COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter **Program Quality**	**Section** **Recipient Rights**	**Chapter** **05**	**Section** **01**	**Subject** **12**
Subject **Reporting Abuse & Neglect**	**Authorization**		**Approved: 04/27/04** **Replaces: 03/25/97**	

Updated: October 2024; Reviewed/No Update: October 2025

I. PURPOSE: To protect recipients from abuse and neglect.

II. APPLICATION: All programs under the governance of the Gogebic Community Mental Health Authority (GCMHA).

III. DEFINTIONS:

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

B. Abuse Class II:

1. A non-accidental act or provocation of another to act, by an employee, trainee, or volunteer, who caused, or contributed to, non-serious physical harm to a recipient.

2. The use of unreasonable force on a recipient by an employee, trainee, or volunteer, with or without apparent harm.

3. Any action, or provocation of another to act, by an employee, trainee, or volunteer, which causes, or contributes to, emotional harm to a recipient; or

4. An action taken on behalf of a recipient, by assuming incompetence, although a guardian has not been appointed or sought, which results in substantial economic, material, or emotional harm to the recipient.

5. Exploitation of a recipient by an employee, volunteer, or agent of a provider.

C. 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.

1. **Degrade** means (a) 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. (b) 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.

2. **Threaten** means to tell someone that you will hurt them or cause problems if they do not do what you want.

D. Abuse (Department of Human Services): The harm or threatened harm to a child or vulnerable adult's health or welfare caused by another person, including non-accidental physical or mental injury, sexual abuse, or maltreatment.

Examples of abuse can be found in training materials.

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

F. Chief Executive Officer/Designee: The individual appointed to direct the agency, or his/her designee, or a supervisor who normally receives Incident Reports.

G. Criminal Abuse: One or more of the following:

1. An assault that is a violation or an attempt or conspiracy to commit a violation of sections 81 to 90 of the Michigan penal code, Act No.328 of the Public Acts of 1931, being sections *750.81* to 750.90 of the Michigan Compiled Laws. Criminal abuse does not include an assault or an assault and battery that is a violation of section 81 of Act No.328 of the Public Acts of 1939, being section *750.81* of the Michigan Compiled Laws that is committed by a recipient against another recipient unless it results in serious physical injury.
2. A criminal homicide that is a violation or an attempt or conspiracy to commit a violation of section 3l6, 317, or 321 of Act No 328 of the Public Acts of 1931, being sections 750.316*,* 750.317, and 750.321 of the Michigan Compiled Laws;
3. Criminal sexual conduct that is a violation or an attempt or conspiracy to commit a violation of sections 520b to 520e or 520g of Act No.328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.
4. Vulnerable adult abuse that is a violation or an attempt or conspiracy to commit a violation of section 145n of the Michigan penal code, Act No.328 of the Public Acts of 1931, being section 750. 145n of the Michigan Compiled Laws.
5. Child abuse that is a violation or an attempt or conspiracy to commit a violation of section 136b of Act No.328 of the Public Acts of 1931, being section 750.136n of the Michigan Compiled Laws.

H. Emotional Harm: Impaired psychological functioning, growth, or development of a significant nature as evidenced by observable, physical symptomatology and, as determined by a psychiatrist or fully or limited licensed psychologist or social worker.

I. Employee: An individual who works for GCMHA or under contract with GCMHA and receives compensation for that work.

J. Endangerment (Michigan Department of Health and Human Services [MDHHS] Protective Services): A life-threatening situation caused by the inability of the person whose life is threatened to respond.

K. 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.

L. Exploitation (MDHHS Protective Services): An action which involves the misuse of funds, property, of personal dignity by another person.

M. Neglect Class I:

1. 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, procedures, guidelines, written directives, training, or individual plan of service, which causes or contributes to the death, sexual abuse, or serious physical harm to a recipient.
2. Failure to report apparent or suspected abuse Class I or neglect Class I of a recipient.

N. Neglect Class II:

1. 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) procedures, guidelines, written directives, or individual plan of service and which cause, or contribute to, non-serious physical harm, or emotional harm to a recipient.
2. Failure to report apparent or suspected abuse Class II or Neglect Class II of a recipient.

O. Neglect Class III:

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

P. Neglect (MDHHS Protective Services): Harm to a child or vulnerable adult's health or welfare caused by the conduct of a person responsible for their health or welfare, including the failure to provide adequate food, clothing, shelter, or medical care.

Examples of neglect can be found in training materials.

Q. Non-serious Physical Harm: Physical damage or what could be reasonably construed as pain suffered by a recipient, which 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/her bodily functions.

R. 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.

S. 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 (T) of this sub-rule.

T. 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.

U. 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 or the act, their employees, volunteers, and contractual agents.

V. Reasonable Cause: A suspicion founded upon circumstances sufficiently strong to warrant a reasonable person to believe that the suspicion is true.

W. Reporting Person: The employee, volunteer or agent of a provider who has reasonable cause to suspect the criminal abuse of a recipient, or the abuse, neglect, endangerment, or exploitation of a recipient who is a child or a vulnerable adult.

X. Serious Physical Harm: Physical damage suffered by a recipient, which a physician or registered nurse determines caused or could have caused the death of a recipient or caused the impairment of his/her bodily function(s) or caused the permanent disfigurement of a recipient.

Y. Sexual Abuse:

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

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 a recipient.

