

## Duty to Report – Protection for Persons in Care

### Overview:

The intent of the Protection for Persons in Care Act (PPCA) is to focus on protecting persons in care from abuse by requiring an individual or service provider, who has reasonable and probable grounds to believe and believes there is or has been abuse against a client, to report it. Section 2(1) of the Act provides legislation on the duty to report. Nothing is stated in section 2(1) about who abuses the client.

### Legislative source:

#### *Protection for Persons in Care Act*

*2(1) Every individual or service provider who has reasonable and probable grounds to believe and believes that there is or has been abuse against a client shall report such abuse to the Minister of Community Development or a police service or a committee, body or person authorized under another enactment to investigate such an abuse.*

Protection for Persons in Care  
Box 3100  
Edmonton, Alberta T5J 4W3  
Tel 780/427-0552 Fax 780/415-8611  
**Reporting line 1-888-357-9339**  
Website:  
www.cd.gov.ab.ca

### In this issue...

- Overview ..... 1
- Legislative source ..... 1
- Policy Statement ..... 2
- Appropriate place to report ..... 2
- Guidelines concerning intent ..... 2
- Guidelines concerning client to client abuse ..... 3
- Guidelines concerning abuse caused by persons in care, who are moderately or severely cognitively impaired or developmentally delayed ..... 3
- Guidelines for investigators in determining whether to recommend that an allegation of abuse should be dismissed ..... 3
- Attachments
  - 1) indicators of abuse ..... 5
  - 2) criminal matters ..... 6
  - 3) contacts ..... 7

**Purpose**  
*PPC Bulletins* are intended to provide individuals/agencies with more detailed information for interpreting the *Protection for Persons in Care Act (PPC Act)*. These Bulletins supply information concerning procedures and practices to aid in the effective and consistent administration of the *PPC Act*. PPC Bulletins are not a substitute for legal advice.

**Policy Statement:**

**If there is abuse against a person in care, then there is a duty by any individual or service provider to report it.**

**However, in order for an allegation to be considered "abuse", there must be two factors:**

**1. The person in care must experience one or more of the following:**

- bodily harm;
- emotional harm, including but not limited to threats, intimidation, humiliation, harassment, coercion, or restriction from appropriate social contact;
- medication administered or prescribed for an inappropriate purpose;
- misappropriation of valuables or possessions, or an improper or illegal conversion of money or other valuable possessions;
- inadequate nutrition, medical attention, or other necessity of life; or
- the client is subjected to non-consensual sexual contact, activity or behaviour

See attachment 1 for indications of abuse.

**2. The action must be intentionally caused, except for subjecting the person in care to non-consensual sexual contact, activity or behaviour. "Subjecting" means, "bringing under some power or influence".**

**Thus, regardless of who caused it, the allegation of abuse must be reported to whichever body is most appropriate:**

- Alberta Community Development (1-888-357-9339); or
- A police service, if the subject matter is criminal, (see attachment 2 for allegations of abuse that should be considered criminal); or
- A committee, such as the Alberta Health Facilities Review Committee, a body, such as a professional association or a person, such as the Mental Health Patient Advocate, authorized under another enactment to investigate such abuse.

See attachment 3 for respective phone contacts

**Guidelines concerning "intent":**

- If there is no intent, there is no abuse, in five of the six allegations of abuse. The exception is in the case of non-consensual sexual contact, activity or behaviour.
- Reporting individuals **do not** have to determine "intent" before reporting an allegation of abuse if that individual has reason to believe and believes that abuse has occurred. "Intent" is one of the factors that will be looked at in the investigation process.

### **Guidelines concerning client to client abuse:**

- If an agency or a service provider or an employee of an agency knows about or ought to know about any client to client actions that fall within the definition of abuse in section 1(a), then that agency, service provider or employee of that agency is involved for the purposes of the Act and the Ministry has jurisdiction to investigate or otherwise deal with that complaint in accordance with the Act.
- If an agency or service provider knowingly permits a client to receive bodily harm or emotional harm, it may very well constitute abuse permitted by the agency or service provider. However, the agency or service provider must intentionally "permit" the bodily harm or emotional harm to occur.

### **Guidelines concerning abuse caused by persons in care, who are moderately or severely cognitively impaired or developmentally delayed:**

- The level of cognitive impairment or developmental disability should be determined, on an individual basis, by expert or medical opinion.
- If it is determined that there is moderate to severe cognitive impairment or moderate to severe developmental disability, the necessary element of "intent" will be missing in client to client altercations. Thus it would not need to be reported from the perspective of the client as the alleged abuser, but rather from the aspect of the agency "permitting" the abuse to occur.

