BERRIEN MENTAL HEALTH AUTHORITY
PROCEDURE

SUBJECT: Reporting of Suspected Abuse, Neglect, Sentinel Events and Unusual Incidents	SECTION: 01-06-01 Page 1 of 9
APPLICATIONS: All Programs and Services EFFECTIVE DATE: 10/01/94 REVISED: 07/98, 10/99, 05/02, 11/02, 11/04, 1/05, 5/05, 11/05, 01/08, 03/08, 06/08, 07/09, 7/13, 7/15, 9/15, 11/16, 6/19, 4/2020, 8/2020, 7/2020, 7/2022, 2/2023, 8/2023, 2/2026	REQUIRED BY: MHC 722, 723, 752, 778; AR 7035 P.A. 519, 1982; P.A. 238, 1978

POLICY: It is the policy of Berrien Mental Health Authority (BMHA) that a recipient of mental health services shall not be subjected to abuse or neglect and to have clear guidelines for reporting, investigation, and review of apparent or suspected abuse, neglect or exploitation involving a recipient of mental health services, in accordance with Section 723 of the Mental Health Code. Appropriate remedial action shall be recommended to the CEO and the CEO will ensure corrective action contains firm and fair disciplinary action, when required. It is also the policy of BMHA to have clear guidelines for the reporting, investigation, and review of other apparent or suspected rights violations, and sentinel or unusual incidents involving recipients. Incident reports are not part of the clinical record and are not to be used as a substitute for clinical documentation. Data from incident reports shall only be used to look for methods and opportunities to improve services, determine and correct problems, identify potential violations of rights, and assist in trending for review of significant health risks to consumers and staff.

PURPOSE

1. To promptly document and report the circumstance surrounding each incident.
2. To improve the quality of care of recipients through a peer review process.
3. To alert the Recipient Rights Officer of potential violations of rights.
4. To alert appropriate administrative officers to potential risks to recipients and potential liability of the agency.
5. To assure applicable laws for reporting abuse, neglect, and exploitation to the police, and MDHHS Protective Services and Licensing divisions, are followed.
6. To create data with which to monitor the number and type of incidents for the purposes of quality assurance, monitoring and reporting.
7. To comply with requirements of the Michigan Department of Health and Human Services and CARF, relative to reporting and investigating sentinel events, risk events and critical events.

STANDARD

Mandatory reporting requirements will be followed by all BMHA employees, contract employees, volunteers, or agents of a provider who suspect abuse, neglect, or exploitation of a mental health recipient, as required by law.

A) PUBLIC ACT 238 of 1975 – Suspected abuse and neglect of children shall be reported to the Department of Human Services – Child Protective Services, immediately. A written report shall follow within 72 hours.

B) PUBLIC ACT 519 of 1982 – Suspected abuse, neglect and exploitation of vulnerable adults shall be reported to the Department of Human Services - Adult Protective Services, immediately. A written report shall follow within 24 hours.

C) MHC - SECTION 723, PUBLIC ACT 258 of 1974, as amended – Criminal abuse, including vulnerable adult abuse and child abuse, shall be immediately reported to the local law enforcement; including criminal abuse of a consumer to another consumer, if that abuse is greater than simple assault, occurred in a mental health setting, and occurred in the last year; or by a mental health or contract employee of mental health. A written report completed by the person making the verbal report shall follow within 72 hours.

D) MHC – SECTION 748 (9) PUBLIC ACT 258 of 1974, as amended – "The records, data and knowledge collected for or by individuals or committees assigned a peer review function, including the review function under section 143a (1), are confidential, shall be used only for the purposes of peer review, are not public records, and are not subject to court subpoena. This subsection does not prevent disclosure of individual case records pursuant to this section.

E) ADMINISTRATIVE RULES – Rule 7046. "In addition to other information required to be contained in the clinical record of the recipient by statute and rule, the record shall contain a summary of any extraordinary incidents involving the recipient. The report is to be entered into the record by a staff member who has personal knowledge of the extraordinary incident. An incident or peer review report… does not constitute a summary."

F) Apparent or suspected abuse, neglect, or exploitation, involving a recipient, shall immediately be reported to the BMHA Office of Recipient Rights (ORR)/Administration.

