

<b>COMMUNITY MENTAL HEALTH PARTNERSHIP OF SOUTHEASTERN MICHIGAN</b>	<b><i>Policy and Procedure</i></b>		
<b>Department</b> Recipient Rights	<b># of Pages: 13</b>		
<b>Policy Name</b> ABUSE AND NEGLECT	<b>Type of Policy:</b>  <input type="checkbox"/> WCHO <input checked="" type="checkbox"/> Regional <input type="checkbox"/> Network		
<b>Policy Number</b>	<b>Effective Date</b>	<b>Revision Date</b> 9/11/06	<b>Approval Date</b> 9/19/06
<b>Administrative/Board of Directors Sign Off</b>			
<b>Administrative Signature:</b>		<b>Date:</b>	
<b>Board of Directors Signature:</b>		<b>Date:</b>	

### **I. PURPOSE**

To establish a policy and procedure for protection of recipients from and remediation of abuse/neglect and abusive/negligent conditions.

### **II. APPLICATION**

All recipients while under the care of any Community Mental Health Partnership of Southeastern Michigan (CMHPSM) staff, students, volunteers and/or contractual agencies within the provider network.

### **III. POLICY**

All staff members are responsible for safeguarding recipients from abuse or neglect. The complaints of abuse or neglect shall not be ignored because the individual is receiving mental health services. Complaints shall not in any way affect recipients' rights or benefits.

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 reports 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 administrative and potentially disciplinary action, up to and including termination.

#### **IV. DEFINITIONS**

- ABUSE CLASS I:** A non-accidental act, or provocation of another to act, by an employee, contract employee or volunteer which caused, or contributed to, death, serious physical harm, or sexual abuse of a recipient.
- ABUSE CLASS II:**
- A) A non-accidental act, or provocation of another to act, by an employee, contract employee or volunteer which caused, or contributed to, non-serious physical harm to a recipient; or,
  - B) The use of unreasonable force on a recipient by an employee, contract employee or volunteer, with or without apparent harm; or
  - C) Any action, or provocation of another to act, by an employee, contract employee or volunteer, which causes, or contributes to, emotional harm to a recipient; or,
  - 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.
- ABUSE CLASS III:** The use of language, or other means of communication by an employee, contract employee or volunteer to degrade, threaten, or sexually harass a recipient.
- NEGLECT CLASS I:**
- A) Acts of commission or omission by an employee, contract employee or volunteer which result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, procedures, written directives, or individual plan of service, and which cause, or contribute to, death or serious physical harm to a recipient; or,
  - B) The failure to report abuse or neglect of a recipient when the abuse or neglect results in death or serious physical harm to the recipient, and/or failure to report the suspected sexual abuse of a recipient when the sexual abuse is substantiated
- NEGLECT CLASS II:**
- A) Acts of commission or omission by an employee, contract employee or volunteer which result from noncompliance with a standard of care required by law, rules, policies, guidelines, procedures, written directives, or individual plan of service which cause, or contribute to, non-serious physical harm, or emotional harm, to a recipient, or,

B) The failure to report abuse or neglect of a recipient when the abuse or neglect results in non-serious harm to the recipient.

**NEGLECT CLASS III:**

A) Acts of commission or omission by an employee, contract employee or volunteer which result from noncompliance with a standard of care required by law, rules, policies, guidelines, procedures, written directives or individual plan of service which either placed or could have placed, a recipient at risk of physical harm; or,

B) The failure to report abuse or neglect of a recipient when the abuse or neglect places a recipient at risk of serious or non-serious harm.

C) The failure to report the suspected sexual harassment of a recipient when the sexual harassment is substantiated.

**OTHER IMPORTANT DEFINITIONS**

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

**Criminal Abuse:** 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:**

- 1) To cause a humiliating loss of status or reputation
- 2) To cause the person to feel that they or other people are worthless and do not have the respect or good opinion of others;
- 3) To deprive of self-esteem or self worth; to shame or disgrace
- 4) 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 or not limited to:

- a) Swearing at recipients
- b) Using foul language at recipients
- c) Using racial or ethnic slurs toward or about recipients
- d) 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 psychiatrist or fully or

limited licensed psychologist or social worker.