- Any severe injury or if excessive force occurred, client to client abuse should be reported and investigated from a facility responsibility perspective.
- Thus, every investigation involving client to client actions that could constitute abuse, should also include examining the conduct of the agency, service provider, or employee of the agency to determine whether the abuse is really that of the agency, service provider, or employee of the agency permitting those resident to resident actions to occur, or in neglecting to take remedial action to prevent or stop them from occurring.
- In the case of sexual behaviour, intent is not an essential element to that type of abuse. Instead, there must be a "subjecting" to non-consensual sexual contact, activity or behaviour.

**The investigation seeks to set out the facts and to make recommendations pursuant to section 8 of the Act without making findings of legal responsibility or drawing conclusions of law.**

### **Guidelines for investigators in determining whether to recommend that an allegation of abuse should be dismissed under section 8(3)(c):**

In the case of section 1(a)(i) "**intentionally causing bodily harm**", if no bodily harm is caused, there is no abuse. If there is no intent to cause bodily harm, there is no abuse, even where bodily harm is the result of some action. There must be bodily harm and it must have been intentionally caused.

In the case of section 1(a)(ii) "**intentionally causing emotional harm**", if no emotional harm is caused, there is no abuse. If there is no intent to cause emotional harm, there is no abuse, even where emotional harm is the result of some action. There must be emotional harm and it must have been intentionally caused.

In the case of section 1(a)(iii) "**intentionally administering or prescribing medication for an inappropriate purpose**", if the medication is not administered or prescribed for an inappropriate purpose, there is no abuse. If there is no intent to administer or prescribe for an inappropriate purpose, there is no abuse. There must be an intentional administering or prescribing of medication for an inappropriate purpose for there to be abuse.

In the case of section 1(a)(v) "**intentionally misappropriating or improperly or illegally converting money or other valuable possessions**", if there is no money or other valuable possessions that have been intentionally misappropriated, or improperly or illegally converted, there is no abuse. If there is no intent to administer or prescribe for an inappropriate purpose, there is no abuse. There must be an intentional misappropriation of money or other valuable possessions, or an improper or illegal converting of money or other valuable possessions for there to be abuse.

In the case of section 1(a)(vi) "**intentionally failing to provide adequate nutrition, adequate medical attention or other necessity of life without a valid consent**", if adequate nutrition, adequate medical attention or other necessity of life is provided, there is no abuse. If there is no intent to fail to provide adequate nutrition, adequate medical attention or other necessity of life, then there is no abuse even if an action results in a failure to provide

adequate nutrition, adequate medical attention or other necessity of life.

In the case of section 1(a)(iv) "**subjecting to non-consensual sexual contact, activity or behaviour**", if there is no non-consensual sexual contact, activity or behaviour, there is no abuse. That is, if sexual contact, activity or behaviour is consensual, there is no abuse. If there is non-consensual sexual contact, activity or behaviour, which a person is not "subjecting" on a client, then there is no abuse. "Subjecting" is bringing under some power or influence. Thus, even where there is non-consensual sexual contact, activity or behaviour, if it does not involve the element of someone exercising some power or influence over a client, it is not abuse.

**Allegations of abuse, as defined in the Act, may be dismissed on the grounds that the complaint was:**

- **Made maliciously (knowing it to be untrue),**
- **Made without reasonable and probable grounds for the belief (no objective basis for complaint; complainant was lying),**
- **Unfounded (made a mistake in reporting, no evidence of the required elements of abuse, or**
- **Dismissed due to insufficient evidence (some evidence of the required elements of abuse but not enough).**

**The recommendation to dismiss the complaint may be based on any one or more of these factors.**

**The PPC Act does not include "potential" bodily harm or emotional harm as constituting abuse. Where there is or has been "potential" to cause abuse, , it may be that inappropriate care was provided and recommendations for correction or improvement may be made.**

## Indicators of Abuse

### **Physical abuse** - *"Intentionally causing bodily harm."*

- Examples of actions that may cause physical harm - inappropriate physical contact such as striking, pinching, kicking, bumping, pulling hair, choking, burning, splashing cold water as a "joke," force feeding.
- Indicators of physical abuse -
  - Physical indicators - unexplained bruises, scrapes, cuts, loss of hair, bumps, contusions, falls, fractures, grip marks, immobility, swelling, tenderness
  - Behavioral indicators - verbal report, wariness of physical contact, reluctant to go to specific places or be with specific people, wearing clothing that covers body, aggression or withdrawal.

### **Emotional abuse** - *"Intentionally causing emotional harm, including but not limited to threatening, intimidating, humiliating, harassing, coercing or restricting from appropriate social contact."*

- Indicators of emotional abuse -
  - Victim appears shamed, portrays low self-esteem, withdrawn, passive, fearful, little or no eye contact, etc. Speech disorders, severe allergies or ulcers, failure to thrive and no satisfactory medical explanation.
  - When interacting with the suspected victim, the suspected abuser may be impatient, answer for the victim, be excessively attentive, defensive, patronizing.

