esteem or self-worth: to shame or disgrace.

Degrading behavior shall be further defined as any language or epitaphs 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:

- Swearing at individuals served
- Using foul language at individuals served
- Using racial or ethnic slurs toward or about individuals served
- Making emotionally harmful remarks toward individuals served
- 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.

Employee: An individual who works for the Agency and receives compensation for that work.

Exploitation: An action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of an individual served's property or funds for the benefit of an individual or individuals other than the individual served.

Non-Serious Physical Harm: Physical damage or what could reasonably be construed as pain suffered by an individual served that a physician or R.N. determines could not have caused, or contributed to, the death of an individual, the permanent disfigurement of an individual, or an impairment of their bodily functions.

Office of Recipient Rights: That office, as established in the Mental Health Code (P.A. 290 of 1995), which is subordinate only to the chief official of the agency establishing it and which is responsible for rights protection and advocacy services.

Physical Management: A technique used by staff as an emergency intervention to restrict the movement of an individual served by direct physical contact in order to prevent the individual from harming themself or others when lesser restrictive interventions have been unsuccessful in reducing or eliminating the imminent risk of serious or non-serious physical harm. Both of the following shall apply:

- Physical management shall not be included as a component in a behavior treatment plan.
- Prone immobilization of an individual for the purpose of behavior control is prohibited unless implementation of physical management techniques other than prone immobilization is medically contraindicated and documented in the individual's record.

Protective Device: A device or physical barrier to prevent the individual served from causing serious self-injury associated with documented and frequent incidents of the behavior. A protective device as defined here and incorporated in the written individual plan of service shall not be considered a restraint.

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.

Restraint: 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 an individual served, which a physician or RN determines caused or could have caused the death of an individual, caused the impairment of their bodily functions, or caused the permanent disfigurement of an individual.

Sexual Abuse: Means any of the following:

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

2. 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 an individual served.
3. Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and an individual served for whom the employee, volunteer, or agent provides direct services.

Sexual Contact: Sexual contact is the intentional touching of the individual served's or employee's intimate parts (genitals, buttocks, breasts, groin, inner thigh, or rectum); or the touching of the clothing covering the immediate area of the individual'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 a sexual purpose or in a sexual manner for any of the following: revenge, to inflict humiliation, or out of anger.

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.

Sexual Harassment: Sexual advances to an individual served, requests for sexual favors from an individual, or other conduct or communication of a sexual nature toward an individual.

Threaten: Any of the following:
- to utter intentions of injury or punishment against
- 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 an individual served in one or more of the following circumstances:
1) There is no imminent risk of serious or non-serious physical harm to the individual, 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 individual'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.

Volunteer: An individual who, without compensation, other than reimbursement for expenses, performs activities for the department, a facility, or a community mental health services program under specified conditions.

REMEMBER: PROTECTING THE CONSUMER IS YOUR FIRST AND MOST IMPORTANT RESPONSIBILITY.

RESIDENT CARE PROHIBITED PRACTICES: ADULT FOSTER CARE LICENSING RULES PROVIDE PROTECTION IN SMALL GROUP HOMES. RESIDENT BEHAVIOR INTERVENTIONS PROHIBITIONS ARE AS FOLLOWS:

1. The Agency shall not mistreat a resident and shall not permit the administrator, direct care staff, employees, or volunteers who are under the direction of the licensee, visitors, or other occupants of the home to mistreat a resident. Mistreatment includes any intentional action or omission which exposes a resident to a serious risk or physical or emotional harm or deliberate infliction of pain by any means.
2. The Agency's direct care staff, administrator, members of the household, volunteers who are under the direction of the licensee, employees, or any person who lives in the home shall not do any of the following:
    (a) Use any form of punishment.
    (b) Use any form of physical force other than physical restraint as defined in these rules.
    (c) Restrain a resident's movement by binding or tying or through the use of medication, paraphenalia, contraptions, material, or equipment for the purpose of immobilizing a resident.
    (d) Confine a resident in an area, such as a room, where egress is prevented, in a closet, or in a bed, box, or chair or restrict a resident in a similar manner.
    (e) Withhold food, water, clothing, rest, or toilet use.
    (f) Subject a resident to any of the following:
        (i) Mental or emotional cruelty.
        (ii) Verbal abuse.
        (iii)Derogatory remarks about the resident or members of their family.
        (iv)Threats.
    (g) Refuse the resident entrance to the home.
    (h) Isolation of a resident as defined in R400.14102(1)(m).
    (i) Any electrical shock device.

