POLICY STATEMENT

SUBJECT: NOTIFICATION AND REVIEW OF REPORTABLE INCIDENTS & MUIs

EFFECTIVE DATE: November 21, 2013

PURPOSE

To assist contract service providers, Ohio Department of Mental Health and Addiction Services (OhioMHAS) licensed residential care facilities (RCFs) and licensed adult care facilities (ACFs) in recognizing and reporting incidents and events that they are required to report to the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County Community (ADAMHS BOARD) and other entities. To define the ADAMHS BOARD activities of reviewing such reports as within the scope of the ADAMHS BOARD’s performance improvement process and to define the ADAMHS BOARD’s responsibilities to report and investigate incidents.

POLICY

It is the policy of the ADAMHS BOARD to require all contract service providers, RCFs, and ACFs to comply With Ohio Administrative Code (OAC) and ADAMHS Board provisions concerning the reporting of reportable incidents, major unusual incidents and allegations of abuse and neglect. The ADAMHS BOARD, the contract service providers, RCFs and ACFs shall review each individual reportable incident and systematically monitor and analyze reportable incidents.

DEFINITIONS

1. Definitions applicable to Contract Service Providers (including AoD providers of residential treatment services) pursuant to OAC 5122-26-13 or the ADAMHS Board:
   a. “Incident” means any event that poses a danger to the health and safety of clients and/or staff and visitors of the agency, and is not consistent with routine care of persons served or routine operations of the agency.
   b. “Reportable Incidents” or “Major Unusual Incidents” are incidents that must be submitted to the OhioMHAS and to the ADAMHS BOARD, including incidents that must then be forwarded by the OhioMHAS to the Ohio Legal Rights Service (OLRS) pursuant to section 5123.604 of the Revised Code. Reportable incidents are those that involve consumers/clients and shall include deaths, serious bodily injuries, alleged criminal acts, alleged physical or sexual abuse or neglect, any adverse reaction of a client to a life threatening degree due to an administered drug, medication errors likely to result in serious consequences to a client, and any life threatening situations. (As referenced in division (C) of section 5119.611 of the Revised Code, “Major Unusual Incident” has the same meaning as “Reportable Incident.”)
   c. “Death” includes deaths for any active consumer or client either on or off the Provider’s premises.
   d. “Death” also includes any death of Provider staff, contract staff, students or volunteers on the Provider’s premises while performing tasks for the program or participating in program activities, including work performed off site.
   e. “Active Consumer/Client” means any individual who has an open case at a Provider agency.
   f. “Serious Injury” means any injury incurred by an active client, staff, contract staff, students and volunteers that requires medical intervention greater than administration of minor first aid.
“Minor First Aid” may include, but is not limited to, washing a wound, applying ointment, peroxide, or OTC antibiotic creams, band aids, ice packs, heat wraps, observation, rest, or elevation.

g. “Neglect” means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.

h. “Sexual Abuse” means the professional misconduct by a social worker, counselor, doctor, case manager, nurse, trainees, or any other discipline involved in the care of clients/consumers or non-consensual sexual contact between consumers/client. Such misconduct includes, but is not limited to: (1) sexual relations between the clinician and the consumer/client; (2) a clinician’s touching of the client/consumer in a sexual manner; (3) behavior or remarks of a sexual nature by the clinician toward the client/consumer.

2. Definitions applicable in the context of RCFs, pursuant to OAC 5122-30-03:
   a. “Abuse” means any act or absence of action inconsistent with human rights which results or could result in physical injury to a resident unless the act is done in self defense or occurs by accident; any act which constitutes sexual activity, as defined under Chapter 2907 of the Revised Code, when such activity would constitute an offense against a resident under Chapter 2907 of the Revised Code; insulting or coarse language or gestures directed toward a resident which subjects the resident to humiliation or degradation; or depriving a resident of real or personal property by fraudulent or illegal means. For children, in addition to the above, the definition of abuse is the same as in sections 2919.22 and 2151.031 of the Revised Code.
   b. “Alleged abuse” means an assertion or allegation of abuse of a resident which has not yet been substantiated.
   c. “Neglect” means a purposeful negligent disregard of duty by an employee or staff member. Such duty is one that is imposed on an employee or staff member by statute, rule, or professional standards and which is owed to the person served by that employee or staff person.
   d. “Residential [care] facility” means a publicly or privately operated home or facility that meets one of the following classifications:
      (a) Type 1 facility means a facility that provides room and board and personal care services, and mental health services to one or more adults with mental illness or severe mental disabilities or children and adolescents with a serious emotional disturbance or in need of mental health services who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner;
      (b) Type 2 facility means a facility that provides room and board and personal care services to one or two adults with mental illness or severe mental disabilities or children and adolescents with a serious emotional disturbance, who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner, and
      (c) Type 3 facility means a facility that provides room and board to five or more adults with mental illness or severe mental disabilities who have been referred by or are receiving mental health services from a hospital, mental health agency, or practitioner.

