DSAMH Community Incident Reporting Policy

Division of Substance Abuse and Mental Health (DSAMH)

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Prepared By: DSAMH Risk Management
Applicability:

1. DSAMH-Operated Program
2. DSAMH State Providers

Approved By: Joanna Champney, Division Director



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I. PURPOSE

Each individual served by the Division of Substance Abuse and Mental Health (DSAMH) and DSAMH-contracted providers has the right to be free from abuse and neglect in their receipt of mental health and substance use disorder services. The Community Incident Reporting Policy is intended to guide the identification of reportable incidents and allegations of abuse, neglect, and exploitation, which may arise in the context of community mental health and substance use disorder services. The policy sets forth DSAMH's expectations for standardized reporting and investigative procedures. DSAMH expects all employees and contracted providers to ensure community treatment services are delivered in a respectful manner and do not create a threat to individual safety, health, and well-being.

II. POLICY STATEMENT

This policy is intended to complement the procedure for reporting certain incidents set out by the Department of Health and Social Services (DHSS) Policy Memorandum 46 (PM 46) and Department of Health and Social Services (DHSS) Policy Memorandum 65 (PM 65). The Departmental PM 46 and PM 65 processes shall take precedence over this policy.

III. DEFINITIONS

"24-Hour Facility" means a provider facility that operates twenty-four (24) hours a day, seven (7) days a week, including, but not limited to residential treatment programs, twenty-three (23)-hour ambulatory withdrawal management, group homes, and facility-based crisis facilities (FBCIS).

“Abuse” means any of the following:

1. Willful use of offensive, abusive, or demeaning language.
2. Knowing, reckless, or intentional acts or failures to act causing injury or death.
3. Rape or sexual assault.
4. Sexual contact, intercourse, or penetration as defined under § 761 of Title 11, regardless of consent.
5. Corporal punishment or striking.
6. Use of restrictive intervention in violation of federal or State law or regulation.

“Adult Abuse Registry” means the Delaware Adult Abuse Registry, as set forth in 11 Del C. § 8564.

“AMA Discharge” means a client left a program against medical advice.

“Chemical restraint” means a medication used to control behavior or to restrict the individual's freedom of movement and is not a standard treatment for the individual's medical or psychiatric condition.

“Criminal history or background investigation” means the screening of applicants for employment for a history of abuse or neglect of persons in accordance with all applicable state law and federal laws.

“Critical incident” means an actual or alleged event resulting in the abuse, death, exploitation, neglect, restrictive intervention, or serious injury of a client.

“DSAMH” means Division of Substance Abuse and Mental Health.

“DSAMH Staff” means any staff, contracted workers, or employees working within a DSAMH-operated program. This extends to interns and volunteers as well.

“Elopement” means when a client leaves a 24-hour facility without authorization or necessary supervision and the individual is at a substantial risk of injury or death, the client poses a significant risk to the community, or when police are involved. A client not returning after four hours of an agreed upon return time may also be defined as a client who has eloped.

“Emotional abuse” means exposing an individual to behavior that is likely to result in psychological trauma, anxiety, or depression. Emotional abuse includes, but is not limited to, humiliation, harassment, threats of harm, punishment, derogatory remarks, or deprivation. It may inflict emotional harm, invoke fear or intimidation, degrade or demean an individual. Emotional abuse may be inflicted in various ways that may or may not be verbal.

“Financial exploitation” means taking or misusing a client’s property or resources through undue influence, breach of a fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means. The term also includes the use of a client’s services without compensation.

“General Incident” means any event, not considered a critical incident, that adversely affects the client. A General Incident may be elevated to critical incident status.

“Investigator” means an assigned DSAMH-provider or community provider staff who has the responsibility to conduct an investigation into allegations of a critical incident.

“Mechanical restraint” means any device attached or adjacent to an individual's body that they cannot easily remove that restricts freedom of movement or normal access to their body.

“Medication diversion” means knowingly or intentionally interrupting, obstructing, or altering the delivery o**r** administration of a prescription drug to an individual receiving services provided that such prescription was prescribed or ordered by a licensed health care practitioner for the individual receiving services, and the diversion occurred without the prescription or order of a licensed health care practitioner.

“Medication error” means giving a client the wrong medication, wrong dosage, medication at the incorrect time, or wrong route, when the medication is in the control of a health care professional.

“Mortality committee” means a DSAMH standing committee that meets at least monthly to review investigative and evidentiary findings pertaining to incidents of individual death; standards of care violations, policy and procedures violations, and other related issues.

