

**ALCOHOL DRUG ADDICTION AND MENTAL HEALTH SERVICES BOARD
OF CUYAHOGA COUNTY**

POLICY STATEMENT

SUBJECT: NOTIFICATION AND REVIEW OF REPORTABLE INCIDENTS & MUIs

EFFECTIVE DATE: November 28, 2018

PURPOSE

To assist contract service providers and Ohio Department of Mental Health and Addiction Services (OhioMHAS) licensed residential facilities 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 (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 and residential care facilities (RCFs) to comply with the Ohio Revised Code (O.R.C.), the Ohio Administrative Code (OAC) and ADAMHS Board provisions concerning the reporting of reportable incidents, major unusual incidents (MUIs) and allegations of abuse and neglect. The ADAMHS Board, the contract service providers, and RCFs shall review each individual reportable incident and systematically monitor and analyze reportable incidents.

DEFINITIONS

- 1. Definitions applicable to *Contract Service Providers (including SUD 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"** (which may include "major unusual incidents" as referred to in O.R.C. 5119.36), are incidents that must be submitted to the OhioMHAS and to the ADAMHS Board. Reportable incidents are those that involve 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.
 - c. "Death"** includes deaths for any active 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 or non-consensual sexual contact between clients. Such misconduct includes, but is not limited to: (1) sexual relations between the clinician and the client; (2) a clinician’s touching of the client in a sexual manner; (3) behavior or remarks of a sexual nature by the clinician toward the client.

2. Definitions applicable in the context of residential facilities (formerly RCFs and ACFs), 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. **“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.
- c. **“Residential facility”** means a publicly or privately operated home or facility as defined in division (B) of section 5119.34 of the Revised Code.

The categories of facility are:

- (a) Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illness or one or more unrelated children or adolescents with severe emotional disturbances.
- (b) Class two facilities provide accommodations, supervision, and personal care services to any of the following:
 - (i) One or two unrelated persons with mental illness;
 - (ii) One or two unrelated adults who are receiving residential state supplement payments; or,

(iii) Three to sixteen unrelated adults.

(c) Class three facilities provide room and Board for five or more unrelated adults with mental illness.

3. 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.

4. 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 when the person obtained or exerted control over the adult or the adult's resources in any of the following ways:

- (a) Without the adult's consent or the consent of the person authorized to give consent on the adult's behalf;
- (b) Beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf;
- (c) By deception;
- (d) By threat;
- (e) By intimidation.

iv. "**Neglect**" means any of the following:

- (a) Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness;
- (b) Failure of a caretaker to provide such goods or services;
- (c) Abandonment.

5. Definitions applicable in the context of working with children:

- a. Pursuant to O.R.C. §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 O.R.C. §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.); (5) 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; (6) Is subjected to out-of-home care child abuse.

RESPONSIBILITIES

1. **It is the responsibility of Contract Service Providers (including SUD providers of residential treatment services) to:**
 - i. Comply with the requirements of OAC 5122-26-13 by establishing a written policy that addresses how reporting of incidents and MUI’s will be accomplished.
 - ii. Report Reportable Incidents on the following forms, either DMHAS-0484 for community mental health alcohol and other drug provider agencies, or DMHAS-0177 for private psychiatric service providers to OhioMHAS via the Web Enabled Incident reporting System (WEIRS) and ADAMHS Board, Director of Q.I., Evaluation and Research, and the ADAMHS Board Major Unusual Incident form for SUD agencies to the ADAMHS Board Director of Risk Management within twenty-four (24) hours of the provider’s discovery, exclusive of weekends and holidays.

- iii. Pursuant to rules 5122-26-13 and 5122-30-16 of the Administrative Code, the provider shall notify the OhioMHAS of each:
 - i. Instance of physical injury to a client or resident that is restraint-related, e.g., injuries incurred when being placed in seclusion or restraint or while in seclusion or restraint, with the exception of injury that is self-inflicted, i.e. a client or resident banging their own head;
 - ii. Death that occurs while a person is restrained or in seclusion;
 - iii. Death occurring within twenty four hours after the person has been removed from restraints or seclusion; and,
 - iv. Death where it is reasonable to assume that a person's death may be related to or is a result of such seclusion or restraint.
 - iv. Maintain a log for OhioMHAS and ADAMHS Board to review each incident of mechanical restraint, seclusion, physical restraint, and for time-out sixty (60) minutes per episode pursuant to OAC 5122-26-16(H). 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 method or methods utilized, i.e., seclusion, mechanical restraint, physical restraint and/or transitional hold, or time-out. The log of physical and mechanical restraint shall also describe the type of intervention as follows:
 - a. For mechanical restraint, the type of mechanical restraint device used;
 - b. For physical restraint, as follows:
 1. Transitional hold, and
 2. Physical restraint
 3. The duration of the method or methods.
 - v. When in receipt of notice of an incident or a complaint of abuse or neglect involving a mental health client at a residential facility, immediately report the incident or complaint to the ADAMHS Board Incident Review Committee, or other relevant community mental health board/alcohol drug addiction services board that has jurisdiction over the residential facility. Only one copy must be provided to the ADAMHS Board.
 - vi. 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 client residing at a residential facility is in immediate danger.
 - vii. Upon request, make available to the ADAMHS BOARD all relevant documents and parties necessary to conduct a review of a reportable incident.
2. It is the responsibility of residential facilities 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:
 - i. Notification of incidents indicating alleged abuse and neglect of any person served shall be forwarded to the ADAMHS Board Director of Risk Management not later than twenty-four (24) hours after discovery of the incident;

- ii. Documentation of Reportable Incidents on form “DMH-LIC-015R” which is forwarded to both OhioMHAS and the ADAMHS Board Director of Risk Management within twenty-four (24) hours of their discovery, exclusive of weekends and holidays;
- iii. Each provider shall submit a six month incident data report to the department and to the county community Board; and,
- iv. The six month incident data report for the period of January first through June thirtieth of each year shall be submitted no later than July thirty-first of the same year; and,
- v. The six month incident data report for the period of July first through December thirty-first of each year shall be submitted no later than January thirty-first of the following year.

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

3. 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. Provide access for residential care facility operators and staff to attend training/continuing education events.
- c. 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.

4. Duty of certain persons to report believed abuse of DD adults:

Employees of Contract Service Providers and residential care facilities, and other required individuals pursuant to ORC §5123.61 (C)(2), having reasons to believe that an individual with 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 developmental disabilities. If the report concerns a resident of a facility operated by the department of 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 developmental disabilities, the report immediately shall be made to the department and to the county board.

5. 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 public children’s services agency, or law enforcement authorities, in accordance with ORC §2151.421 of the Revised Code.

Supersedes and retires: Notification and Review of Reportable Incidents & MUIs Policy Statement of November 20, 2013.

Reference: ORC Chapters 2901, 2907 and 2913 and ORC Sections 2151.421, 2919.22, 2151.03, 2151.031, 5101.60, 5119.34, 5119.36, 5120.173, 5123.50, 5123.61

/s/ Rev. Benjamin F. Gohlstin, Sr.

/s/ Scott S. Osiecki

Rev. Benjamin F. Gohlstin, Sr.
ADAMHS Board Chairperson

Scott S. Osiecki
ADAMHS Chief Executive Officer

11/28/2018

11/2021

Approval Date

Review Date