

POLICY TITLE	POLICY NUMBER
Provincial Abuse Policy for Psychiatric Facilities	HCS 210.1
	DATE OF APPROVAL
	October 2003
	APPLICABLE TO:
	Psychiatric Facilities (as defined below)
BRANCH/DIVISION	DATE OF REVISIONS
Mental Health Branch/Health Workforce and Mental Health	October 2003
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1.0 Introduction:

Manitoba Health and Regional Health Authorities will work towards creating safe environments for individuals receiving treatment in psychiatric facilities.

2.0 Purpose:

This policy is specifically intended to address issues arising from patient abuse.

Regional Health Authorities and facilities will have policies to govern and provide direction to psychiatric units, that are consistent with the spirit and intent of this provincial policy.

This policy includes references to prevention, protocol and procedures in dealing with reports of patient abuse. The categories of reportable abuse as they relate to patients are as follows: patient-to-patient, staff-to-patient, volunteer-to-patient and visitor-to-patient.

Issues involving patient abuse of staff are not covered in this policy. (However, occurrences that involve a patient assaulting or harassing an employee are a serious matter that fall under "workplace and safety hazards." These occurrences should be reported immediately to the supervisor following the RHA/Facility policy. The employee may also report to their union.)

This policy recognizes that acute and long-term mental health settings are similar in some aspects but may require differing policies in some areas. For example, policy regarding consensual sexual activity in psychiatric facilities may differ between acute care settings and long term residential settings.

3.0 Definitions:

The following definitions have been derived from *The Mental Health Act* and from the Protection for Persons in Care Office policy manual.

- Multi-disciplinary team - includes all staff employed by the facility and fee-for-service professionals delivering care to patients.

- Psychiatric Facility - a place designated under *The Mental Health Act* as a facility for the observation, assessment, diagnosis and treatment of persons who live with a mental health disorder.
- Visitor: includes family members, friends, neighbours, acquaintances, partner, etc.)

Abuse does not need to be “intentional” or deliberate for it to occur. It includes any one or a combination of the following:

- Physical abuse
Any act of violence or rough treatment causing injury or physical discomfort to a patient. Such behaviour includes any kind of physical assault such as slapping, pushing, pulling, kicking, punching; injury with any object or weapon; deliberate exposure to severe weather; and the inappropriate use of restraints. Physical abuse also includes misuse of medications and prescriptions.
- Sexual abuse
Any act involving unwanted or forcible touching/activity of a sexual nature or a situation in which a patient consents or submits to sexual activity because a person in a position of trust or with authority over the patient has used that trust/authority to gain that consent. Such behaviour would include sexual assault, sexual harassment, or any act designed to use the patient for the perpetrator’s sexual gratification.
- Emotional abuse
Any act which may diminish the sense of identity, dignity or self-worth of the patient. Such behaviour includes confinement, physical and social isolation; verbal assault, harassment, humiliation, intimidation or infantilization; denial of information, privacy, visitors, or religious worship; coercion, compulsion by threat, or unlawful constraint to force a patient to do some act that otherwise he/she would not have done.
- Neglect
Any situation in which a patient's basic needs (i.e. food, water, shelter, heat, clothing, hygiene, safety, emotional support, respect) are not being met, and/or proper medical, dental or psychiatric treatment is not being received. Neglect may be the result of action or inaction and may be intentional or unintentional. Unintentional neglect refers to situations resulting from lack of experience, information or capability. Systemic neglect of respect occurs when facility operations create or facilitate harmful situations.
- Violation of Human Rights
The Human Rights Code prohibits any discrimination on the basis of age or physical or mental disability, among other grounds.
- Financial Abuse/Exploitation
Any act which involves the misuse/abuse of a patient’s funds and/or assets. Such behaviour includes obtaining property and funds without the patient’s knowledge or consent or by using undue influence such as forced changes of wills or titles or the misuse of power of attorney; or in the case of a patient who has been found incompetent, not acting in her/his best interests.

- Combinations of Abuse
Situations may exist where a combination of any of the above-defined abuses are identified and reported.

Note: The above definitions refer to activities outside of accepted practice. For reasons of therapeutic intervention or safety, restrictions or restraints may be used at times, guided by facility policies and guidelines.

4.0 Policy:

4.1 Prevention/Intervention

RHAs and facilities will:

- promote the sharing and seeking of information with related service providers such as police, community mental health, mental health agencies, self-help groups, medical doctors consistent with applicable legislation;
- record information, that is immediately accessible, that indicates vulnerability to be abused or risk to abuse - this will be done by all healthcare providers involved in the process of admission or at any point during hospitalization and will be a part of the ongoing review of the care of each patient;
- follow the written provincial protocol *Victims Rights and Duty to Warn* where a client is deemed *Not Criminally Responsible (NCR)/Unfit*;
- take measures to provide adequate staffing on all shifts in an effort to ensure safety and appropriate supervision;
- address issues regarding safety with the individual and family/support person, including expectations about behaviour and a discussion about appropriate behaviour in relationships, including sexual behaviour while admitted to the psychiatric facility;
- implement proactive measures for interventions for vulnerable or at risk patients through individual care plans and through other considerations such as gender specific settings.