“Neglect” means but is not limited to the following:

1. Lack of attention to the physical needs of an individual including but not limited to toileting, bathing, meals, and safety that creates a threat to the individual's health and well-being;
2. Failure to report individual health problems, changes in health problems, or changes in health condition to an immediate supervisor or otherwise assist the individual in seeking appropriate treatment;
3. Failure to carry out a prescribed treatment plan for an individual;
4. Failure to maintain supervision level as ordered specifically for individual or for the individual’s level of care (face to face check on a client every 15 minutes (Q15), face to face check on a client every 30 minutes (Q30), individual supervision as defined by schedule, etc.) or other special precautions on an individual for whom such precautions have been ordered;
5. Failure to maintain adequate staffing that may endanger client safety;
6. Any act, failure to act, or omission that may cause a delay in treatment or a delay in

referring an individual for emergency services;
7. Failure to adequately supervise mental health, substance use disorder or co-occurring disorder treatment and/or milieu that results in individual-individual or individual-staff altercations; or
8. Failure to provide routine medical services appropriate to age or medical conditions.

"Physical abuse" means purposefully and unnecessarily inflicting pain on an individual. Physical abuse includes, but is not limited to, pushing, kicking, hitting, slapping, pinching, biting, punching, shoving, pulling hair, or striking an individual using a part of the body or an object.

"Physical restraint" means the application of physical force without the use of any device, for the purposes of restraining the free movement of an individual's body. The term physical restraint does not include briefly holding an individual without undue force in order to calm or comfort them or holding an individual's hand to safely escort an individual from one area to another.

"PM46" means Policy Memorandum 46. PM46 relates to reporting and investigating critical incidents of abuse, neglect, and financial exploitation. PM46 applies to employees and contractors of the Division of Developmental Disabilities Services (DDDS), Division of Health Care Quality (DHCQ), Division of Substance Abuse and Mental Health (DSAMH), and Division of Services for Aging and Adults with Physical Disabilities (DSAAPD).

"Reporter" means an individual who has witnessed, received a verbal or written report, or who otherwise has reason to suspect that a general incident or a critical incident has occurred.

"Restrictive intervention" means an action or procedure that physically limits an individual's movement, an individual's access to other people, locations, activities, or otherwise restricts an individual's ability to move their body or change their location. Restrictive interventions include physical restraint, chemical restraint, mechanical restraint, and seclusion.

"Restraint" means any physical, chemical, or mechanical intervention that restricts the movement or function of the individual, or a portion of the individual's body. A restraint does not include orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other restrictions which are consistent with an individual's specific medical needs or otherwise permit the individual to participate in activities (including recreational, social, or daily living) without the risk of physical harm.

"Safety Committee" means a DSAMH-standing committee that meets at least monthly to review investigative and evidentiary findings pertaining to incidents of alleged incidents of

individual abuse, neglect, or significant injury; standards of care violations, policy and procedures violations, and other related issues.

"Seclusion" means the involuntary confinement of a person in a room or an area where the person is physically prevented from leaving.

"Sexual abuse" means, but is not limited to, sexual harassment; sexual coercion; sexual assault such as rape, sexual molestation, sexual exploitation or inappropriate or unwanted touching of an individual by another; or any other form of sexual contact, sexual touching, or sexual penetration between a client and an employee, subcontractor, volunteer, or visitor of the treatment program, regardless of whether such interaction was consensual; or any nonconsensual client to client sexual contact.

"Utilities" means water, electricity, gas, phone, internet, sewage, etc.

"Verbal abuse" means the use of oral, written, signed or gestured language that willfully includes disparaging and derogatory terms to individuals or their families, or within their hearing distance, regardless of their age, ability to comprehend, or disability. Examples of verbal abuse include, but are not limited to, threats of harm, or saying things to frighten an individual, such as telling them that they will never be able to see their family again.

"Wandering" means that a client has left a 24-hour facility without authorization or necessary supervision and the individual does not pose a substantial risk to themself or others.

IV. SCOPE

The reporting obligations and procedures in the policy shall apply to all DSAMH staff, DSAMH-operated programs, and DSAMH-contracted community mental health and substance use disorder provider agencies including all administrators, clinicians, other employees, subcontractors, and volunteers.

V. PROCEDURES/RESPONSIBILITIES

A. Reportable Incidents:
   1. General Incidents (all general incidents need to be reported to DSAMH and may be elevated to a critical incident):
      a. unexpected psychiatric or medical hospitalization of a client (not including incidents at mobile or facility-based crisis programs);
      b. an emergency department visit;
      c. a need for urgent medical care;
      d. the arrest of a client;
      e. wandering away from a 24-hour program and the client is located or returns within four (4) hours;
      f. AMA discharge from a 24-hour facility;

g. significant property damage caused by willful destruction by the client;
h. adverse reactions to medication that require urgent medical care;
i. falls without injury within 24-hour facilities;
j. any use of restrictive interventions;
k. behaviors that have the potential to involve the legal system such as unacceptable sexual behavior, physical aggression, or criminal activity;
l. self-injurious behaviors not requiring medical attention; and
m. a pattern of medication refusals that may result in harm to the client.