### **Medication abuse** - *"Intentionally administering or prescribing medication for an inappropriate purpose."*

- Indications of medication abuse –
  - Sedating for the convenience of staff rather than health needs of the patient, or not providing medication when it is part of a care plan.

### **Sexual abuse** - *"Subjecting to non-consensual sexual contact, activity or behavior."*

- Indicators of sexual abuse -
  - Physical indicators include pain, swelling or bleeding in the genital area; fear of specific persons or being alone with them; withdrawing or drawing back from touching; sexually transmitted disease.
  - Behavioral indicators include verbal report, sexual acting out, bouts of crying with no provocation; receiving unexplained gifts/money.

### **Financial abuse** - *"Intentionally misappropriating or improperly or illegally converting money or other valuable possessions."*

- Indicators of financial abuse –
  - Evidence of unauthorized use of resident's money or property, evidence of changes in financial status, lack of receipts when purchasing for a resident or patient.

### **Neglect** - *"Intentionally failing to provide adequate nutrition, adequate medical attention or other necessity of life without valid consent."*

- Indicators of neglect –
  - Lack of proper clothing, weight loss, untreated health conditions, repeatedly asking for food, etc.
- The Act respects Personal Directives; agreements made with lodges, etc.

## Reports involving Criminal Matters

Some types of abuse are criminal acts. Call your local police service if you believe there may be a *Criminal Code* (Canada) offence pertaining to abuse of adults.

### Examples of criminal offences as relating to abuse include:

#### Physical abuse:

- Assault
- Forceful confinement
- Counseling suicide
- Murder
- Manslaughter

#### Psychological abuse:

- Intimidation
- Uttering death threats
- Harassing telephone calls
- Criminal Harassment
- Forceful confinement

#### Medication abuse:

- Administering a noxious substance

#### Sexual abuse:

- Sexual assault

#### Financial abuse:

- Theft
- Theft by person holding power of attorney
- Conversion by trustee
- Criminal breach of trust
- Stopping mail with intent
- Extortion
- Forgery
- Fraud
- Robbery

#### Active Neglect:

- Criminal negligence
- Breach of duty to provide necessities

**Phone contacts for police services and other committees, bodies or persons  
where allegations of abuse can be reported to under section 2(1) PPC Act**

**Police Services:**

**Calgary Police Service – (403) 266-1234**

- Constable Kate Savage, Seniors Coordinator Phone: (403) 509-1791
- Constable Martin Cull, Coordinator/Liaison Persons with Disabilities Phone: (403) 206-8312

**Edmonton Police Service – (780) 423-4567**

- Seniors Coordinator Phone: (780) 421-3429
- Detective George Derkson, Elder Abuse Intervention Team Phone: (780) 496-5928

**RCMP and Other Police Services** - All locations See local phone book

**Professional Bodies:**

- College of Physicians and Services (Physicians) 1-800-661-4689
- Alberta Association of Registered Nurses (Registered Nurses) (780) 451-0043
- Registered Psychiatric Nurses Association of Alberta (Psychiatric Nurses) (780) 434-4052
- College of Licensed Practical Nurses (Licensed Practical Nurses) (780) 484-8886
- Alberta Association of Registered Social Workers (Social Workers) (780) 421-1167
- College of Physical Therapists of Alberta (Physical Therapists) (780) 438-0338
- Other professionals – see phone book

**Committees/Persons:**

- Health Facilities Review Committee (re hospitals and nursing homes) (780) 427-4924\*
- Social Care Facilities Review Committee (re social care facilities) (780) 427-3010\*
- Office of the Mental Health Patient Advocate (formal patients) (780) 422-1812\*

**Phone Contacts for information**

- Elder Abuse Intervention Team – Edmonton (780) 496-5932
- Kerby Centre – Calgary (403) 265-0661
- Office for the Prevention of Family Violence (780) 422-5916\*
- Alberta Seniors Information Line – 1-800-642-3853 or (780) 427-7876\*
- Federal Government Income Security Programs (1-800-277-9914)
- Small Claims Court (780-422-2510\*).
- Public Trustee: Edmonton office (780) 427-2744\* Calgary office (403) 297-6541\*
- Public Guardian: Edmonton office (780) 422-1868\* Calgary office (403) 297-3364\*  
Lethbridge office (403) 381-5648\*  
Central Region (403) 340-5165\* North Region (403) 427-0017\*

*\* All areas of the province may access government numbers, toll free through the rite line at 310-0000.*