



SHIAWASSEE HEALTH AND WELLNESS POLICY MANUAL

Title:	Unannounced (Unplanned) Government Investigation, Inspections, Visits and Audits
Section:	Corporate Compliance
Policy Number:	3
Issued By:	Corporate Compliance Officer
Approved by: Board of Directors Approved on: 06/22/2020	Effective Date: 03/26/07 Last Revision: 03/16/2023 Last Review: 03/16/2023

PURPOSE:

To define the protocol for employees to follow in the event that an unannounced government investigation, visit, or audit at any Shiawassee Health and Wellness facility.

SCOPE:

This procedure applies to clinical staff/employees and licensed practitioners including full-time employees, part-time employees, contractual employees, volunteers, students, and/or interns of Shiawassee Health and Wellness (SHW). This procedure also applies to all facilities, including direct operated residential homes of Shiawassee Health and Wellness.

INFORMATION:

Federal and State law enforcement and regulatory agencies routinely conduct visits, audits, site reviews, or investigations for the purpose of gathering information and for assessing systems. It is important that SHW respond to any official requests for information in a consistent and professional manner. Therefore, this policy provides guidance on how to handle any unannounced visits by government representatives such as OSHA, MIOSHA, MDHHS, OIG, as well as designated contracted entities outlined in the acronym section of this document.

SHW is committed to appropriately responding to and not interfering with any lawful audit, inquiry, or investigation.

Employees must remain courteous and professional when dealing with investigators or agents.

Employees must abide by all privacy and confidentiality requirements regarding consumer's protected health information as defined in procedures HIPAA 04 Reasonable Safeguards and HIPAA #9 Disclosure of Information.

PROCEDURE:

For any on-site (SHW Facility) visits:

1. Announcement of an impending visit by any government investigator or auditor should be immediately reported to the Chief Executive Officer (CEO) and the Compliance Officer. If a search warrant or *court order is presented, follow the guidelines below.
2. If an individual arrives at any of the SHW facilities and identifies himself/herself as a government auditor, investigator, inspector, or any other law enforcement representative treat him/her with respect and courtesy.
3. Request identification and the reason for the visit. **DO NOT ATTEMPT TO PHOTOCOPY CREDENTIALS** since this is a violation of Federal law.
4. Politely ask them to take a seat in the reception area until contact has been made with the senior management. The call to senior leadership should include the names of the agents and the intended purpose as listed on a search warrant. Do not allow them into any offices that are unattended, where any business is being conducted, or where any consumer or business files are located.
5. **Await direction from the CEO. DO NOT submit to any questioning. DO NOT provide documents or other information unless directed to do so by senior management.**

When a Search Warrant is Presented: Federal and State law enforcement agencies are increasingly using search warrants in conjunction with healthcare fraud investigations. A search warrant permits agents to immediately seize documents and other types of information. The execution of a search warrant can be seriously disruptive and frightening for most employees. If not handled properly, an organization subject to a search warrant may add to its problems. Employees should follow these guidelines when responding to an official search warrant.

1. Whenever a search warrant or court order is presented, employees will:
 - a) Remain courteous and professional when dealing with agents executing a search warrant
 - b) Not interfere with the lawful execution of a search warrant
 - c) Contact a senior leadership person immediately for participation and assistance. If not on site be prepared to provide senior leadership the names of the agents, the agency they represent, and the intended purpose as listed on a search warrant (Item 2 below).

2. Obtain the name of the Lead Agent, and the agency they represent. **DO NOT ATTEMPT TO PHOTOCOPY THE CREDENTIALS OF THE AGENT. It is a violation of Federal law.**
3. Request to review and photocopy the search warrant document. Carefully examine the search warrant and:
 - a) Determine the specific area or areas it covers. The warrant should specify the area that the agents are able to search and the type of evidence they are looking for,
 - b) Ensure that it is being executed during the hours indicated on the document, e.g. "daylight hours",
 - c) Ensure that it is signed by a judge. All warrants should be signed by a judge or magistrate.
4. Immediately contact senior management and the Corporate Compliance Officer and provide them with the details of the search warrant.
6. Politely object if any obvious flaw in the warrant is apparent..
7. Do not give an agent consent to search an area that is beyond what is listed on the warrant. If consent is given then SHW loses any right to challenge the search. Do not interfere if the agents should proceed and search those areas anyway. Document these facts so senior management may give the information to legal counsel.
8. Always remain present while the agents are conducting the search until which time Leadership representatives are available and present.
9. While the agents will make an inventory list that will be made available to SHW, SHW staff should make a detailed list of the items seized. Be sure to request an inventory list of the documents and items seized by the agents. Be sure it is detailed enough to be able to identify the documents and items taken. Maintain a separate record of all areas searched and the documents/items seized from those areas. This inventory is legally known as a "Tabulation of the Property" and must be made available upon request.
10. Other than providing information to direct the agents to information requested, do not submit to any form of questioning or interviewing. A search warrant is not an authorization to interview. One employee should be responsible for responding to the agent's questions but remember agents have no obligation to advise individuals of their rights before asking you questions. During normal business hours that person should be a senior management person and/or the Corporate Compliance Officer. After normal business hours the CEO or designee shall be contacted.
11. Once the agents/search team appears at our office, SHW can release our employees and

send them home. Once the search has begun, SHW may call all employees together and advise them that they have a right to decide whether to talk to the agents or not to talk to them, that they have a right to have the company's legal counsel present if they do talk to agents

*Case law consistently holds that a court order is the constitutional equivalent of a search warrant so long as the court order (1) is issued by a neutral judicial official; (2) is based on a finding of probable cause; and (3) complies with the particularity requirement. Using the term "order" instead of the term "warrant" is merely a semantic difference, and the rules regarding execution, inventory, return, and the like, are generally statutory rather than constitutional in nature. The Supreme Court has interpreted the Fourth Amendment to establish only three requirements for warrants: (1) they must be issued by neutral, disinterested magistrates; (2) supported by probable cause; and (3) particularly describe the place to be searched and the things to be seized," citing *Dalia v. United States*, 441 U.S. 238 (1979)); *Keeylen v. State*, 14 N.E.3d 865

DEFINITIONS/ACRONYMS:

- MDHHS – Michigan Department of Health and Human Services
- SHW – Shiawassee Health and Wellness
- MIOSHA – Michigan Occupational Safety & Health Act (of 1974)
- OSHA - Occupational Safety & Health Administration
- OIG – Office of the Inspector General
- OAS - Office of Audit Services
- OEI - Office of Evaluation and Inspections
- OI - Office of Investigations
- OCIG - Office of Counsel to the Inspector General
- FCU - State Medicaid Fraud Control Units

FORMS:

N/A

RECORDS:

Records of unannounced visits are retained by the Compliance Officer or designee.

REFERENCE(S) AND/OR LEGAL AUTHORITY:

[Confidentiality and Disclosure of Information](#) Policies or Procedures

Search Warrants; Michigan Act 189 of 1966, Section 780.655.5 (1)

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Change Log:

Date of Change	Description of Change	Responsible Party
10/22/13	N/A	Dirk Love, Corporate Compliance Officer
02/22/17	Title Changes	Jamie Burke, Executive Assistant
12/26/18	Format Changes	Jamie Burke Executive Assistant
6/9/2020	Policy Change-agency name, procedure review	Dirk Love, Corporate Compliance Officer.
5/16/2022	Policy review, procedure revision	Dirk Love, Corporate Compliance Officer.
1/13/2023	Policy Review, minor procedure revisions	Dirk Love, CCO; Vickey Hoffman, Compliance Specialist
3/16/2023	Grammatical and sequencing changes.	Dirk Love, Corporate Compliance Officer