



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

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MDHHS Office of Recipient Rights FY 2022 Annual Report

INTRODUCTION

PA 258 of 1974, the Michigan Mental Health Code (Code), created an internal rights protection system for individuals receiving public mental health services across the state. Chapter 7 of the Code identifies rights, in addition to rights guaranteed by the United States Constitution and other federal and state laws, that are guaranteed these individuals. The Code mandated the establishment of an Office of Recipient Rights in the Michigan Department of Health and Human Services (MDHHS-ORR), each Community Mental Health Services Program (CMHSP) and every psychiatric hospital or unit (LPH) licensed by the Department of Licensing and Regulatory Affairs (LARA). Currently there are 5 hospitals operated by the State Hospital Administration (SHA), 46 CMHSPs and 55 LPHs. The Mental Health Code established the Michigan Department of Health and Human Services, Office of Recipient Rights (MDHHS-ORR) within the Director's Office.

MDHHS-ORR consists of 21 staff. The functions and operations of MDHHS-ORR are defined in Section 330.1754. The primary mandates of the office are:

- 1) *To promote and provide rights protection to individuals admitted to state psychiatric hospitals and programs.*
- 2) *To monitor the quality and effectiveness of the rights protection systems in Michigan.*
- 3) *To provide technical assistance and training to internal and external stakeholders, including but not limited to MDHHS, CMHSP and LPH staff, individuals receiving services and providers.*

Section 330.1754 (6)(o) requires that the office of recipient rights submit to the department director and to the committees and subcommittees of the legislature with legislative oversight of mental health matters, for availability to the public, an annual report on the current status of recipient rights for the state. The report shall be submitted not later than March 31 of each year for the preceding fiscal year. The annual report shall include, at a minimum, all of the following:

- Summary data by type or category regarding the rights of recipients receiving services from the department including the number of complaints received by each state facility and other state-operated placement agencies, the number of reports filed, and the number of reports investigated.
- The number of substantiated rights violations by category and by state facility.
- The remedial actions taken on substantiated rights violations by category and by state facility.
- Training received by staff of the state office of recipient rights.
- Training provided by the state office of recipient rights to staff of contract providers.
- Outcomes of assessments of the recipient rights system of each community mental health services program.

- Identification of patterns and trends in rights protection in the public mental health system in this state.
- Review of budgetary issues including staffing and financial resources.
- Summary of the results of any consumer satisfaction surveys conducted.
- Recommendations to the department.

SUMMARY DATA FOR EACH STATE OPERATED HOSIPTAL (SHA), CMHSP AND LPH

Section 330.1754 requires the annual report to include a summary of complaint data, including number of reports filed, number of reports investigated, number of substantiated rights violations by category, and remedial actions taken on substantiated rights violations by category. Scanning the QR Code, or clicking the link below, provides access to a dashboard that not only provides this information for facilities operated by the State Hospital Administration (SHA), but for each CMHSP and LPH.

[Recipient Rights Dashboard](#)

EDUCATION PROVIDED BY MDHHS-ORR

Education is one of the mandates of the office and MDHHS-ORR offers a variety of face-to-face and online education programs for its stakeholders. In FY 22, 994 people attended MDHHS-ORR in-person training programs and 11, 378 people utilized online training modules developed by the office. There was a 68% increase in the utilization of online training from FY21, reflecting a significant increased need for training.

EDUCATION RECEIVED BY MDHHS-ORR STAFF

The Code requires that “Staff of the state office of recipient rights receive training each year in recipient rights protection.” Individual training information is included in the Recipient Rights Dashboard. During FY22, MDHHS-ORR staff received training in the following areas:

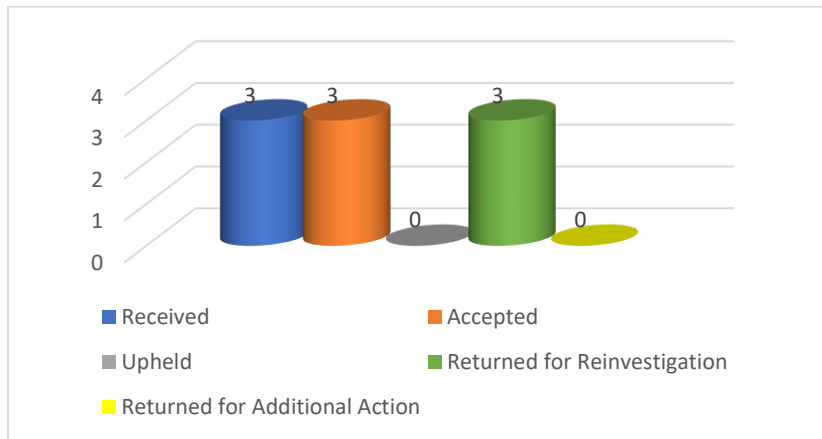
| CEU Type | # Hours |
|-------------------------|------------|
| I - Operations | 161 |
| II - Legal Foundations | 16 |
| III - Leadership | 10.5 |
| IV - Augmented Training | 71.5 |
| Total | 259 |

APPEALS

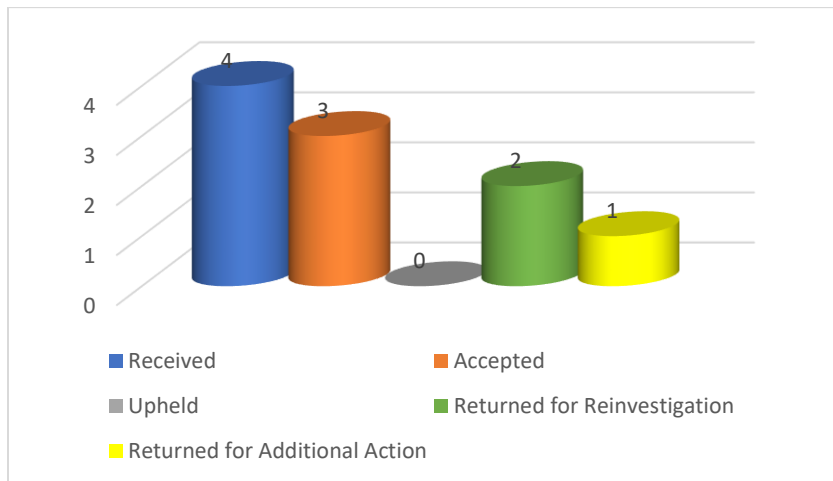
Section 330.1774 of the Code states, “The director shall appoint an appeals committee consisting of seven individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipient rights matters.” The MDHHS Appeals Committee reviews appeals of rights complaints investigated on behalf of recipients of hospitals operated by the SHA. Additionally, the Committee reviews appeals submitted by or on behalf of individuals who have received services in one of 54 licensed psychiatric hospitals (LPH) that have entered into an agreement to use the department’s

Recipient Rights Appeals Committee. Following is a summary of activity for the MDHHS Appeals Committee and a composite of the results of appeals in the CMHSP system. Appeals of investigations involving a person receiving services from CMHSP completed at either a CMHSP or LPH are reviewed by the local CMHSP Committee.

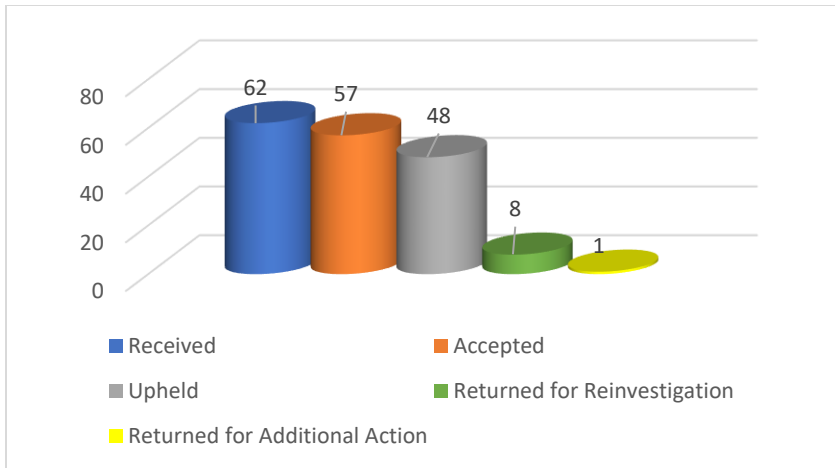
Disposition of Appeals from LPH Recipients Reviewed by the MDHHS Recipient Rights Appeals Committee - FY22



Disposition of Appeals from SHA Recipients Reviewed by the MDHHS Recipient Rights Appeals Committee - FY22



Disposition of Appeals Reviewed by CMHSP Recipient Rights Appeals Committee - FY22



ASSESSMENTS OF CMHSP RECIPIENT RIGHTS SYSTEMS

The Code requires that MDHHS-ORR review the CMHSP rights systems in order to "ensure a uniformly high standard of recipient rights protection throughout the state." The MDHHS certification standards for CMHSPs must include standards for the protection and promotion of recipient rights (MCL 330.232a [1][b]). Although standards relative to CMHSP governance, resource management, quality improvement, service delivery and safety management may be waived by the department in whole or in part as the result of the CMHSP's accreditation by a nationally recognized accrediting body, recipient rights standards cannot be waived. Each CMHSP rights system is assessed on-site every three years using standards developed from the Code, the Administrative Rules, and contractual requirements. As a result of these reviews, the rights systems are determined to be in full compliance, substantial compliance or less than substantial compliance. Plans of correction are required and monitored to bring the agencies into compliance. In addition, each CMHSP recipient rights system is reviewed annually through semi-annual and annual reports submitted by each CMHSP and annual updates related to staffing and policies. The list below indicates the results of the assessments conducted during FY22.

| | |
|--|----------------------------------|
| Oakland County Health Network | Substantial Compliance |
| Washtenaw County Community Mental Health | Substantial Compliance |
| Integrated Services of Kalamazoo | Full Compliance |
| Saginaw County CMH | Full Compliance |
| Pines Behavioral Health | Substantial Compliance |
| Lapeer County CMH | Full Compliance |
| AuSable Valley CMH | Full Compliance |
| HealthWest | Substantial Compliance |
| Clinton-Eaton- Ingham CMH | Substantial Compliance |
| Hiawatha Behavioral Health | Less than Substantial Compliance |
| Network 180 | Full Compliance |
| Northern Lakes CMH | Substantial Compliance |

| | |
|--|-----------------|
| North Country CMH | Full Compliance |
| CMH and SA Services of St. Joseph County | Full Compliance |
| Genesee Health Systems | Full Compliance |

ASSESSMENTS OF LPH RECIPIENT RIGHTS SYSTEMS

FY22 began the implementation of an agreement between the Department of Licensing and Regulatory Affairs (LARA) Bureau of Community Health Systems and MDHHS Office of Recipient Rights to assess the rights systems in LPHs as part of LARA’s responsibilities under MCL 330.1134. LARA is responsible for inspections and compliance related to Chapter 1 of the Code and MDHHS-ORR is responsible for inspections and compliance related to Chapters 7 and 7A of the Code. Each LPH receives an on-site assessment once every three years. Rights systems are assessed on standards developed from the Code, the Administrative Rules, and applicable federal laws. As a result of these reviews, LPHs are determined to be in full compliance, substantial compliance or less than substantial compliance. The first year of detailed assessment of LPH rights systems resulted in a finding of 66% of hospitals reviewed being in less than substantial compliance with the standards. Plans of correction are required and monitored to bring the agencies into compliance. In addition, each LPH recipient rights system is reviewed annually through semi-annual and annual reports submitted by each LPH and annual updates related to staffing and policies. The list below indicates the results of the assessments conducted during FY22.

| | |
|--|----------------------------------|
| Sparrow | Less than Substantial Compliance |
| Garden City | Less than Substantial Compliance |
| Hillsdale | Less than Substantial Compliance |
| Brightwell | Less than Substantial Compliance |
| Samaritan | Less than Substantial Compliance |
| McLaren Macomb | Substantial Compliance |
| Henry Ford - Wyandotte | Substantial Compliance |
| Hurley | Full Compliance |
| Henry Ford Jackson | Less than Substantial Compliance |
| Chelsea Hospital | Less than Substantial Compliance |
| Bronson Battle Creek - Fieldstone | Less than Substantial Compliance |
| Forest View | Less than Substantial Compliance |
| Ascension St. John | Substantial Compliance |
| Munson | Substantial Compliance |
| Ascension Macomb Oakland Hospital - Madison Heights Campus | Substantial Compliance |
| McLaren Bay Region | Less than Substantial Compliance |

REVIEW OF BUDGETARY ISSUES

Since 2021 MDHHS-ORR has added a rights advisor position at Hawthorn Center. MDHHS-ORR has requested resources to address the need for more rights advisors to promote and

provide rights protection for expanding intensive crisis transition services. MDHHS-ORR has also requested appropriations for specialist positions to meet training and assessment needs. The increase in the 2022 budget is largely due to the interagency agreement signed with LARA for assessments of the LPH rights systems.

| | FY20 | FY21 | Difference | FY22 | Difference |
|---------------------------------------|-------------|-------------|------------|-------------|-------------|
| FTE | 20 | 20 | 0 | 21 | 1 |
| Salary & Fringe | \$2,759,649 | \$2,777,943 | +\$18,294 | \$2,912,317 | +\$134,374 |
| CSS&M | \$11,204 | \$25,000 | +\$13,796 | \$23,000 | -\$2,000 |
| Travel | \$22,047 | \$25,000 | -\$2,943 | \$22,533 | -\$2,467 |
| Training | \$7,500 | \$7,500 | - | \$7,500 | - |
| Interagency Agreement LARA | | | | \$108,750 | +\$108,750 |
| Total | \$2,800,400 | \$2,835,443 | + \$35,033 | \$3,074,100 | + \$238,657 |

OFFICE OF RECIPIENT RIGHTS RECOMMENDATIONS TO THE DEPARTMENT

- MDHHS Office of Recipient Rights recommends that the department provide the resources necessary to adequately provide rights protection per §330.1755 to individuals receiving services from the State Hospital Administration and contract providers of MDHHS. ORR has requested two (2) additional rights advisors to address expanded services through the Intensive Crisis Transition Services for adults, children, and youth.
- MDHHS Office of Recipient Rights recommends the department facilitate proposed legislation which would mandate the Office to assess compliance of Licensed Private Hospitals (LPH) recipient rights systems to ensure a uniformly high standard of rights protection in this setting, and subsequently, provide the resources to carry out this function.
- MDHHS Office of Recipient Rights recommends the department continue to pursue appropriations for the 2024 budget to address needed resources to carry out the mandates of the Mental Health Code regarding education, training, and compliance functions of the Office.

TRENDS AND PATTERNS ACROSS RIGHTS PROTECTION SYSTEMS

Abuse and Neglect are the most serious violations in the rights system and account for much of the time spent in investigations by rights staff. MDHHS Administrative Rules provide clear definitions of Abuse and Neglect.

Abuse class I:

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:

Any of the following:

- (i) A non-accidental 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:

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:

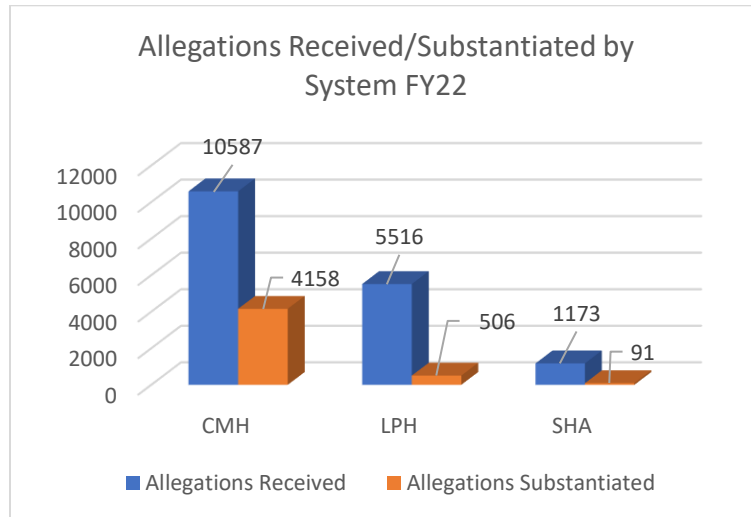
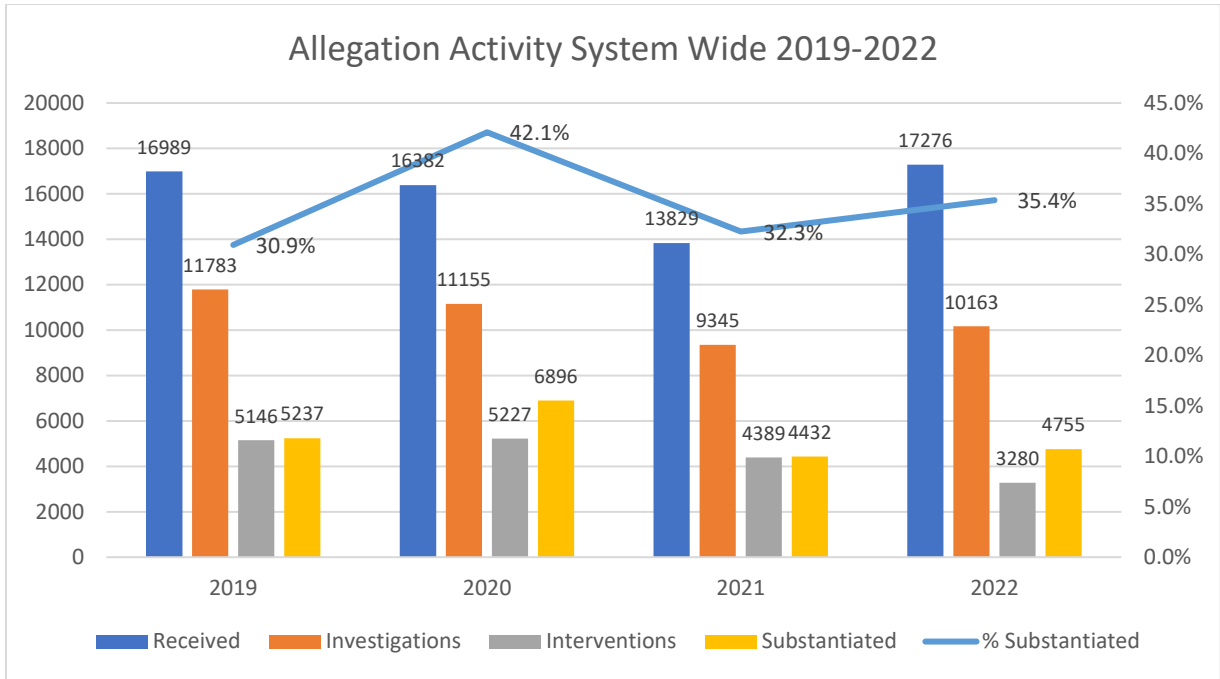
Either of the following: (i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law and/or rules, policies, guidelines, written directives, procedures, or individual plan of service and causes or contributes to the death, or sexual abuse of, or serious physical harm to a recipient., or (ii) The failure to report apparent or suspected Abuse Class I or Neglect Class I of a recipient.

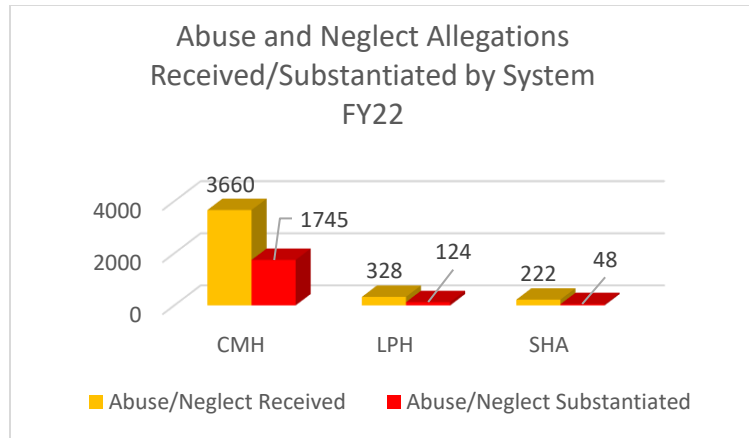
Neglect class II:

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 non-serious physical harm or emotional harm to a recipient, or (ii) The failure to report apparent or suspected Abuse Class II or Neglect Class II of a recipient.

Neglect class III:

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 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, or (ii) The failure to report apparent or suspected Abuse Class III or Neglect Class III of a recipient.





Abuse Allegations Investigated/Substantiated CMHSP System 2019-2022

| Fiscal Year | Abuse I Investigated | Abuse I Substantiated | Sexual Abuse Investigated | Sexual Abuse Substantiated | Abuse II Investigated | Abuse II Substantiated | Abuse III Investigated | Abuse III Substantiated |
|-------------|----------------------|-----------------------|---------------------------|----------------------------|-----------------------|------------------------|------------------------|-------------------------|
| 2019 | 28 | 4 | 103 | 18 | 1126 | 330 | 747 | 265 |
| 2020 | 34 | 5 | 55 | 7 | 1102 | 369 | 653 | 231 |
| 2021 | 38 | 5 | 53 | 7 | 992 | 389 | 626 | 239 |
| 2022 | 30 | 8 | 55 | 10 | 1011 | 327 | 750 | 280 |

Neglect Allegations Investigated/Substantiated CMHSP System 2019-2022

| Fiscal Year | Neglect I Investigated | Neglect I Substantiated | Neglect II Investigated | Neglect II Substantiated | Neglect III Investigated | Neglect III Substantiated |
|-------------|------------------------|-------------------------|-------------------------|--------------------------|--------------------------|---------------------------|
| 2019 | 89 | 29 | 276 | 156 | 1466 | 921 |
| 2020 | 104 | 33 | 246 | 142 | 1283 | 825 |
| 2021 | 102 | 35 | 234 | 148 | 1240 | 844 |
| 2022 | 120 | 45 | 274 | 139 | 1420 | 936 |

Abuse Allegations Investigated/Substantiated LPH System 2019-2022

| Fiscal Year | Abuse I Investigated | Abuse I Substantiated | Sexual Abuse Investigated | Sexual Abuse Substantiated | Abuse II Investigated | Abuse II Substantiated | Abuse III Investigated | Abuse III Substantiated |
|-------------|----------------------|-----------------------|---------------------------|----------------------------|-----------------------|------------------------|------------------------|-------------------------|
| 2019 | 8 | 1 | 27 | 1 | 126 | 36 | 100 | 21 |
| 2020 | 17 | 0 | 33 | 4 | 133 | 46 | 72 | 24 |
| 2021 | 16 | 2 | 31 | 1 | 123 | 46 | 63 | 24 |
| 2022 | 13 | 0 | 27 | 1 | 137 | 65 | 68 | 18 |

Neglect Allegations Investigated/Substantiated LPH System 2019-2022

| Fiscal Year | Neglect I Investigated | Neglect I Substantiated | Neglect II Investigated | Neglect II Substantiated | Neglect III Investigated | Neglect III Substantiated |
|-------------|------------------------|-------------------------|-------------------------|--------------------------|--------------------------|---------------------------|
| 2019 | 19 | 7 | 23 | 8 | 87 | 55 |
| 2020 | 5 | 2 | 17 | 8 | 83 | 45 |
| 2021 | 3 | 4 | 15 | 9 | 79 | 45 |
| 2022 | 5 | 2 | 22 | 53 | 14 | 24 |

Abuse Allegations Investigated/Substantiated State Hospital Administration (SHA) System 2019-2022

| Fiscal Year | Abuse I Investigated | Abuse I Substantiated | Sexual Abuse Investigated | Sexual Abuse Substantiated | Abuse II Investigated | Abuse II Substantiated | Abuse III Investigated | Abuse III Substantiated |
|-------------|----------------------|-----------------------|---------------------------|----------------------------|-----------------------|------------------------|------------------------|-------------------------|
| 2019 | 8 | 1 | 27 | 0 | 126 | 18 | 100 | 13 |
| 2020 | 6 | 1 | 30 | 0 | 135 | 12 | 104 | 13 |
| 2021 | 6 | 0 | 30 | 0 | 135 | 12 | 104 | 13 |
| 2022 | 8 | 0 | 21 | 0 | 64 | 12 | 65 | 11 |

Neglect Allegations Investigated/Substantiated State Hospital Administration (SHA) System 2019-2022

| Fiscal Year | Neglect I Investigated | Neglect I Substantiated | Neglect II Investigated | Neglect II Substantiated | Neglect III Investigated | Neglect III Substantiated |
|-------------|------------------------|-------------------------|-------------------------|--------------------------|--------------------------|---------------------------|
| 2019 | 5 | 3 | 17 | 6 | 28 | 15 |
| 2020 | 1 | 1 | 25 | 12 | 31 | 15 |
| 2021 | 1 | 1 | 25 | 12 | 31 | 15 |
| 2022 | 2 | 0 | 15 | 3 | 47 | 22 |