3. Definitions applicable to the context of ACFs:
   a. Pursuant to OAC 5122-31-02:
      i. “Adult Care Facility” means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public.
ii. “Incident” means accident or episode involving a resident, staff member, or other individual in an ACF which presents a risk to the health, safety, or well-being of a resident of the facility.

b. Ohio Department of Mental Health and Addiction Services (OhioMHAS) definitions:
   i. “Abuse” means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain or mental anguish.
   ii. “Neglect” means the failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish or mental illness.

4. Definitions applicable to the context of working with persons with a developmental disability (DD):
   a. Pursuant to ORC §5123.61 and ORC §5123.50:
      i. “Abuse” means all of the following:
         1. The use of physical force that can reasonably be expected to result in physical harm;
         2. Sexual abuse;
         3. Verbal abuse.
      ii. “Misappropriation” means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.
      iii. “Neglect” means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual.

5. Definitions applicable in the context of working with the elderly:
   a. Pursuant to OAC §5101.60:
      i. “Abuse” means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish;
      ii. “Adult” means any person sixty (60) years of age or older within Ohio who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person’s own care or protection, and who resides in an independent living arrangement;
      iii. “Exploitation” means the unlawful or improper act of a caretaker using an adult or an adult’s resources for monetary or personal benefit, profit, or gain; and,
      iv. “Neglect” means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

6. Definitions applicable in the context of working with children:
   a. Pursuant to OAC §2151.03 “Neglected child” is defined as: (1) Who is abandoned by the child’s parents, guardian, or custodian; (2) Who lacks adequate parental care because of the faults or habits or the child’s parents, guardian, or custodian; (3) Whose parents, guardian, or custodian neglects the child or refuses to provide proper or necessary subsistence, education, medical or surgical care or treatment, or other care necessary for the child’s health, morals, or wellbeing; (4) Whose parents, guardian, or custodian neglects the child or refuses to provide the special care made necessary by the child’s mental condition; (5) Whose parents, legal guardian, or custodian have placed or attempted to place the child in violation of sections 5103.16 and 5103.17 of the
Revised Code; (6) Who, because of the omission of the child’s parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child’s health or welfare; (7) Who is subjected to out-of-home care neglect.

b. Pursuant to ORC §2151.031 “Abused child” defined as a child who: (1) Is the victim of “sexual activity” as defined under Chapter 2907 of the Revised Code, where such activity would constitute an offense under that chapter, except that the court need not find that any person has been convicted of the offense in order to find that the child is an abused child; (2) Is endangered as defined in section 2919.22 of the Revised Code, except that the court need not find that any person has been convicted under that section in order to find that the child is an abused child; (3) Exhibits evidence of any physical or mental injury or death, inflicted other than by accidental means, or an injury or death which is at variance with the history given of it. (Except as provided in division (4) of this section, a child exhibiting evidence of corporal punishment or other physical disciplinary measure by a parent, guardian, custodian, person having custody or control, or person in loco parentis of a child is not an abused child under this division if the measure is not prohibited under section 2919.22 of the Revised Code); (4) Because of the acts of his parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child’s health or welfare; (5) Is subjected to out-of-home care child abuse.

RESPONSIBILITIES

1. It is the responsibility of Contract Service Providers (including AoD providers of residential treatment services) to:
   a. Comply with the requirements of OAC 5122-26-13 and OAC 3793:2-1-04(G) by establishing a written policy that addresses how reporting of incidents and MUI’s will be accomplished.
   
   b. Report Reportable Incidents on the following forms, either DMH-LIC-015C for community mental health agencies, or DMH-LIC-015R for residential facilities to OhioMHAS and ADAMHS BOARD, Director of Q.I., Evaluation and Research, and the ADAMHS Board Major Unusual Incident form for AOD agencies to the ADAMHS Board, Director of Q.I., Evaluation and Research, within twenty-four (24) hours of the provider’s discovery, exclusive of weekends and holidays.
   
   c. Report injuries during a restraint to the ADAMHS BOARD, Director of Q.I., Evaluation and Research.
   
   d. Maintain a log for OhioMHAS and ADAMHS BOARD to review each incident of mechanical restraint, seclusion, physical restraint, major aversive behavioral interventions, and for time-out exceeding fifteen (15) minutes per episode pursuant to OAC 5122-26-16 (D)(10). The log shall include, as a minimum, the following information:
      i. The person’s name or other identifier;
      ii. The date, time and type of special safety and treatment measure;
      iii. The duration of the special safety and treatment measure, and,
      iv. If serious injury occurs, description of injury.
   
   e. When in receipt of notice of an incident or a complaint of abuse or neglect involving a mental health consumer at an ACF, immediately report the incident or complaint to the ADAMHS BOARD Adult Behavioral Health Services Administrator, who is a member of the ADAMHS BOARD Incident Review Committee, or other relevant community mental health board/alcohol drug addiction services board that has jurisdiction over the ACF. Only one copy must be provided to the ADAMHS BOARD.
f. Report actions taken within twenty-four (24) hours to OhioMHAS, the Ohio Department of Aging Ombudsperson, and the Ohio Department of Health Director, when the health and safety of a mental health consumer residing at an ACF is in immediate danger.

g. Upon request, make available to the ADAMHS BOARD all relevant documents and parties necessary to conduct a review of a reportable incident.

   i. Regarding the reports of abuse and neglect of children, provider must make, and document, at least three (3) attempts to obtain information about the investigation.