Force:	<ol style="list-style-type: none"><li>1) The use of power or exertion;</li><li>2) The exertion of physical strength or the operation of circumstances that permit no alternative to compliance.</li></ol>
Non-Serious Physical Harm:	Physical damage suffered by a recipient, which a physician or RN 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 function(s).
Physical Management:	A technique used by staff to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself, herself, or others, or from causing substantial property damage.
Serious Physical Harm:	Physical damage suffered by a recipient which a physician or RN determines caused or could have caused the death of a recipient, or caused the impairment of his/her bodily function(s), or the permanent disfigurement of a recipient.
Sexual Abuse:	Any sexual contact, or sexual penetration involving an employee, contractual employee, student or volunteer and a recipient.
Sexual Contact:	<ol style="list-style-type: none"><li>1) Sexual contact is the non-accidental, avoidable touching or penetration of a recipient's or actor's intimate parts (genitals, buttocks, breasts, groin, inner thigh, or rectum); or the non-accidental, avoidable touching of the clothing covering the immediate area of the recipient's or actor's intimate parts, if that action can be reasonably seen as being for the purpose of arousal or gratification, done for a sexual purpose or in a sexual manner.</li></ol>
Sexual Harassment:	Any action, by any person, which can be construed as sexual advances toward a recipient, requests for sexual favors from a recipient, or communication of a sexual nature toward a recipient.
Threaten:	<ol style="list-style-type: none"><li>1) To utter intentions of injury or punishment against;</li><li>2) To express a deliberate intention to deny the well-being, safety, or happiness of somebody unless the person does what is being demanded.</li></ol>
Unreasonable Force:	The use of physical management, or force, by an employee, contract employee, student or volunteer with a recipient where there is no immediate risk of physical harm to staff or other recipients and no immediate risk of significant property damage and that is one or more of the following:

- a) Not in compliance with approved behavior management techniques
- b) Not in compliance with the recipient's individual treatment plan
- c) Used when other less restrictive measures were not attempted immediately prior to the use of force, absent an immediate risk of physical harm to staff or other recipients or significant property damage.

**VI. EXHIBITS**

- A. Report on Recipient Abuse
- B. Report of Actual or Suspected Child Abuse or Neglect – DHS-3200
- C. Office of Recipient Rights – Report of Investigative Findings

**VII. REFERENCES**

- A. Michigan Mental Health Code, Public Act 258 of 1974 as amended – Sec. 700(a), 722, 723, 723a, 723b, 723c.
- B. DCH Administrative Rules - 330.7035
- C. Michigan Penal Code, Act 328 of Public Acts of 1931
- D. CMHSP Provider Contract – Attachment A
- E. P.A. 519 of 1982, Adult Protective Services
- F. Child Protection Law, Public Act 238 of 1975, as amended
- G. 42 C.F.R. (Code of Federal Regulations) Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, Final Rule

**VIII. PROCEDURES**

**A. ADULT ABUSE & NEGLECT**

<u>WHO</u>	<u>DOES WHAT</u>
All CMHPSM or Contractual Staff	<ul style="list-style-type: none"> <li>1) Upon discovery of possible abuse or neglect, takes action to protect, comfort and assure treatment of the recipient as necessary.</li> <li>2) Verbally report, or document and then fax or hand-deliver on an Incident Report Form, the death, serious injury, suspected abuse, neglect, or sexual abuse of a recipient to the CMHPSM ORR immediately if possible, but no later than the next working day.</li> <li>3) Notify the appropriate public agency as required by law regarding any suspected abuse, neglect, sexual abuse, or</li> </ul>

death of any service recipient.