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

Z. Sexual Contact: The 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 intentional touching can 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

AA. Sexual Harassment: Sexual advances toward a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

BB. 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.

CC. 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.

DD. Unreasonable Force: Physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient where there is no imminent risk of significant injury to the recipient, staff, or others, or that is any of the following in one or more of the following circumstances:

1. Not in compliance with approved behavior management techniques. 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.

EE. Physical management as defined in R330.7001 (R), may only be used in situations when a recipient is presenting an imminent risk of serious or non-serious physical harm to himself, herself or others and 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:

1. Physical management shall not be included as a component in a behavior plan.

2. Prone immobilization of a recipient 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 recipient's record.

FF. Verbal abuse: 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.

GG. Volunteer: An individual who, without compensation, other than reimbursement for expenses, performs activities for GCMHA under specified conditions.

HH. Written Directives: Clinical directives, house rules, meeting minutes, letters, memos, logs, or any other written communication to an employee, volunteer, or agent of a provider regarding the care and treatment of a recipient.

IV. POLICY:

A. Recipients shall not be subjected to abuse or neglect.

B. Any suspected abuse or neglect is promptly reported.

C. Appropriate disciplinary action is taken for substantiated allegations of abuse or neglect.

D. All employees, volunteers, and agents of providers are trained in the requirements for reporting alleged incidents of abuse or neglect, and in the rights and responsibilities of recipients, before or within 30 days of being employed.

E. The Chief Executive Officer shall ensure that:

1. Notification of the appropriate law enforcement agencies occurs, as required by law.

2. Notification of the Michigan Department of Health and Human Services.

3. Adult or Child Protective Services occurs, as required by law.

4. Notification of the Department of Recipient and Industry Services Bureau of Regulatory Services occurs, as required by law.

5. Upon receipt of an allegation of abuse or neglect, immediate action is taken to protect the recipient and to prevent further abuse or neglect. This may include suspending or transferring the involved employee, volunteer, trainee, or recipient during the investigation, and notifying the applicable parent or guardian.

6. All employees, volunteers, and agents of providers who may have knowledge of alleged abuse or neglect are available to, cooperate with, and respond to questions from those conducting official investigations.

7. All employees, volunteers, agents of providers, recipients, and others who report suspected abuse or neglect, or who cooperate in an investigation are protected from discrimination, harassment, or retaliation in accordance with applicable laws and agency policies/procedures, and appropriate disciplinary action is taken if this does occur.

8. Appropriate remedial and firm and fair disciplinary action is taken in accordance with personnel policies for substantiated allegations of abuse or neglect.

V. PROCEDURE

A. Prevention and Protection

1. All employees, volunteers, and agents of providers shall safeguard recipients from abuse and neglect, obtain treatment for observed injuries, and act to prevent additional harm.

2. The Office of Recipient Rights shall provide training on the definitions of abuse and neglect, and the mandated reporting requirements.

3. There are special reporting requirements for persons receiving Substance Abuse treatment; reference policy 05-01-33 (42 C.F.R. Part 2).

B. Reporting

1. All employees, volunteers, and agents of providers shall:

a) Immediately make an oral report to the Chief Executive Officer/Designee and to the Office of Recipient Rights, when they witness, discover, of have

reasonable cause to suspect, abuse or neglect of a recipient, and follow-up with a written Incident Report within 24 hours;

b) Write an Incident Report within 24 hours when they witness, discover, or otherwise become aware of, an assault by one recipient against another if it results in serious physical harm;

c) Report to the designated law enforcement agency, as required by law. The reporting person shall immediately make or cause to be made, by telephone or otherwise, an oral report of suspected criminal abuse to the law enforcement agency. Within 72 hours after making the oral report, the reporting person shall file a written report with the law enforcement agency, the Chief Executive Officer/Designee, and the Office of Recipient Rights in accordance with applicable laws and procedures;

d) Report to the Michigan Department of Health and Human Services Protective Services according to their definitions of abuse, endangerment, exploitation or neglect, as required by law. The reporting person shall make an oral report immediately, by telephone or otherwise and may file a written report;

e) Report to the Department of Recipient and Industry Services Bureau of Regulatory Services as required by law.

2. An employee, volunteer, or agent of a provider who fails to make a required report shall be subject to disciplinary action, and legal penalties and liabilities.

3. The employee in charge of implementing the recipient's plan of service shall notify the guardian or parent of a minor of any suspected abuse or neglect of that recipient

C. Investigation: The Office of Recipient Rights shall conduct timely investigations of alleged abuse or neglect in accordance with the agency's investigation procedure.

VI. REFERENCES AND LEGAL AUTHORITY: Act 258 of the Public Acts of 1974, as amended (Mental Health Code) Sections 100a, 100b, 700, 722, 723, 755; Act 266 of the Public Acts of 1974, 750.520(a) to 520, as amended (Penal Code, Criminal Sexual Conduct; Act 238 of the Public Acts of 1975, as amended (Child Protection Law); Act 519 of the Public Acts of 1982, as amended (Adult Protection Law); Act 116 of the Public Acts of 1973 (Child Licensing Act); Michigan Department of Health and Human Services Administrative Rule 7035

VII. EXHIBITS: Abuse as Defined by the Michigan Penal Code; Vulnerable Adult Abuse as defined by the Michigan Penal Code; Child Abuse as defined by Section 136b of the Michigan Penal Code; Requirements for Reporting Abuse and Neglect