2. **It is the responsibility of RCFs to:**
   a. Comply with the requirements of OAC 5122-26-13 and establish a written policy that addresses how compliance will be accomplished, including but not limited to, the following provisions:
      ii. Notification of incidents indicating alleged abuse and neglect of any person served shall be forwarded to the ADAMHS BOARD Director of Q.I., Evaluation and Research not later than twenty-four (24) hours after discovery of the incident;
     iii. Documentation of Reportable Incidents on form “DMH-LIC-015R” which is forwarded to both OhioMHAS and the ADAMHS BOARD Director of Q.I., Evaluation and Research within twenty-four (24) hours of their discovery, exclusive of weekends and holidays.
    iv. Reporting all deaths to the ADAMHS BOARD Director of Q.I., Evaluation and Research;
   b. Upon request, make available to the ADAMHS BOARD all relevant documents and parties necessary to conduct a review of a reportable incident.

3. **In the event of an incident, it is the responsibility of ACFs to:**
   a. Take immediate and proper steps to see that the resident or residents involved receive necessary intervention including, if needed, medical attention or transfer to an appropriate health care facility; and,
   b. Investigate the incident and document the incident and the investigation.
    i. Documentation shall contain:
       1. The names of individuals involved
       2. Time
       3. Place
       4. Date of occurrence
       5. Description of incident
       6. The probable cause
       7. The care provided or measure taken
   c. Immediately notify the resident’s case manager(s) and sponsor(s) of the incident and subsequent actions taken.

4. **It is the responsibility of the ADAMHS BOARD to:**
   a. Maintain a written procedure that identifies the process by which reportable incidents will be received, reviewed, and monitored to meet the intent of this Policy and within the scope of the ADAMHS BOARD performance improvement processes.
   b. Report to the directors of OhioMHAS, ODH, Aging, and the Ohio Legal Rights Service, any alleged neglect or abuse of any ACF resident with a mental illness.
i. Such reporting shall occur within twenty-four (24) hours of an ADAMHS BOARD’s receipt of such information and shall be for the purpose of requesting an investigation by ODH pursuant to ORC §3722.17.

ii. If the health and safety of the ACF resident is in immediate danger, the ADAMHS BOARD may enter the ACF with or without the ODH Director, to investigate the situation and take whatever action is necessary to protect the health and safety of the resident.

iii. The ADAMHS BOARD will not violate any of the resident’s rights under ORC §3722.12.

iv. The ADAMHS BOARD shall report action taken within twenty-four (24) hours to the OhioMHAS, ODH, and the Ohio Department of Aging Ombudsman.

v. The ADAMHS BOARD shall notify the OhioMHAS Director of all matters reported to ODH.

vi. If such actions taken involve relocating a residential state supplement recipient, the ADAMHS BOARD shall immediately notify the passport administrative agency in that area.

c. Prepare an annual report of all reportable incidents and major unusual incidents.
d. Provide access for ACF operators and staff to attend training/continuing education events.
e. Ensure that data provided to persons requesting it pursuant to Ohio Public Records Act is in system-wide aggregate nature only and conforms to provisions in law concerning non-disclosability of performance improvement.

5. Duty of certain persons to report believed abuse of DD adults:
   Employees of Contract Service Providers and ACFs, and other required individuals pursuant to ORC §5123.61 (C)(2), having reasons to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of mental retardation and developmental disabilities. If the report concerns a resident of a facility operated by the department of mental retardation and developmental disabilities, the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of mental retardation and developmental disabilities, the report immediately shall be made to the department and to the county board.

6. Duty of certain persons to report abuse or neglect of children:
   Any person who has knowledge of any instance of abuse or neglect, or alleged abuse/neglect, or suspected abuse/neglect of any child or adolescent, shall immediately notify the county children’s services board, the designated child protective agency, or law enforcement authorities, in accordance with ORC §2151.421 of the Revised Code.

7. Duty of certain persons to report believed abuse, neglect or exploitation of the elderly:
   Employees of Contract Service Providers, RCF’s, ACF’s, and other required individuals pursuant to ORC §5101.61, having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of jobs and family services.

Reference: ORC Chapter 3793 and ORC Sections 5119.22, 5119.61, 5122.31, 2305.25, 2305.251, 2305.252, 149.43, 340.03, 340.04, 340.05, 3722.10
OAC 3796:2-1-04, 3701-20-19, 5122-26-13, 5122-26-16, 5122-30-03, 5122-30-04, 5122-31-02

/s/ Harvey A. Snider, Esq.   /s/ William M. Denihan

Harvey A. Snider, Esq.  William M. Denihan
ADAMHS Board Chairperson  ADAMHS Chief Executive Officer

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