


LAPEER COUNTY COMMUNITY MENTAL HEALTH

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09/23/20

CHAPTER Recipient Rights	CHAPTER 04	SECTION 001	SUBJECT 30
SECTION Recipient Rights		DESCRIPTION Reporting Abuse and Neglect	
WRITTEN BY Lisa K. Jolly, B.S. Recipient Rights Officer	REVISED BY Lisa K. Jolly, B.S. Recipient Rights Officer	AUTHORIZED BY  Lauren Emmons, ACSW CEO	

APPLICATION:

<input checked="" type="checkbox"/> CMH Staff	<input checked="" type="checkbox"/> Board Members	<input checked="" type="checkbox"/> Provider Network	<input checked="" type="checkbox"/> Employment Services Providers
<input checked="" type="checkbox"/> Employment Services Provider Agencies	<input checked="" type="checkbox"/> Independent Contractors	<input checked="" type="checkbox"/> Students	<input checked="" type="checkbox"/> Interns
<input checked="" type="checkbox"/> Volunteers	<input checked="" type="checkbox"/> Persons Served		

POLICY:

Persons served will not be subjected to abuse or neglect. (Mental Health Code Section 722).

STANDARDS:

- A. All mental health professionals, employees, students, interns, or volunteers or persons or entities under contract to the Lapeer County Community Mental Health Services Program (LCCMHSP) must adhere to the requirements and procedures in this policy and report the following:
 - 1. If he or she suspects that a person served has been abused or neglected or,
 - 2. A person served makes any allegations of abuse or neglect.

- B. This includes but is not limited to the following:
 - 1. Abuse (sexual, physical, verbal, emotional, or mental)
 - 2. Neglect
 - 3. Serious injury
 - 4. Death (due to abuse or neglect)

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- 5. Maltreatment (of an adult)
 - 6. Exploitation and / or financial exploitation (of an adult)
- C. All mental health professionals, employees, students, interns, volunteers or other persons or entities employed by or under contract to LCCMH are required to follow the requirements and procedures described in this policy.
- D. All employees, contract employees, provider network employees, employment services employees, students, interns, or volunteers of LCCMHSP will safeguard persons served from abuse and neglect and obtain treatment immediately for observed injuries, and act to prevent additional harm.

PROCEDURES:

The following steps should be taken to file a report:

1. A verbal report must be made immediately to the following:
 - a. Program Supervisor
 - b. Recipient Rights Officer
 - c. Michigan Department of Health and Human Services (if applicable)
 - i. Children’s Protective Services (CPS) 1-855-444-3911
 - ii. Adult Protective Services (APS) 1-855-444-3911
 - d. The city, county, or state police (if applicable)
 - e. The Licensing Consultant (if it is a Residential Facility)
2. Within 72 hours of the verbal report, a written report (LCCMH Form # 169 / DHHS 3200) will be submitted to the following:
 - a. LCCMH Chief Executive Officer (CEO)
 - b. Recipient Rights Officer
 - c. Program Supervisor
 - d. Adult Protective Services (APS) or Children’s Protective Services (CPS) at the Michigan Department of Health and Human Services (Fax #: 1-616-977-1154 or 1-616-977-1158)
 - e. City, county, or state police (if applicable)
 - f. The Licensing Consultant (if it is a Residential Facility)

If an employee, contract employees, students, interns, or volunteers of LCCMHSP needs help filling a Protective Services complaint they can contact the Recipient Rights Officer or their supervisor for assistance.

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3. Additional Requirements:

All employees, contract employees, students, interns, or volunteers of LCCMHSP who have reasonable cause to suspect the criminal abuse of a person served, including vulnerable adult and child abuse must also do the following: [MHC 723]:

- a. Immediately phone the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred, or the state police.
- b. Document the information and police contact in writing and forward to the appropriate police department and Recipient Rights Officer within 72 hours.
- c. Immediately make a verbal report to the Department of Health and Human Services Toll free number which is 1-855-444-3911.

4. Rights Investigations:

The Office of Recipient Rights will investigate allegations of apparent or suspected abuse or neglect immediately and will conduct the investigation pursuant to the Mental Health Code, Section 330.1778. The Recipient Rights Officer will coordinate and cooperate with the Department of Health and Human Services (DHHS), Office of Adult Licensing, and the police to begin prompt investigation. If an allegation is substantiated the Recipient Rights Officer will forward the Investigation to the CEO for remedial action or firm and appropriate disciplinary action to be taken by the CEO's Office. The CEO of the agency may take further action for those who fail to report suspected abuse or neglect. They may also be held to any legal penalties and liabilities as applicable. (Further information is outlined in Investigation of Complaints Policy and Procedure).

5. Retaliation or Harassment:

The agency has a zero tolerance policy in regards to retaliation and harassment. If a person served is the victim of retaliation or harassment because he or she filed a complaint and/or was interviewed during the rights investigation process, etc., this does constitute a rights violation and must be investigated by the rights office. Disciplinary action is to be taken if there is evidence that retaliation or harassment has occurred. If a staff of the rights office or any staff person engaged in rights related activity is a victim of retaliation or harassment the Rights Officer will forward that information to the CEO who must ensure that disciplinary action is taken if there is evidence that retaliation or harassment has occurred. (MCL 330.1755 [3] [a])

6. Rights Training:

The Recipient Rights Officer will provide training in the requirements of reporting alleged incidents of abuse or neglect and in the rights of persons served to all employees,

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contract employees, provider network employees, employment services employees, students, interns or volunteers of LCCMHSP within 30 days of hire and annually thereafter.