**WHO**

**DOES WHAT**

- |   |   |
|---|---|
| Supports Coordinator,<br>Client Services Manager<br>or Supervisor | 4) Immediately notifies the Supports Coordinator/Client Services Manager.   |
| Recipient Rights Officer  | 1) Assures that Recipient Rights Officer has been notified.<br>2) Assures notification of empowered guardian if applicable.<br><br>Upon receipt of abuse or neglect allegation.<br><br>1) Determines if there is reasonable cause to suspect abuse or neglect.<br>2) Assures that the recipient is protected from further mistreatment.<br>3) Assures that the Supports Coordinator/Client Services Manager or supervisor has notified empowered guardian if applicable.<br>4) Informs local Director/Designee.<br>5) If sexual abuse is suspected, assures that recipient is taken to hospital for examination which may include a Sexual Assault Kit.<br>6) Notifies or assures that verbal notification is made immediately To Adult Protective Services in accordance with PA 519, and Licensing if incident occurred in a licensed residential setting.<br>7) If there is reasonable cause to suspect that criminal abuse has occurred, notifies or assures immediate verbal notification to the appropriate law enforcement agency with a written report to follow within 72 hours. |

NOTE: Recipient to recipient simple assault is not required to be reported to law enforcement. It is also not required to make a report to law enforcement of alleged abuse that:

- a. Occurred more than one year prior to being revealed, or
  - b. Did not occur at a CMHPSM or provider site nor was committed by an employee, contract employee, student or volunteer.
- 8) Following a verbal report made to law enforcement, assures That the written Report of Recipient Abuse form is completed Within 72 hours and distributed as follows:

Original:  
- Law Enforcement Agency

**WHO**

**DOES WHAT**

Copies to:

- Supports Coordinator/Client Services Manager for filing in Recipient record with names of alleged abuser(s) and reporting person deleted.
- Adult Protective Services
- Licensing (if applicable)
- Local Director/Designee
- ORR File

- 9) Provides assistance to Adult Protective Services and/or police agency if requested. (However, 42 C.F.R. (Code of Federal Regulations) Part 2 prohibits disclosure of any alcohol or drug abuse treatment information after the initial report of child abuse or neglect has been made unless there is an appropriate court order, or the recipient, parent or guardian consents to disclosure.)
- 10) Conducts independent investigation of abuse/neglect allegation.
- 11) Completes pending or final Report of Investigative Findings with recommendations for corrective action if necessary.
- 12) Completes follow-up to determine that corrective action has been taken, including firm and fair disciplinary action.

**B. CHILD ABUSE OR NEGLECT (UNDER EIGHTEEN YEARS OF AGE)**

**WHO**

**DOES WHAT**

All CMHPSM or Contractual Staff

- 1) Upon discovery of possible child abuse or neglect, takes action to protect, comfort and assure treatment of the child as necessary.
- 2) Immediately reports possible child abuse or neglect verbally to immediate supervisor.

Staff/Supervisor

- 1) Assures notification of parent or empowered guardian if appropriate.
- 2) Assures that verbal notification is made immediately to Child Protective Services in accordance with PA 238, Child Protection Law.
- 3) If there is reasonable cause to suspect that criminal abuse Has occurred, notifies or assures immediate verbal notification to the appropriate law enforcement agency with agency with a written report to follow within 72 hours.
- 4) Following a verbal report made to law enforcement, assures That written 72 hours and distributed as follows:

**WHO**

**DOES WHAT**

Original:

- law enforcement agency

Copies to:

- Supports Coordinator/Client Services Manager for filing in recipient record with names of alleged abuser(s) and reporting person deleted.
- Child Protective Services
- Licensing (if applicable)
- Local Director/Designee
- ORR File

- 5) Completes an Incident Report attaching the Recipient Rights Officer copy of the Report of Actual or Suspected Child Abuse Or Neglect, DHS-3200, if verbal notification to DHS Child Protective Services was made by CMHPSM or contractual staff.
- 6) Provides assistance to Adult Protective Services and/or police agency if requested. (However, 42 C.F.R. (Code of Federal Regulations) Part 2 prohibits disclosure of any alcohol or drug abuse treatment information after the initial report of child abuse or neglect has been made unless there is an appropriate court order, or the recipient, parent or guardian consents to disclosure.)