G) In addition, any other suspected rights violations and sentinel or unusual incidents, shall also be reported to the ORR within 24 hours and/or to follow other procedures and applicable laws for reporting such events; and to cooperate with any person conducting investigations or incident reviews that result.

DEFINITIONS

1. **Abuse (MDHHS MHC Administrative Rules):**
    a. **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, or sexual abuse of, or serious physical harm to a recipient.

    b. **Class II**:
        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 recipient; or
        ii. The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm; or,
        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 recipient; or,
        iv. 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.
        v. Exploitation of a recipient by an employee, volunteer, or agent of a provider.

c. **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.

2. **Abuse (MDHHS)**: All suspected cases or incidents of individuals, not less than 18 years of age, who are at risk because of harm or threatened harm to adult's health or welfare caused by another person. This includes but is not limited to non-accidental physical or mental injury, sexual abuse, exploitation, or maltreatment.

3. **Anatomical Support**: Body positioning or a physical support ordered by a physician or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning.

4. **Assault**: An intentional act to physically injure another person by force, or forces unlawfully directed toward the person of another, under such circumstances as creates a well-founded fear of imminent peril, coupled with the apparent present ability to effectuate the attempt, if not presented.

5. **Assault – Simple:** An assault which does not involve a weapon and of which is not intended to commit murder or inflict great bodily harm.

6. **Assault – Serious:** An assault by means of a dangerous weapon or assault with intent to do great bodily harm or murder; or criminal sexual conduct; or with the intent to rob or steal; or is sexual intercourse under the pretext of medical treatment.

7. **Assent:** Agrees to; or does not object.

8. **Biohazard:** Any potentially infectious material as defined by the State of Michigan; including blood or body fluid.

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

10. **Communicable Disease**: A disease which may be transmitted directly or indirectly from one individual to another. One due to a communicable microorganism or the toxic products produced by the disease.

11. **Consumer/Recipient**: Any person for whom the affiliate CMHSP is responsible for arranging, contracting for and/or coordinating the provision of services.

12. **Criminal Abuse**: means 1 or more of the following: **(i)** 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, and that is committed by a recipient against another recipient. **(ii)** A *criminal homicide* that is a violation or an attempt or conspiracy to commit a violation of section 316, 317, or 321 of Act No. 328 of the Public Acts of 1931, being section 750.316, 750.317, and 750.321 of the Michigan Compiled Laws. **(iii)** C*riminal 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 section 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws. **(iv)***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. **(v)** *Child abuse* that is a violation or an attempt or conspiracy to commit a violation of section 136b of the Public Acts of 1931, being section 750.136b of the Michigan Compiled Laws.

13. **Degrade:** 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.

14. **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.

15. **Employee/Volunteer/Agent of a Provider**: An individual who works for compensation or a volunteer, or student, who works without compensation for a CMHSP program or for staff of an agency or service under contract with CMHSP.

16. **Exploitation: A**n 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.

17. **Exploitation – Sexual:** Allowing, permitting, or encouraging a minor or vulnerable adult to engage in prostitution by any person, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of that person engaged in a sexual act.

18. **Infectious Disease**: Any disease caused by growth of pathogenic microorganisms in the body. May or may not be contagious.

19. **Inappropriate Sexual Act(s)**: Sexual contact or penetration between Recipient(s) if the clinical team has determined that one or more cannot assent; or if one or more is a minor.

20. **Neglect (MDHHS MHC Administrative Rules)**:

    a. **Class I**

        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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient.

        ii. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

    b. **Class II**

        i. 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 plan of

service and that cause or contribute to non-serious physical harm or emotional harm, to a recipient; or,

ii. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

c. **Class III**:

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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that either placed or could have placed a recipient 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 recipient.

21. Neglect (MDHHS): All suspected cases of incidents of individuals who are at risk because of harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation (self-neglect) or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare.

22. Non-Serious Physical Harm: Physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse (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 or her bodily functions.

23. 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.

24. Physical Management: A technique used by staff as an emergency intervention to restrict the movement of a recipient by direct physical contact to prevent the recipient from harming himself, herself, or others.

