MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

WORK RULES

January 19, 2008

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SECTION I

MISCONDUCT

1. Possession, procuring, consumption or selling of alcohol on State property or property used or leased by the State, including vehicles, or a positive alcohol test result

   1st violation: Suspension to dismissal
   2nd violation: Dismissal

2. Possession, procuring, consumption, or selling of drugs on State property or property used or leased by the State, including vehicles, or a positive drug test result

   1st violation: Dismissal

NOTE: For employees in positions requiring maintenance of Commercial Driver License, please refer to the disciplinary table for violations of the work rule for Employees Subject to the Omnibus Transportation Employee Testing Act of 1991 and its implementing rules and regulations, dated 12/21/94. The Department has a zero tolerance policy toward a positive drug test result of individuals in test designated positions.

3. Failure to report to the employee's supervisor and/or Personnel Office at or before the beginning of the next scheduled duty shift:
   - A felony or misdemeanor court conviction, whether by guilty plea, no contest plea or trial.
   - A felony arraignment
   - Loss of driving privileges for any reason, if the employee's current position requires possession of a valid driver's license.

   1st violation: Written reprimand to dismissal
   2nd violation: 5 day suspension to dismissal
   3rd violation: dismissal

4. Failure or refusal to provide fingerprints or required information gathered for purposes of fulfilling criminal background checks as required by Public Acts 26, 27, 28 or 29 of 2006.

   1st violation 5 day suspension to dismissal
   2nd violation Dismissal

5. Criminal misdemeanor or felony conviction, whether by guilty plea, no contest plea, or trial that relates to theft, dishonesty, the Controlled Substance Act, or the performance of the employee's duties.

   1st violation: Written reprimand to dismissal*
   2nd violation: 5 day suspension to dismissal*
   3rd violation: dismissal*

   *Or as required by Public Act 26, 27, 28 or 29 of 2006

6. Failure to carry out instructions, work assignments or otherwise being derelict in the performance of one's duties

   1st violation: Written reprimand to 5-day suspension
   2nd violation: 5-day suspension to dismissal
   3rd violation: Dismissal

7. Insubordination

   1st violation: Suspension to dismissal
   2nd violation: Dismissal

8. Refusal to work mandatory overtime*

   1st violation: Written reprimand to 5-day suspension
   2nd violation: 5-day suspension to dismissal
   3rd violation: Dismissal

   *Please refer to the CBA's and Supervisory Handbook with regard to "refusal rights" for mandatory overtime.

9. Leaving work assignment without permission

   1st violation: Written reprimand to 5-day suspension
   2nd violation: 5-day suspension to dismissal
   3rd violation: Dismissal

10. Failure to enforce or observe rules/policies/regulations

    1st violation: Written reprimand to 5-day suspension
    2nd violation: 5-day suspension to dismissal
    3rd violation: Dismissal

11. Falsification of work-related records including but not limited to employment application or medical documentation

    1st violation: 5-day suspension to dismissal
    2nd violation: Dismissal

12. Gambling on State owned/leased property

    1st violation: Written reprimand to 5-day suspension
    2nd violation: 5-day suspension to dismissal
    3rd violation: Dismissal

13. Misappropriation/unauthorized consumption or possession of State property and/or property of others and/or resources related to the work place

    1st violation: Written reprimand to dismissal
    2nd violation: 5-day suspension to dismissal
    3rd violation: Dismissal

14. Retaliation against or coercion of employees or others for cooperating in investigations

1st violation: Reassignment and/or 5-day suspension to dismissal
2nd violation: Dismissal

15. Sleeping on duty or otherwise not alert to one's duties and responsibilities

1st violation: Written reprimand to 5-day suspension
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

16. Smoking in an unauthorized area including within 25 feet of a DCH building

1st violation: Written reprimand to 5-day suspension
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

17. Supplemental employment without or beyond the scope of departmental authorization

1st violation: Revocation of approved supplemental employment and/or written reprimand to dismissal
2nd violation: Revocation of approved supplemental employment and/or 5-day suspension to dismissal
3rd violation: Dismissal

18. Threats/verbal abuse to/about others

1st violation: Written reprimand to dismissal
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