•4 CROSS-/REFERENCES:

Mental Health Code 330.1722(2), 330.1723(2), 330.1778(1)
Administrative Rule 330.7001 (a-z), 330.7035, 330.7243(11)(i,ii)
Public Acts 519, 1982; 238, 1978; 218, 1979

•5 FORMS AND EXHIBITS:

Exhibit A – Mandatory Reporting Guidelines for Abuse and Neglect
Exhibit B – Report on Recipient Abuse

Administrative Approval of Procedure:	Dated: June 17, 2024

•6 PROCEDURE:

Mandatory Reporting of Abuse or Neglect

•6•1 APPLICATION:

All staff

•6•2 OUTLINE / NARRATIVE:

The procedure is directed to the fundamental principle that no individual served shall be abused or neglected by an employee, volunteer, or agent of a provider.

1. In the event that an employee, volunteer, or agent of a provider has reasonable cause to suspect that an individual served has been abused and/or neglected, that individual must ***immediately*** report the incident to the Recipient Rights Officer. Failure to immediately report may result in disciplinary action.

2. That same individual then must take immediate action to protect, comfort, and get any necessary treatment for any injured person in their care.

3. In the case of suspected sexual abuse, care must be taken to protect the clothing of the individual served and the individual should not be bathed/showered until after being examined by a physician (clothing and the examination's findings are considered part of the evidence).

4. After immediate care has been provided to the individual served and the supervisor has been notified, an incident report (IR) is then to be completed no later than the end of the shift on which the incident occurred. Include any signs that abuse or neglect may have been involved. The supervisor shall verbally notify the Recipient Rights Officer when injuries are involved and shall route the IR immediately,

5. For criminal abuse incidents, the supervisor is to contact the Director of Clinical/Support Services and the primary case holder.

6. The primary case holder will then assure that the Executive Director, Recipient Rights Officer, guardian, and appropriate police department are notified of the alleged incident.

7. The primary case holder will then complete the Report on Recipient Abuse form and forward one copy to the police, one to the Recipient Rights Officer, and place one copy in the individual served's record.

8. The Recipient Rights Officer will then ensure that Protective Services and the Foster Care Licensing Consultant, as applicable, are notified, first by phone then, within the agreed upon time frame, in writing.

9. An investigation will be conducted by the Recipient Rights staff according to Personnel Policy 3800, Recipient Rights System.

10. This policy is a part of the Recipient Rights Orientation that all new employees and volunteers review prior to or on their first day of employment for the purpose of making sure that everyone who has responsibility to the consumers has a full understanding of all its provisions. Contractors receive a copy or a directive to access the policy on the Agency's website, www.nemcmh.org. Recipient Rights staff will ensure this policy and procedure are called to the attention of all employees, volunteers, and providers at least annually.

•6•3 CLARIFICATIONS:

•6•4 CROSS-/REFERENCES:

Mental Health Code Sections 330.1722(2), 330.1723(2)
Administrative Rules 7001 (a-c), (g-I), 7035
Michigan Penal Code, Act 328 of Public Acts of 1931
Public Acts 519, 1982; 238, 1982; 218, 1979

•6•5 FORMS AND EXHIBITS:

Exhibit A – Mandatory Reporting Guidelines for Abuse and Neglect
Exhibit B – Report on Recipient Abuse