25. 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 above and incorporated into the written individual plan of service shall not be considered a restraint.

26. 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.

27. 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.

28. **Sentinel Event**: An "unexpected" occurrence involving death or serious physical or psychological injury, or risk thereof, which includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. *See procedure for Root Cause Analysis of a Sentinel Event. (*All sentinel events are first considered Unusual Incidents.)*

29. **Serious Physical Harm**: Physical damage suffered by a recipient, which a physician or registered nurse (RN) 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.

30. **Sexual Abuse**: Means any of the following –

(i) Criminal sexual conduct as defined by section 520b to 520e of 1931 PA 318, MCL 750.520b to MCL750.520e involving an employee, volunteer, or agent of a provider and a recipient.

(ii) 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.

(iii) 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.

31. **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 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:

(i) Revenge.

(ii) To inflict humiliation.

(iii) Out of anger.

32. Sexual Harassment: Any action, by any person, which can be construed as sexual advances toward a recipient, request for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient.

33. Sexual Penetration: Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, into any part of a person's body or insertion of any object into the genital or anal openings of another person's body if the intrusion can reasonably be construed as being for the purpose of sexual arousal or gratification. Emission of semen is not required.

34. Threaten: Means to tell someone that you will hurt them or cause problems if they do not do what you want.

35. **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.

36. **Time Out**: A 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.

37. **Unreasonable Force**: 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 non-serious 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.

38. Unusual Incident: An occurrence that disrupts or adversely affects the course of treatment or care of an individual and shall include *but is not limited to*:

- Death of a recipient *(also see procedure for reporting & review of recipient deaths.)*
- Suicide, suicide attempt or other self-abuse with significant injury
- Overdose – intentional or accidental
- Suspected abuse, neglect, or exploitation
- Sexual assault
- Potential violation of rights
- Arrests of consumers
- Convictions of consumers
- Restrictions of a recipient not documented in the PCP or BTP
- Suspicious injury or apparent yet unexplained injuries
- Assaultive or aggressive behavior by a recipient toward another recipient or any other person
- Use and/or unauthorized possession of weapons or legal or illegal substances
- Elopement/wandering from home or program / Unauthorized leaves of absence
- Suspected criminal offenses involving recipients whether victim or perpetrator
- Substantial injury or illness of a recipient that requires medical attention beyond first aid
- Medical hospitalization
- Psychiatric in-patient hospitalization
- Treatment or care issues which have been communicated to the treatment team without response
- Maladaptive or repeated behaviors that are not addressed in a plan of service, such as property damage, attacks on others, ULOA, fire setting, etc…
- Adverse side effects of psychotropic medication that is significant enough to require a more than usual or routine adjustment in the dose or medication or change in medication
- Medication errors; including documentation, wrong doses, omissions
- Medication refusals
- Use of any physical intervention techniques
- Significant incident in the community involving recipients
- Traffic accidents involving a recipient and/or staff
- Use of PRN/STAT medications
- A Sentinel Event involving a recipient- (*All sentinel events are first considered Unusual Incidents.)
- Biohazard accidents including needle sticks and splashes to mucous membranes
- Communicable Disease
- Infectious Disease

39. Vulnerable: Persons who are unable to protect themselves from harm because of a physical or mental impairment or because of the frailties of the dependence brought about by advanced age or disability. Those people who are *not* vulnerable are able to take effective action on their own behalf to deal with threatened harm.

PROCEDURE

1. Staff will receive annual education and consultation about the identification and treatment of abuse and neglect; agency, state, and federal reporting mandates; reporting and documentation of abuse,

neglect and unusual incidents; and maintaining and safeguarding evidence of alleged abuse, as needed. This procedure shall also be accessible/available to staff at all times as a reference tool.