DEFINITIONS:

Abuse: means 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. MHC 100 (2)

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 a person served.

- Serious Physical Harm means physical damage suffered by a person served that a physician or registered nurse determines caused or could have caused the death of a person served, or caused the impairment of their bodily function(s) or the permanent disfigurement of a person served.
- Sexual Abuse means any of the following:
 - (i) 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 a person served,
 - (ii) or 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 person served,
 - (iii) any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a person served for whom the employee, volunteer, or agent provides direct service.
- Sexual Contact means the intentional touching of the person served or employee's intimate parts or the touching of the clothing covering the immediate area of the person served or employee's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal

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or gratification, done for a sexual purpose, or in a sexual manner for any of the following:

- (i) Revenge
- (ii) To inflict humiliation
- (iii) Out of anger

- Sexual Penetration means 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.

Abuse Class II means any of the following:

- (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 non-serious physical harm to a person served.
 - Non-Serious Physical Harm means physical damage or what could reasonably be construed as pain suffered by a person served that a physician or registered nurse determines could not have caused, or contributed to, the death of a person served, the permanent disfigurement of a person served, or an impairment of his or her bodily functions.
 - Bodily Function means the usual action of any region or organ of the body.
- (ii) The use of unreasonable force on a person served by an employee, volunteer, or agent of a provider with or without apparent harm.
 - Physical Management is a technique used by staff as an emergency intervention to restrict the movement of a person served by direct physical contact in order to prevent the person served from harming himself, herself or others. Staff must utilize crisis prevention de-escalation techniques as outlined in the training prior to any Physical Management Intervention.
 - Physical Management, as defined, may only be used in situations when a person served 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 will apply:
 - (i) Physical Management will not be included as a component in a behavior treatment plan.

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- (ii) Prone immobilization of a person served 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 record of the person served.
- Unreasonable Force means physical management or force that is applied by an employee, volunteer, or agent of a provider to a person served where there is no imminent risk of significant injury to the person served, staff or others, or that is any of the following in one or more of the following circumstances:
 - (i) Not in compliance with approved behavior management techniques. There is no imminent risk or serious or non-serious physical harm to the person served, 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 the emergency interventions authorized in the Individual Plan of Service (IPOS) of the person served.
 - (iv) The physical management of force is used when other less restrictive measures were possible but not attempted immediately before the use of physical management or force.
- (iii) 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 person served.
- (iv) An action taken on behalf of a person served by a provider who assumes the person served is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the person served.
- Emotional Harm means impaired psychological functioning, growth, or development of a significant nature as evidence by observable physical symptomatology or as determined by a mental health professional.
 - (v) Exploitation of a person served by an employee, volunteer, or agent of a provider.
- Exploitation means an action by an employee, volunteer, or agent of a provider that involves the misappropriation or misuse of property or funds of a person served for the benefits of an individual or individuals other than the person served.

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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 person served. "Sexual Harassment" means sexual advances to a person served, requests for sexual favors from a person served, or other conduct or communication of a sexual nature toward a person served.

Degrade means treat 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, demean, humble, humiliate. These verbs mean to deprive of self-esteem or self-worth; to shame or disgrace. Degrading behavior is further defined as any language or epithets that insult the person's heritage, mental status, race, sexual orientation, gender, intelligence, etc.

Threaten means to utter intentions of injury or punishment against someone or to express a deliberate intention to deny the well-being of somebody unless the person does what is being demanded.

Staff should refrain from language which is offensive or obscene. This includes using coarse or vulgar language in the presence or hearing of a recipient or their family. This includes using racial slurs, cursing, or profanity. Coarse implies roughness or crudeness of spirit, behavior, or language.

Criminal Abuse:

- a. Assault as defined by Michigan Penal Code
- b. Criminal Homicide as defined by Michigan Penal Code
- c. Criminal Sexual Conduct as defined by the Michigan Penal Code
- d. Vulnerable Adult Abuse as defined by the Michigan Penal Code
- e. Child Abuse as defined by the Michigan Penal Code

Neglect Class I means either of the following:

- (i) 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 Plan of Service and that causes or contributes to the death, serious physical harm to or sexual abuse of a person served.
- (ii) The failure to report apparent or suspected abuse class I or neglect class I of a person served.

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Neglect Class II means either of the following:

- (i) 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 Plan of Service and that cause or contribute to non-serious physical harm or emotional harm to a person served.
- (ii) The failure to report apparent or suspected abuse class II or neglect class II of a person served.

Neglect Class III means either of the following:

- (i) 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 Plan of Service and that either placed or could have placed a person served at risk of physical harm or sexual abuse.
- (ii) The failure to report apparent or suspected abuse class III or neglect class III of a person served.

Additional Definitions:

Mental Health Professional means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one of the following: a physician, a psychologist, a registered professional nurse, a certified social worker.

Reasonable Cause is a suspicion founded under circumstances sufficiently strong to warrant a reasonable person to believe that the suspicion is true.

Reporting Person is an employee, contract employee, or volunteer of LCCMH who has reasonable cause to suspect the criminal abuse of a person served or the abuse, neglect, endangerment, or exploitation of a person served who is a child or vulnerable adult.

Volunteer is an individual who, without compensation, other than reimbursement for expenses, performs activities for LCCMH under specified conditions.

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REFERENCES:

Michigan Mental Health Code
Michigan Department of Health and Human Services Administrative Rules
Michigan Compiled Laws

LKJ:mgr

This policy supersedes
#12/09053 dated 12/22/2009.
