

SOUTHERN HIGHLANDS COMMUNITY MENTAL HEALTH CENTER

POLICY AND PROCEDURE MANUAL

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Policy 178 – Mandatory Reporting of Child or Adult Abuse, Neglect or Emergency Situations

I. POLICY

It is the policy of Southern Highlands Community Mental Health Center to report all known or alleged adult or child abuse neglect or emergency situations in compliance with the Protective Services Law of the State of West Virginia.

II. DISCUSSION

All employees of this Center are mental health professionals according to the Protective Services law of West Virginia and are required to comply with all requirements of the Protective Services law. In addition, the “privileged status of communication” or the rights or duties of a person to keep information confidentiality is “abrogated” (abolished) between consumer and clinician in circumstances involving known or suspected cases of abuse, neglect or emergency situations. Only privileged communications between an attorney and his/her client are exempt from abrogation. Please refer to HIPAA Policy 523 – Right to Restrict Uses and Disclosures of PHI for additional information.

III. DEFINITIONS

“Abuse” – The willful / deliberate infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm, pain, or mental anguish. It can also include the deprivation a caretaker of goods or services that are necessary to attain or maintain physical, mental, and psychosocial wellbeing.

“Neglect” – The unreasonable failure by a caregiver or agency to provide the care or goods necessary to avoid physical harm, pain, mental anguish, or emotional distress. This includes, but not limited to, a pattern of failure to establish or carry out individualized plans that results in a negative outcome or places the individual in serious jeopardy; a pattern of failure to provide adequate nutrition, clothing, or health care; failure to provide a safe environment resulting in a negative outcome or serious jeopardy. This can also include medication errors and dietary errors that result in negative outcomes.

“Incapacitated Adult” – Any person who by documented reason of physical, mental or other infirmity is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health.

“Emergency” or **“Emergency Situation”** – A situation or set of circumstances which presents a substantial and immediate risk of death or serious injury.

IV. PROCEDURES

- A. A report of neglect or abuse of an or an emergency situation involving a consumer receiving services will be made immediately by telephone to Department of Health and Human Resources through the Centralized Intake for Abuse and Neglect (1-800-352-6513) and must be followed by a written report within forty-eight (48) hours for adults and twenty-four (24) for children using the “Adult Protective Services Mandatory Reporting Form” that can be obtained on the DHHR website: <https://dhhr.wv.gov/bcf/Services/Pages/Centralized-Intake-for-Abuse-and-Neglect.aspx> . A copy of this form is attached to this policy. Local numbers are to be posted at all Day Treatment and Residential sites Any report of sexual abuse or assault must be reported to law enforcement immediately.
- B. An incident report must be completed thoroughly for any suspected abuse/neglect when reported.
- C. During employee orientation, all staff will receive a copy of this policy. The employee will sign a statement verifying they have read and understand the policy and agree to abide by its mandates and West Virginia State law.
- D. All employees, contractors, and volunteers of SHCMHC are mandatory reporters.
- E. When any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, peace officer or law enforcement officer, employees of any nursing home or residential facility, and state or regional ombudsman has reasonable cause to believe that anyone under the age of 18, an incapacitated adult, or those under 18 who are legally emancipated adults is neglected, abused or in an emergency situation, or if such person observes anyone under the age of 18 or an incapacitated adult being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person will immediately report the circumstances or cause a report to be made to the local protective services agency.
- F. Nothing in this policy is intended to prevent individuals from reporting on their own behalf.

- F. When serious injury, sexual abuse or sexual assault is suspected or witnessed, the situation will also be reported to the Department of Public Safety (State Police) and any law enforcement agency having jurisdiction to investigate the report. Documentation will be made in the respective consumer's clinical record and on the required incident report of any such reporting.
- G. Failure of any Center employee to make protective services reports involving suspected abuse, neglect or emergency situation is a misdemeanor and punishable by fine and/or imprisonment as established by West Virginia State law. In addition, any employee failing to make such reports is subject to immediate termination from employment. All employees will sign form SH-236 acknowledging they have read, understand this policy and will abide by its directives.
- H. In the event any staff persons become aware of or suspects a situation of neglect or abuse within any department of this agency, that employee must also report the situation immediately to the Chief Executive Officer.
- I. The Chief Executive Officer will report or assure a designated staff reports to the Department of Health and Human Resources office all reports of suspected or known cases of neglect, abuse or emergency situations. The Chief Executive Officer will then begin an internal investigation of all reports. Results of all investigations and actions taken will be reported to the Human Rights Committee.
- J. All reports of abuse and neglect involving a SHCMHC staff will be investigated as needed per policy 176 Adverse Incidents.