Recipient Rights Officer

- 1) Upon receipt of copy of Report of Actual or Suspected Child Abuse or Neglect, DHS-3200, and/or Incident Report, informs local Director.
- 2) Conducts an independent investigation if the abuse or neglect is alleged to have been caused by a CMHPSM staff or staff of an agency under contract to CMHPSM, or occurred at a CMHPSM site or that of an agency under contract to CMHPSM.



# Exhibit B: Report of Actual or Suspected Child Abuse or Neglect – DHS-3200

## REPORT OF ACTUAL OR SUSPECTED CHILD ABUSE OR NEGLECT Michigan Department of Human Services

Was referral phoned to DHS? <input type="checkbox"/> Yes <input type="checkbox"/> No    ▶ If yes, Log # _____    ▶ If no, contact the local DHS Office immediately				
<b>INSTRUCTIONS: REFERRING PERSON:</b> Complete items 1-20. Send PART 1 to local County DHS where the child is found. Retain PART 2 for your records. See additional instructions on back.				1. Date
2. List of child(ren) suspected of being abused or neglected (list additional children on back of Part 1)				
NAME	BIRTH DATE	SOCIAL SECURITY #	SEX	RACE
3. Mother's name				
4. Father's name				
5. Child(ren)'s address (No. & Street)		6. City	7. County	8. Phone No.
9. Name of alleged perpetrator of abuse or neglect		10. Relationship to child(ren)		
11. Person(s) the child(ren) living with when abuse/neglect occurred		12. Address, City & Zip Code where abuse/neglect occurred		
13. Describe injury or conditions and reason for suspicion of abuse or neglect (Attach additional sheets if necessary)				
_____ _____				
14. Source of Referral (Check appropriate box)				
<input type="checkbox"/> PHYSICIAN	<input type="checkbox"/> AUDIOLOGIST	<input type="checkbox"/> PSYCHOLOGIST	<input type="checkbox"/> CLERGY	
<input type="checkbox"/> MEDICAL EXAMINER (Coroner)	<input type="checkbox"/> *SOCIAL WORKER	<input type="checkbox"/> PROFESSIONAL COUNSELOR	<input type="checkbox"/> MARRIAGE/FAMILY THERAPIST	
<input type="checkbox"/> DENTIST/DENTAL HYGIENIST	<input type="checkbox"/> SCHOOL ADMINISTRATOR	<input type="checkbox"/> TEACHER	<input type="checkbox"/> DHS FACILITY	
<input type="checkbox"/> NURSE	<input type="checkbox"/> SCHOOL COUNSELOR	<input type="checkbox"/> LAW ENFORCEMENT OFFICER	<input type="checkbox"/> DCH FACILITY	
<input type="checkbox"/> EMERGENCY MEDICAL SERVICES PERSONNEL	<input type="checkbox"/> HOSPITAL	<input type="checkbox"/> CHILD CARE PROVIDER	<input type="checkbox"/> ELIGIBILITY SPECIALIST	
<input type="checkbox"/> FAMILY INDEPENDENCE MANAGER	<input type="checkbox"/> FAMILY INDEPENDENCE SPECIALIST	<input type="checkbox"/> SOCIAL WORK SPECIALIST	<input type="checkbox"/> SOCIAL WORK SPECIALIST	
<input type="checkbox"/> SOCIAL WORK SPECIALIST MANAGER	<input type="checkbox"/> WELFARE SERVICES SPECIALIST	<input type="checkbox"/> Other (Specify below)		
15. Referring person's name		16. Name of referring organization (school, hospital, etc.)		
17. Address (No. & Street)		18. City	19. State	20. Zip Code
				21. Phone No.
<b>TO BE COMPLETED BY MEDICAL PERSONNEL WHEN PHYSICAL EXAMINATION HAS BEEN DONE</b>				
22. Summary report and conclusions of physical examination (Attach Medical Documentation)				
_____ _____				
23. Laboratory report		24. X-Ray		
25. Other (specify)		26. History or physical signs of previous abuse/neglect		
		<input type="checkbox"/> YES <input type="checkbox"/> NO		
27. Prior hospitalization or medical examination for this child				
DATES		PLACES		
28. Physician's Signature		29. Date	30. Hospital (if applicable)	
Department of Human Services (DHS) will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to a DHS office in your area.		AUTHORITY: P.A. 238 of 1975. COMPLETION: Mandatory. PENALTY: None.		