19. Major physical altercations*

1st violation: Reassignment and/or 5-day suspension to dismissal
2nd violation: Dismissal

*Refer to the Supervisory Handbook for clarification of major altercations

20. Minor physical altercations*

1st violation: Reassignment and/or written reprimand to 3-day suspension
2nd violation: Reassignment and/or 5-day suspension to dismissal
3rd violation: Dismissal
*Refer to the Supervisory Handbook for clarification of minor altercations

21. Transporting a weapon onto State property or on property used or leased by the State and/or possession of a weapon on State property or on property used or leased by the State including in vehicles

1st violation: Dismissal

22. Unauthorized acceptance of money or gifts*

1st violation: Written reprimand to dismissal
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

*Refer to Civil Service Rule 2-8 for further clarification

23. Un-safe operation of State owned/leased vehicles including non-use of seat belts

1st violation: Written reprimand to dismissal
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

24. Ethical Standards and Conduct (See Civil Service Rule 2-8)

1st violation: Written reprimand to dismissal
2nd violation: 5-day suspension to dismissal
3rd violation: Dismissal

25. Misuse of electronic equipment and related systems including but not limited to: beepers, Internet, e-mail, telephone, printers, copiers, facsimile machines, cell phones, and computers.

Any violation: Written reprimand to dismissal

26. Conduct unbecoming a State employee

Any violation: Written reprimand to demotion and/or dismissal

27. Unauthorized use, release, copying, or otherwise divulging of work related confidential information, reports, records, charts, or data is strictly prohibited. Confidential information includes, but is not limited to, patient/recipient names, identification numbers, medical information, or test results. This includes complying with any applicable state and federal laws.

Any violation: Written reprimand to dismissal

28. Discriminatory harassment of co-workers or others related to State employment (this work rule includes violations of sexual harassment)

1st violation: Reassignment/demotion and/or written reprimand to dismissal
2nd violation: Reassignment/demotion and/or 5 day suspension to dismissal
3rd violation: Dismissal

SECTION II

UNAUTHORIZED LOST TIME

Lost time is defined as unpaid time that an employee is assessed when their absences are unauthorized. Lost time will be assessed against employees in accordance with steps 1 – 6 below. Examples of when lost time may be issued include: failure to call-in, in accordance with agency, center, or hospital call-in policy, pattern absences, calling in following a denial of any leave request, etc.

1. An employee charged with unauthorized lost time for the first time shall receive a verbal/informal counseling.

2. An employee charged with a second instance of unauthorized lost time within a six-month period (180 calendar days) time frame shall receive a written/formal counseling.

3. An employee charged with succeeding unauthorized lost time within an additional six-month period (180 calendar days) shall receive a written reprimand.

4. An employee charged with succeeding unauthorized lost time within an additional six-month period (180 calendar days) time period shall receive an interim service rating.

5. An employee charged with succeeding unauthorized lost time during the interim rating review period shall be dismissed for unsatisfactory service.

6. An employee disciplined as a result of violating this work rule within a 24-month time frame, who continues to violate this work rule to the point of receiving a second written reprimand will be dismissed for unsatisfactory service.

ATTENDANCE IN GENERAL

1. Employees shall be present at their assigned work area throughout their scheduled working hours except as otherwise authorized.

2. An unauthorized absence of three or more consecutive work days may result in an employee's separation for vacating position.

3. Excessive tardiness and/or absenteeism may result in counseling or disciplinary action.

SECTION III

PROBATIONARY EMPLOYEES

The initial probationary period is a working test period. It is the last part of the selection process. Therefore, violations may be addressed more severely than set forth in the proceeding sections. In particular, attendance problems of probationary employees will be critically evaluated. An appointing authority may dismiss an employee who fails to perform satisfactorily during the probationary period.

Employees should refer to their collective bargaining agreement or the Civil Service Rules for clarification of when probationary employees have the right to request any leave of absence or eligibility under FMLA.

SECTION IV

RECIPIENT RIGHTS/MENTAL HEALTH CODE VIOLATIONS

This is regarding the care, treatment and well-being of recipients in our hospitals and centers and is of utmost importance to the Department. Although specific penalties are indicated, this does not constitute an exhaustive list.