2. Critical Incidents:
   a. death of an individual, no matter the cause, including, but not limited to natural causes, overdose, suicide, or homicide;
   b. suspected abuse, neglect, or financial exploitation of a client;
   c. severe injury that requires treatment by a medical professional in an urgent care center, emergency room, or hospital, regardless of whether it was accidental or self-inflicted;
   d. medication error that results in the need for care by a medical professional;
   e. suspected medication diversion;
   f. inappropriate or unprofessional conduct towards a client by a provider, including by an employee, subcontractor, or volunteer;
   g. elopement occurring from a 24-hour facility;
   h. wandering from a 24-hour facility when the client is not located within four (4) hours and police are notified of the client's absence;
   i. suicide attempt;
   j. overdose in a 24-hour facility;
   k. poisoning resulting in an injury that requires medical attention;
   l. fire within a 24-hour facility;
   m. utility interruption, structural damage, or unsafe conditions at a 24-hour facility, that has the potential to risk the health, safety, and well-being of clients;
   n. structural damage or unsafe conditions in a 24-hour facility, resulting in the relocation of the client;
   o. in non-24-hour facilities any fire, utility interruptions, structural damage, or unsafe conditions that impede the facility's ability to provide care to clients resulting in potential harm or requiring diversion to an alternate facility; and
   p. use of restrictive interventions resulting in an injury.

B. Securing the scene:
   1. Reporters are required to first ensure the physical and emotional well-being, safety, and needs of the individual are addressed before initiating any related reporting.

   2. Reporting suspected crimes to the police:

a. If staff reasonably believe that a crime has occurred in the course of a General Incident or Critical Incident, staff shall immediately call law enforcement.
b. Only law enforcement is authorized to collect evidence of a suspected crime.

C. Incidents shall be reported to DSAMH within two (2) business days of the incident occurring or within two (2) business days of learning of the incident occurring.
1. Reporters shall utilize the DSAMH incident reporting web portal, hereinafter called the Online Incident Reporting Form, for reporting all incidents to DSAMH.
a. All fields of the Online Incident Reporting Form must be completed to allow DSAMH to proceed with its own review and investigation.
b. All information reported must be objective and factual, not to include speculation.
c. Reporting a PM46 incident to DSAMH fulfils the obligation of the reporter to notify DSAMH and DHCQ. DSAMH is the designated investigatory body for DSAMH client PM46 incidents. Once a PM46 report is received by DSAMH, DSAMH notifies DHCQ of the incident via an email. An investigation is completed by the provider and is reviewed by DSAMH. After the investigation has been closed by DSAMH, the incident is reassigned to DHCQ within the online portal for review and consideration for the Adult Abuse Registry.

2. When reporting a critical incident (see V.A.2) a DSAMH PM46/Critical Incident Investigative Report Form shall be completed and submitted within five (5) business days of the initial report.

3. Deaths, which are critical incidents, shall also be reported to DSAMH in the same manner as all other critical incidents using the Online Incident Reporting Form and DSAMH PM46/Critical Incident Investigative Report Form. In addition, a provider shall submit the DSAMH Combined PM65 Death Review Form.
a. Consistent with the reporting for critical incidents, deaths shall be reported to DSAMH within two (2) business days of the death or the reporter's knowledge of the death, whichever is earlier.
b. The information provided by the reporter on the Online Incident Reporting Form shall include sufficient detail of the death to allow DSAMH to proceed expeditiously with its own review and investigation.
c. If, at any time, during the investigation of a death, the Investigator, DSAMH Risk Management, DSAMH Medical Director, DSAMH Director, or designee, suspects that abuse or neglect contributed to an individual's death, they shall immediately contact DSAMH Risk Management to initiate an appropriate investigation either through the PM-46 Investigative Report process or through a secondary investigation initiated by Risk Management.

4. All investigation and reporting forms shall be submitted through the DSAMH Incident Reporting Web Page and the incident investigation reporting portal. The reporter shall also document all incidents in the individual's medical record as progress notes within 24 hours of the incident or when the reporter was aware of the incident.

