

CENTRA WELLNESS NETWORK PROCEDURE 03.10 ABUSE AND NEGLECT

I. PURPOSE STATEMENT:

Centra Wellness Network's (CWN) Governing Body establishes and evaluates policies and related procedures as required by statutory and contractual obligations.

CWN reserves the right in its sole discretion to adopt and implement policies and procedures that ensure a safe, functional and professional workplace that operates with integrity using person-centered focus and planning, trauma informed practices and respect of others, cultural sensitivity and transparency in communication and practice. Organizationally and in practice, CWN is responsive to the needs of clients, community and staff.

Any statements and procedures are subject to review and/or unilateral change, modification, suspension or cancelation in whole or in part of any published/unpublished policies or procedures without notice and without having to give cause, justification, or consideration to any employee. Recognition of these rights and prerogatives of CWN is a term and condition of and maintaining employment.

Policies and Procedures are approved by the Board and/or upon recommendation by the Executive Director or his/her designee.

II. APPLICATION:

Agency Wide.

III. DEFINITIONS:

Abuse:

A 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.

Abuse - Class I:

Means 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.

Abuse – Class II:

Means any of the following:

- 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.
- b. the use of unreasonable force on a recipient by an employee, volunteer or agent of a provider with or without apparent harm.
- 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 a recipient.
- 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 a recipient.
- e. exploitation of a recipient 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 a recipient.

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Abuse (DHS):

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, or maltreatment.

Assault:

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

Degrade:

Means any of the following:

- a. Treat humiliatingly – to cause somebody a humiliating loss of status or reputation, or cause somebody a humiliating loss of self-esteem.
- b. 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. Degrade is synonymous with terms such as abase, debase, demean, humble, humiliate...these verbs mean to deprive self-esteem or self-worth; to shame or disgrace.
- c. Any language or epithets that insult the person's heritage mental status, race, sexual orientation, gender, intelligence, etc.

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.

Exploitation:

Means 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.

Immediate:

Present, at once, without delay; action is or must be taken either instantly or without any considerable loss of time.

Intimate Parts:

The genitalia, buttock, or breast of a person as well as the groin, inner thigh and rectum.

Neglect:

Means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, community mental health services program, or licensed hospital; or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

Neglect - Class I:

Means

- a. Acts of commission or omission by employee(s), volunteers or agents of a provider that result from noncompliance with a standard of care or treatment

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- required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to sexual abuse of a recipient;
- b. The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

Neglect - Class II:

Means

- a. Acts of commission or omission by employee(s), volunteers or agents 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 cause or contribute to non-serious physical harm or emotional harm to a recipient;
- b. The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

Neglect - Class III:

Means

- 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 plan of service that either places or could have placed a recipient at risk of physical harm or sexual abuse.
- b. The failure to report apparent or suspected Abuse Class III or Neglect Class III.

Neglect (DHS):

All suspected cases of incidents of individuals 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.

Non Serious Physical Harm:

Means physical damage or what could reasonably be construed as pain suffered by a recipient that 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 or her bodily functions.

Serious Physical Harm:

Means physical damage suffered by a consumer that a physician or registered nurse 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.

Sexual Abuse:

Means any of the following:

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

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Sexual Contact:

The intentional touching of the recipient's or employee's intimate parts or the touching of 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 sexual purpose, or in a sexual manner for any of the following:

- a. Revenge
- b. To inflict humiliation
- c. Out of anger

Sexual Harassment:

Sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient as defined in title VII of the civil rights act of 1991.

Sexual Penetration:

Sexual intercourse, cunnilingus, fellatio, and intercourse (vaginal or anal), or intercourse, cunnilingus, fellatio, 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.

Therapeutic De-Escalation:

An intervention, the implementation of which is incorporated in the individualized written plan of services, 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.

Threaten:

Means any of the following:

- a. To utter intentions of injury or punishment against.
- b. To express a deliberate intention to deny the wellbeing, 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 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 emergency interventions authorized in the recipient's individual plan of service.
- c. 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.

IV. POLICY STATEMENT:

The intent of this procedure by CWN is to ensure that all alleged violations of abuse or neglect (apparent or suspected) would be reported to and investigated by the Office of Recipient Rights consistent with the requirements of the Michigan Mental Health Code.

V. PROCEDURES:

- A. All CWN employees, contract employees, and volunteers will report any suspicion or allegation of abuse or neglect of a recipient immediately either by phone, voice mail or e-mail to the Office of Recipient Rights.

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- B. All CWN employees, contract employees, and volunteers will report immediately to Law Enforcement (local) if the suspected abuse involves assault, criminal homicide or criminal; sexual conduct, vulnerable adult abuse or child abuse or exploitation.
- C. The Recipient Rights Officer will report apparent and suspected case of abuse or neglect to the following within 24 hours either verbally or in writing:
 - 1. Executive Director and the CWN Director’s team.
 - 2. CWN Program Director and Director/or designee of appropriate contract provider, as applicable.
- D. The Recipient Rights Officer will ensure that a report of apparent and suspected case of abuse or neglect were reported to the following within 24 hours, if applicable:
 - 1. The Appropriate County Department of Human Services or Child Protective Services was contacted.
 - 2. The Department of Human Services, Licensing, was contacted if the suspected case of abuse or neglect occurred in a contract or licensed home.
 - 3. The appropriate local law enforcement agencies.
- E. Within 72 hours after making the oral report, the reporting individual should file a written report with the law enforcement agency to which the report was made, and to the agency responsible for the recipient.
- F. Any employee, contract employee, or volunteer making such a report of suspected abuse or neglect shall not be dismissed or penalized for making the report and will be protected by the Michigan Whistleblower’s Protection Act.
- G. All CWN employees, contract employees, and volunteers are required to cooperate with recipient rights investigations.
 - H. Substantiated reports of abuse or neglect of a recipient by an employee, contract employee or volunteer shall subject the employee, contract employee or volunteer to appropriate disciplinary action including; official reprimand, demotion, suspension, reassignment, or dismissal.

VI. EXHIBITS:
N/A

VII. REFERENCES:

Authority and Related Directives Trace	
Federal	Social Security Act: 42 CFR 431.200 et seq. (Fair Hearings), 42 CFR 438.400 et seq. (Local Appeals), 42 CFR 438.400 et seq. (Local Grievances), 42 CFR 438, Subpart C. Enrollee Rights
State	MHC 330.1722(1)(2)(3), 330.1723 (1-10a), 330.1752, 330.1778; AR 330.7035 MDHHS, Grievance and Appeal Technical Requirement, Jan 2016.
NMRE	
County	Interlocal Agreement of December 1992 Section IX(j),
CARF	CARF 2018 Behavioral Health Standards
Other	Board By-laws, Section 7.E.