Definitions: See Attachment A for non-ICF/MR and Attachment B for ICF/MR.

1. Acting as liaison for or otherwise facilitating unauthorized outside contacts on behalf of recipients

   1st violation: Reassignment and/or 1-day suspension to 5-day suspension*
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

2. Assisting a recipient to leave in an unauthorized manner or assisting in an unauthorized leave

   1st violation: Dismissal

3. Coercing or otherwise obtaining inappropriate compliance of a recipient

   1st violation: Reassignment and/or demotion and/or written reprimand to 5-day suspension*
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

4. Falsification of any type of recipient report/record

   1st violation: 5-day suspension to dismissal*
   2nd violation: Dismissal

5. Illegal or prohibited discrimination to or against recipients

   1st violation: Reassignment and/or demotion and/or 1-day suspension to dismissal*
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

6. Providing unauthorized items, supplies, materials, foods and/or personal possessions to recipients

   1st violation: 1-day suspension to dismissal*
   2nd violation: 5-day suspension to dismissal
   3rd violation: Dismissal

7. Recipient abuse I; and/or failure to report abuse I

   1st violation: Dismissal

8. Recipient abuse II; and/or failure to report abuse II
   1st violation: Reassignment and/or demotion and/or 5-day suspension
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

   ICF/MR Employees
   1st violation: Dismissal

9. Recipient abuse III; and/or failure to report abuse III

   1st violation: Reassignment and/or demotion and/or written reprimand to 5-day suspension
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

   ICF/MR Employees
   1st violation: 5-day suspension to dismissal. Dismissal if abuse poses a serious and immediate threat to the recipient because it could have caused or resulted in death, serious physical harm, emotional harm, or psychological abuse to the recipient.
   2nd violation: Dismissal

10. Recipient neglect I; and/or failure to report neglect I

   1st violation: Dismissal

11. Recipient neglect II; and/or failure to report neglect II

   1st violation: Reassignment and/or demotion and/or 5-day suspension
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

   ICF/MR Employees
   1st violation: Dismissal

12. Recipient neglect III; and/or failure to report neglect III

   1st violation: Reassignment and/or demotion and/or written reprimand to 5-day suspension
   2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
   3rd violation: Dismissal

   ICF/MR Employees
   1st violation: 5-day suspension to dismissal. Dismissal if abuse poses a serious and immediate threat to the recipient because it could have caused or resulted in death, serious physical harm, emotional harm, or psychological abuse to the recipient.
   2nd violation: Dismissal

13. Solicitation of recipients for sexual purposes

1st violation: Reassignment and/or demotion and/or 5-day suspension*
2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
3rd violation: Dismissal

14. Unauthorized financial dealings with recipients

1st violation: Reassignment and/or demotion and/or 5-day suspension*
2nd violation: Reassignment and/or demotion and/or 5-day suspension to dismissal
3rd violation: Dismissal

15. Violation of recipient rights as set forth by law or policy

1st violation: Reassignment and/or written reprimand to 5-day suspension*
2nd violation: Reassignment and/or 5-day suspension to dismissal
3rd violation: Dismissal

16. Personal relationships with former hospital/center recipients. It is prohibited for an employee to date or have a romantic or sexual relationship with any former recipient of Department of Community Health hospital/center services with whom a professional relationship began while the individual was receiving services from the Department of Community Health hospital/center. It is important to recognize an employee may also place themselves in legal jeopardy if the employee becomes personally involved with a former recipient of services.

1st violation: 5-day suspension to dismissal*
2nd violation: Dismissal

Overall Note (*)

Penalties should be based on the severity of the incident. Discipline will be progressive. In all instances where a range of penalties exists, absent mitigating, or aggravating circumstances, the minimum penalty should be employed. In the event of mitigating or aggravating circumstances the minimum penalty may be reduced, or increased, accordingly. Mitigating, or aggravating circumstances should always be considered in assessing penalties. This includes previous rule violations, or a single violation of the most severe infractions.