2. Any BMHA employee, contract employee, volunteer, or agent of a provider who has reasonable cause to suspect the abuse, neglect or exploitation of a consumer, including criminal abuse of a consumer to another consumer, if that abuse is greater than simple assault, occurred in a mental health setting, and occurred in the last year; or by a mental health or contract employee of mental health shall immediately take actions to comfort and protect the consumer, as well as, make a verbal report of the incident or suspected incident, to the following:
    a. Administration
    b. The Office of Recipient Rights
       (Incident report is also required)
    c. MDHHS Protective Services as appropriate
        - Adult Protective Services – Written report to follow within 24 hours
        - Child Protective services – Written report to follow within 72 hours
    d. Local law enforcement
        - in cases of Criminal Abuse including Vulnerable Adult Abuse, and Child Abuse;
        - including criminal abuse of a consumer to another consumer, if that abuse is greater than simple assault, occurred in a mental health setting, and occurred in the last year;
        - or, by a mental health or contract employee of mental health.
        - Written report to law enforcement will follow the verbal report within 72 hours, by person making verbal report.

   Immediate verbal report should also occur to the ORR if there is sexual misconduct by a consumer, death of a recipient, serious injury requiring medical attention, or suspicion of criminal conduct by a recipient.

3. The Office of Recipient Rights shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies, the office shall complete the investigation not later than 90 days after it receives the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected right violation.

4. The rights office will provide a prompt and thorough review of changes of abuse that are fair to both the recipient alleged to have been abused and the charged employee, volunteer or agent of the provider.

5. All BMHA employees, contract employees, volunteers or agents of providers are required to cooperate with recipient rights investigations.

6. For substantiated rights violations, the respondent will take remedial actions which
    a. Corrects or provides remedy for the rights violation
    b. Is implemented in a timely manner
    c. Attempts to prevent a recurrence of the rights violation

7. For substantiated violations of abuse and neglect, the respondent will ensure that firm and appropriate disciplinary action is taken against those who have engaged in abuse or neglect.

8. As appropriate, provide immediate intervention including comfort and care to the recipient, first aid, and notification to emergency personnel for any unusual incident, including abuse and neglect, which requires it.

9. For all unusual incidents, including abuse and neglect, a Report of Unusual Incident (IR) must be completed for each recipient affected, as soon as practical, but no later than the end of the shift. Notification to supervisory staff should also occur as required.

10. Assure notification by a designated party about the unusual incident, including but not necessarily limited to: legal guardian, appropriate members of the family or treatment team.

11. A summary of the information of an extraordinary or unusual incident shall also be documented and placed in the clinical record by a staff that has personal knowledge of the incident. An incident or peer review report generated pursuant to MCL 330.1143a does not constitute a summary report as intended by this section and shall not be maintained in the clinical record of a recipient.

12. The Report of Unusual Incident is NOT a method of communication with other individuals internal or external to the service system.

13. The supervisor or team leader, as able, should assure the report is properly completed and legible, note any further information which may explain the cause of the incident, action taken, administrative or corrective actions taken or planned to remedy or prevent recurrences.

14. Upon notification of an unusual incident, ORR shall determine if it potentially meets sentinel event criteria and initiate a root cause analysis meeting within two (2) business days. (*See related procedure 01-06-04*). A determination if an incident meets criteria for a Critical or Risk Event for MDHHS reporting purposes will also be made. Notification to Provider Network, Safety, Compliance, PIHP, or other pertinent parties shall also be facilitated, as appropriate.

15. A biohazard, communicable disease, or infectious disease reported, shall be reviewed and referred to the appropriate person responsible for infection control and/or safety.

16. The ORR will utilize the Death Reporting procedure for all deaths of recipients.

***NOTE: For any event described as a reportable incident that is also a suspected violation of Rights; it is, at the discretion of the reporting person, acceptable to utilize the incident reporting process and/or the Recipient Rights Complaint Process, to file on behalf of a recipient. (*See related procedure 01-02-01*.)**

FORMS

Report of Unusual Incident – completed and sent to ORR by electronic form in IRIS, hard copy, or FAX to comply with BMHA policy.

MDHHS 3200 Form – To comply with Acts 238 & 519

Written report to Law Enforcement – To comply with Act 32

Recipient Rights Complaint Form if chosen method

Reviewer: Office of Recipient Rights
Reviewed: 4/07, 01/08, 6/10, 3/11, 5/12, 7/13, 4/14, 6/16, 4/17, 7/18, 6/19, 4/2020, 8/2020, 9/2021, 7/2022, 2/2023, 8/2023, 8/2024, 8/2025, 2/2026