D. Investigative process:
   1. Critical or PM-46 Investigation:
      a. The community provider shall report the incident using the Online Incident Reporting Form.
      b. The DSAMH Risk Management Administrator or designee shall assign a DSAMH Risk Management team member to the incident.
      c. The community provider shall immediately begin its own investigation of the incident, consistent with this policy. The provider shall have five (5) business days to complete their investigation and submit their findings. When an incident is being investigated by law enforcement, investigators shall ensure that the provider investigation does not interfere with law enforcement's activities while continuing to complete their administrative investigation.
      d. Once the investigation by the community provider is concluded, the community provider shall complete the DSAMH PM46/Critical Incident Investigative Report Form in the incident investigation reporting portal. In addition to the Investigation Report or PM-46 the provider shall also submit a DSAMH CAP Risk Mitigation Form if applicable.
      e. DSAMH Risk Management shall review the Investigation Report and complete the DSAMH Safety Committee Summary of Investigation. Risk Management's documented conclusions, as well as any provider-suggested corrective actions or risk mitigations, shall be submitted to the Safety Committee for final review, additional recommendations, and approvals.
      f. The Safety Committee shall review the documentation and make recommendations for future actions. DSAMH Risk Management shall follow-up to ensure actions are being corrected by the community provider.
      g. DSAMH shall notify the community provider of the resolution of the investigation, any recommended corrective actions, and, if applicable, DSAMH's intent to forward the incident to DHCQ or any other State agencies for additional review.
   2. Death Investigation:
      a. The community provider shall report the death using the Online Incident Reporting Form.
      b. The DSAMH Risk Management Administrator or designee shall assign a DSAMH Risk Management team member to the incident.
      c. The community provider shall submit the DSAMH Combined PM65 Death Review Form to DSAMH Risk Management for review within three (3) business days after the initial online incident report.

d. The community provider shall immediately begin its own investigation of the death, consistent with this policy. When an incident is being investigated by law enforcement, investigators shall ensure that the provider investigation does not interfere with law enforcement's activities while continuing to complete their administrative investigation. The community provider shall submit the DSAMH PM46/Critical Incident Investigative Report Form within five (5) business days of submitting the online incident reporting form. The provider shall also submit a DSAMH CAP Risk Mitigation Form based on their findings, if applicable.
e. DSAMH Risk Management shall review the DSAMH Combined PM65 Death Review Form, DSAMH PM46/Critical Incident Investigative Report Form, and DSAMH CAP Risk Mitigation Form. In addition, Risk Management shall review documentation submitted by the provider and complete their own report, DSAMH Mortality Review Form. Risk Management's documented conclusions, as well as any provider suggested corrective actions or risk mitigations, shall be submitted to the Mortality Committee for final review.
f. The Mortality Committee shall review the documentation and make recommendations for future actions. DSAMH Risk Management shall follow-up to ensure corrective actions are being implemented by a community provider.
g. Mortality reviews are reviewed by the DSAMH Medical Director after final approval by the Mortality Committee.
h. DSAMH shall notify the community provider of the resolution of the investigation, and any additional recommended corrective actions.

3. During regular business hours, the provider shall ensure DSAMH has access to any facilities, records, or staff to follow up on any investigations.

E. Corrective Actions:
1. DSAMH Risk Management shall approve corrective actions of a provider and supply associated timelines for any recommended corrective actions that result from an incident investigation. Failure of a provider agency to implement a corrective action plan may result in financial sanctions or other consequences as allowed by the community provider's contract with DSAMH.

2. DSAMH Risk Management shall monitor a provider's compliance with recommended corrective actions.

3. DSAMH may recommend immediate corrective action of any problems relating to imminent threats to the health and welfare of clients. Any findings related to imminent threats to the health and welfare of clients may result in the program being placed into non-compliance with licensure and/or certification.

F. Review of critical incident data and investigations:

1. DSAMH Risk Management shall review data on General and Critical Incidents on at least a quarterly basis. DSAMH Risk Management may initiate further investigation based on patterns identified and present those cases to the Safety Committee.
2. The Safety Committee may review any reportable incidents as it determines appropriate or as requested by the DSAMH Division Director or DSAMH Medical Director. Based on its review, the Safety Committee may make recommendations to the DSAMH Division Director for corrective actions, performance improvement initiatives, or specific actions by providers.

G. Confidentiality
   1. In carrying out this policy, all community providers, reporters, and staff must protect the confidentiality of records and persons involved in any reportable incidents, consistent with the Health Information Portability and Accountability Act (45 CFR Part 160, 164) and 16 Del. C. §§ 1210-1213. Any records transmitted pursuant to the Policy are exempt from Delaware's Freedom of Information Act ("FOIA"), pursuant to 24 Del. C. § 1768 and 29 Del. C. Ch. 100. (See DSAMH044).

VI. Reference
- A. PM-46
- B. PM-65
- C. PM-90
- D. 42 CFR § 488.301
- E. 11 Del c. § 8564

VII. POLICY LIFESPAN
This policy will be reviewed annually.

VIII. RESOURCES
- A. Online Incident Reporting Form
- B. DSAMH Combined PM65 Death Review Form
- C. DSAMH PM46/Critical Incident Investigative Report Form
- D. DSAMH CAP Risk Mitigation Form

IX. RELATED POLICIES
- A. DSAMH016
- B. DSAMH041
- C. DSAMH042