On a case-by-case basis, when there are multiple violations, they may be cumulative and the discipline may be the maximum provided for any one of the violations. Five (5) recorded violations within the reporting period will normally result in dismissal. Discipline may also be imposed for offenses not listed as this does not constitute an exhaustive list. Additionally, a ten (10) day suspension may be imposed as either an aggravated penalty of 5 days, or in lieu of discharge*.

*Note: Any suspension over 5 days must be cleared through Central Office, prior to issuance.

ATTACHMENT A
DEFINITIONS - NON ICF/MR

"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:

(i) A nonaccidental act, or provocation of another to act, by an employee, volunteer, or agent of a provider that caused or contributed to nonserious physical harm to a recipient.

(ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.

(iii) 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.

(iv) 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 the recipient.

(v) Exploitation of a recipient by an employee, volunteer or agent of a provider.

"Abuse class III" means 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.

"Neglect class I" means either of the following:

(i) 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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to or sexual abuse of a recipient.

(ii) The failure to report apparent or suspected abuse class I or neglect class I of a recipient.

"Neglect class II" means either of the following:

(i) 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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to nonserious physical harm or emotional harm to a recipient.

(ii) The failure to report apparent or suspected abuse class II or neglect class II of a recipient.

"Neglect class III" means either of the following:

(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that results from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives,

procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm or sexual abuse.

(ii) The failure to report apparent or suspected abuse class III or neglect class III of a recipient.

"Emotional harm" means impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology or as determined by a mental health professional.

"Nonserious physical harm" means physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determined 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 recipient 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.

ATTACHMENT B
DEFINITIONS - ICF/MR

"Intermediate Care Facility for the Mentally Retarded (ICF/MR)" is a facility that is certified, in whole or in part, as an ICF/MR under federal law, 42 CFR, Parts 442 and 483 (subpart 1). The Mt. Pleasant Center (MPC) is the department's only ICF/MR. In the event of a change in status from an ICF/MR, appropriate notification will be provided.

"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:

(i) A nonaccidental act, or provocation of another to act, by an employee, volunteer, or agent of a provider that caused or contributed to nonserious physical harm to a recipient.

(ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.

(iii) 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.

(iv) 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 the recipient.

(v) Exploitation of a recipient by an employee, volunteer or agent of a provider.

"Abuse class III" means 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.

"Neglect class I" means either of the following:

(i) 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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to or sexual abuse of a recipient.

(ii) The failure to report apparent or suspected abuse class I or neglect class I of a recipient.

"Neglect class II" means either of the following:

(i) 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, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to nonserious physical harm or emotional harm to or sexual abuse of a recipient.

(ii) The failure to report apparent or suspected abuse class II or neglect class II of a recipient.

"Neglect class III" means either of the following:

(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that results 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 placed or could have placed a recipient at risk of physical harm or sexual abuse.

(ii) The failure to report apparent or suspected abuse class III or neglect class III of a recipient

"Emotional harm" means 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 that involves the misappropriation or misuse of a recipient's property or funds.

"Nonserious physical harm" means physical damage or what could reasonably be construed as pain suffered by a recipient that a physician or registered nurse determined 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.

"Psychological abuse" includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation, sexual coercion, intimidation, whereby individuals suffer psychological harm or trauma.

"Serious physical harm" means physical damage suffered by a recipient 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, for the purpose of these Work Rules, any sexual contact involving an employee, volunteer or agent of a department operated hospital or center.

""Sexual contact" means the intentional touching of the recipient's or employee's intimate parts or the touching of the 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 a sexual purpose, or in a sexual manner for:

(i) revenge
(ii) to inflict humiliation
(iii) out of anger

"Threat" means any condition/situation which could cause or result in severe, temporary or permanent injury or harm to the mental or physical condition of individuals, or in their death.

"Unreasonable force" means physical management or force that is applied by an employee, volunteer or agent of a provider to a recipient where there is no imminent risk of significant injury to the recipient, staff or others or that is any of the following:

(i) not in compliance with approved behavior management techniques

(ii) not in compliance with the recipient's individual plan of service

(iii) used when other less restrictive measures were not attempted immediately before the use of physical management or force.