## Exhibit B: Report of Actual or Suspected Child Abuse or Neglect – DHS-3200

### INSTRUCTIONS

#### GENERAL INFORMATION:

This form is to be completed as the written follow-up to the oral report required in the above Sec. 3. (1) Act. No 238, P.A. of 1975, as amended and mailed to the local county Department of Human Services. Indicate if this report was phoned into DHS as a report of suspected CA/N? If so, indicate the Log # (if known). Referring person is to fill out as completely as possible items 1-21. Only medical personnel may complete items 22-30.

1. Date - Enter the date the form is being completed.
  2. List child(ren) suspected of being abused or neglected - Enter available information for the child(ren) believed to be abused or neglected. Indicate if child has a disability that may need accommodation.
  3. Mother's name - Enter mother's name (or mother substitute) and other available information. Indicate if mother has a disability that may need accommodation.
  4. Father's name - Enter father's name (or father substitute) and other available information. Indicate if father has a disability that may need accommodation.
  5. Child(ren)'s address - Enter the address of the child(ren).
  6. City - Self explanatory
  7. County - Self explanatory
  8. Phone - Enter phone number of the household where child(ren) resides.
  9. Name of alleged perpetrator of abuse or neglect – Indicate person(s) suspected or presumed to be responsible for the alleged abuse or neglect.
  10. Relationship to child(ren) - Indicate the relationship to the child(ren) of the alleged perpetrator of neglect or abuses, i.e. parent, grandparent, babysitter.
  11. Person(s) child(ren) living with when abuse/neglect occurred - Enter name(s). Indicate if individuals have a disability that may need accommodation.
  12. Address where abuse / neglect occurred - Self explanatory.
  13. Describe injury or conditions and reason of suspicion of abuse or neglect - Indicate the basis for making a report and the information available about the abuse or neglect.
  14. Source of referral - Check appropriate box noting professional group or appropriate category  
**Note:** If abuse or neglect is suspected in a hospital, check hospital.
- DHS Facility** - Refers to any group home, shelter home, halfway house or institution operated by the Department of Human Services.
- DCH Facility** - Refers to any institution or facility operated by the Department of Community Health.
15. Referring person's name - Enter your name if you are referring or reporting this matter.
  16. Name of referring organization - Enter the name of the agency or organization, if appropriate.
  17. Address - Self explanatory
  18. City - Self explanatory
  19. State - Self explanatory
  20. Zip Code – Self explanatory
  21. Phone Number - Self explanatory

**Exhibit C: Office of Recipient Rights – Report of Investigative Findings**

**Appropriate Agency Letterhead**

**Office of Recipient Rights  
Report of Investigative Findings**

IDENTIFYING INFORMATION	
RECIPIENT	CONSUMER ID
COMPLAINANT	COMPLAINT NUMBER 27
PROVIDER	DATE
CODE(S) -	DETERMINATION (EACH CODE)

**COMPLAINT ALLEGATIONS**

**CITATIONS OF LAW, RULES, POLICIES, OR GUIDELINES THAT PERTAIN TO THE COMPLAINT**

**PERSONS INTERVIEWED, CONSULTED, OR NOTIFIED, DOCUMENTS EXAMINED, AND UNION REPRESENTATIVE AND OTHERS PRESENT DURING INVESTIGATIVE INTERVIEWS**

**RELEVANT ISSUES**

**SUMMARY OF INVESTIGATIVE FINDINGS**

**CONCLUSION**

**RECOMMENDATIONS**

Recipient Rights Officer: \_\_\_\_\_ Date: \_\_\_\_\_

CC: