

Changes to the *Protection for Persons in Care Act*

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Alberta's *Protection for Persons in Care Act* (Act) is important legislation designed to promote the prevention of abuse of adults who receive government-funded care or support services.

After more than 10 years, the Act has been re-written to emphasize the importance of reporting abuse and the prevention of abuse.

Purpose of the Act

The new legislation builds upon the strengths of the former Act and will improve protection for Albertans by emphasizing the prevention of abuse and including enforcement mechanisms.

The Act:

1. Requires reporting of abuse involving clients;
2. Requires independent reviews of reports of abuse; and,
3. Promotes the prevention of abuse involving clients.

Who the Act Applies To

The new Act still applies to service providers that receive funds from the Government of Alberta, directly or indirectly, for the provision of care or support services. Service providers include nursing homes, hospitals, group homes, seniors' lodges, shelters and other supportive living settings. In the Act, care or support services means any services that relate to a client's health, or physical or psychological well-being.

The new Act also applies to mental health facilities designated under the *Mental Health Act*. Additional service providers are specified in the regulations, including:

- operators of supportive living accommodation,
- a person that provides care or support services, other than family-managed supports, to individuals with developmental disabilities and receives funding under the *Persons with Developmental Disabilities Community Governance Act* for the provision of those services; and
- a person that provides day programs, residential and care or support services funded by Alberta Health Services, including, without limitation, addictions and mental health treatment and rehabilitation centres.

Duties of Service Providers

The Act reflects a commitment to improve the safety, security, and well-being of adults who access care or support services in Alberta.

The Act sets out the following duties:

- All service providers, employees of service providers and others who provide care or support services to clients must take reasonable steps to protect clients from abuse while providing care or support services, and to maintain a reasonable level of safety for clients.
- When notified of a report of abuse, service providers must take all reasonable steps to provide for the immediate safety, security and well-being of the client and any other clients who may be at risk of abuse.
- All service providers are required to make the information in this Act available to all clients, volunteers, employees and contractors.

- All service providers must require a criminal records check from every successful employment applicant, every new volunteer and any other individual engaged by the service provider to provide care or support services.

Any person who fails to comply with these duties may be guilty of an offence. Individuals can be fined up to \$10,000 and service providers up to \$100,000.

Reporting Abuse

Reporting abuse is mandatory. In the new Act, there is a requirement that abuse be reported as soon as reasonably possible. **Failure to report abuse is an offence.**

If a client has been subjected to abuse, it is optional for them to report it. If they choose to report the abuse, they must do so no later than two years from the date the alleged abuse occurred.

To report abuse:

- Call the police if a person's life or well-being is in immediate danger, or if the abuse is criminal in nature.
- Call the Protection for Persons in Care reporting line, 1-888-357-9339, Monday to Friday from 8:15 a.m. to 4:30 p.m. **The reporting line is not a crisis line.**
- If the incident involves a member of a professional association, reports may be made directly to the applicable association.
- Call the Mental Health Patient Advocate if the abuse involved a client detained in a mental health facility or subject to a community treatment order.

People who report abuse must provide their name and contact information. Anonymous reports are not allowed.

The identity of the complainant (the person reporting the abuse) will be disclosed if the abuse report is referred to the police or other body for investigation, when the matter is appealed under the Act and when required to do so by law.

Individuals who make malicious or false reports of abuse may be guilty of an offence and fined up to \$10,000.

What is Abuse

Abuse is an act or omission that causes serious bodily harm, serious emotional harm, misappropriating a significant amount of money and sexual abuse.

What Does Not Constitute Abuse

It is not abuse when:

- 1) service providers carry out their duties in accordance with professional standards or practices or any standards established under other legislation;
- 2) the care or support services provided are reasonably necessary in the circumstances;
- 3) the act or omission is the result of or attributable to a client refusing care or support services;
- 4) the individual involved took action according to the *Emergency Medical Aid Act*.
- 5) the act or omission is based on a decision made:
 - i) on behalf of a client by an agent under the *Personal Directives Act* or by an attorney under the *Powers of Attorney Act*;
 - ii) by a guardian or trustee under the *Adult Guardianship and Trusteeship Act*;

- iii) by a review panel under the *Mental Health Act*, and
- iv) by a person described in section 28(1) of the *Mental Health Act*.

Review of Abuse Reports

Every abuse report received by the Protection for Persons in Care (PPC) office will be reviewed by a complaints officer who will decide whether an investigation is necessary. Complaints officers may make inquiries of any person and may take any other action they consider appropriate in the circumstances.

The complaints officer may refuse to review or discontinue the review of an abuse report if it was made more than two years after the date of the alleged abuse or if the complaints officer believes the report is frivolous, vexatious or made in bad faith. In these situations, the complainant (person reporting abuse) has the right to have the complaints officer's decision reviewed by the PPC director.

Investigations of Abuse

If the complaints officer decides that an investigation is necessary, the abuse report is referred to an investigator. Investigators may interview the client and any other person who might be able to provide information. Investigators can access any records relevant to the investigation, including health information, personal information and financial information in the custody or control of any person.

Investigators submit a final report to the PPC director, stating whether the abuse was founded or not founded. Investigators may make any recommendation they consider appropriate and must provide reasons.

Director's Decision

After reviewing the investigator's final report, the director will make a decision and specify the steps or measures the service provider or individual involved must take to prevent abuse of clients. In the decision, the director may approve or reject the investigator's recommendations, and may take other appropriate action.

The director must provide a copy of the decision, with reasons, to the complainant, service provider, client, individual involved and any other person the director considers appropriate. The director must also notify the complainant, service provider, client and individual involved of the right to appeal the decision. Appealing the director's decision must be initiated within 15 days of receiving director's decision.

Anyone who fails to comply with the director's decision is guilty of an offence and may be subject to fines of up to \$10,000 for individuals and \$100,000 for service providers.

Other Definitions

A **client** is the individual who is the victim of the alleged abuse. The client must have been receiving care or support services from a service provider at the time the abuse occurred.

An **individual involved** is any person who allegedly abused a client or who allegedly failed to prevent abuse of a client.