4.2 Support and Resources in Facilities

RHAs and facilities will:

- provide an environment that is respectful and affirms the dignity of each patient;
- implement effective monitoring capabilities in terms of supervision and technology to maintain safety;
- involve consumers and family members/natural supports in the development of RHA and facility policies regarding abuse in mental health facilities;
- provide information to staff, patients, volunteers and visitors of the reporting requirements of *The Protection for Persons in Care Act. The Protection for Persons in Care Act (PPCA* - see page 6 for more details) applies to health facilities including: personal care homes, hospitals, Selkirk Mental Health Centre and any other facility that may be designated by regulation under the Act;
- display in a prominent area, a copy of their mission statement and a document that outlines patient rights and responsibilities and how to access advocacy and the Protection for Persons in Care Office;
- make available and accessible a patient/family handbook;
- include in the handbook information outlining a patient's right to request representation and to appeal to the Mental Health Review Board in relation to involuntary admissions and other matters under *The Mental Health Act*;

- review and update these resources and material on an annual basis;
- undertake a semi-annual risk analysis of the physical environment;
- document and report incidents consistent with the laws and policies in effect in the province of Manitoba;
- provide mandatory training for staff in non-violent crisis intervention;
- provide annual educational opportunities for staff that promotes sensitivity and awareness with respect to mental illness, recovery and empowerment;
- provide educational opportunities for staff in the area of violence and childhood abuse and its implications for service delivery;
- include external participation (including consumers) in the provision of this education;
- provide mandatory staff orientation and regular updates on procedures and protocols that relate to critical occurrences;
- be pro-active in promoting and developing effective relationships and communication with community stakeholders such as: police, family, the Aboriginal community, self-help groups and other mental health agencies and programs.

4.3 Protocol Following a Report of Abuse

- The patient will be made aware of options with regard to reporting the occurrence including options external to the facility.
- The safety of the patient will be the first concern of staff prior to any reporting function.
- A staff person who becomes aware of an abuse issue or situation will first intervene and ensure that immediate steps are initiated to stop the abuse from continuing and ensure the safety of the patient. Such immediate steps include providing immediate medical care or arranging for emergency response if required. Following a report of abuse, staff will ensure that the patient is aware of her/his inherent rights to administrative and/or judicial review. This process includes not only the option of an internal complaint but immediate referral to police in the case of a suspected criminal occurrence.
- Multi-disciplinary team members will ensure due diligence and must report all allegations of abuse. This includes actual observed incidents of abuse and situations that suggest the potential for abuse.
- Where required pursuant to *the Protection for Persons in Care Act*, the occurrence will be reported to the Protection for Persons in Care Office and to the person in charge of the area where the patient has been receiving services.
- Patients, staff, volunteers and visitors are to report to the RHA/facility all concerns regarding abuse whether or not the concern is required to be reported to the Protection for Persons in Care Office. RHAs/facilities will have an established reporting protocol in place to ensure that abuse is appropriately documented and addressed. Pursuant to *The Protection for Persons in Care Act*, these protocols cannot provide for disciplinary action for staff who report occurrences directly to the Protection for Persons in Care Office.
- Allegations will be addressed in a timely manner.
- Facilities will provide (or arrange for) counseling and/or posttraumatic stress debriefing following a report of abuse for both the staff and the patient.
- Information in a patient's clinical record shall only be disclosed without the consent of the patient as permitted pursuant to *The Mental Health Act*.
- The patient will be encouraged to identify and discuss an incident of abuse with their supports (such as a family member or a friend).

5.0 Policy References and Related Documents:

1. Abuse Policy and Procedure, Manitoba Health, July 1995
2. Brandon Regional Health Authority Abuse Policy 2003
3. Criminal Code of Canada
4. Critical Clinical Occurrences
5. Human Rights Legislation sections on abuse and harassment (Chapter #175)
6. The Mental Health Act
7. The Personal Health Information Act (PHIA)
8. The Protection for Persons in Care Act
9. Regulatory Bodies of professionals
10. Report of the Mental Health Program, St. Boniface General Hospital - October, 2002
11. Victims Rights Legislation

6.0 Appendices:

6.1 Overview of Legislation

Personal Health Information Act (PHIA)

Because health information is particularly private and sensitive, this law gives Manitobans control over their own personal health information.

It sets out rules that all health information trustees must follow. Trustees are individuals or organizations that keep records of health information.

A trustee must grant individuals access to their personal health information; and keep personal health information private and confidential.

For the full Act - www.gov.mb.ca/health/phia.

Mental Health Act

The *Mental Health Act* of Manitoba sets out in law the admission and treatment requirements for individuals admitted to psychiatric facilities.

The Act also applies to individuals on leave from a facility as well as individuals under Orders of Committeeship living in the community.

The Act aims to strike a balance between two sets of principles:

- the rights given to all citizens under The Canadian Charter of Rights and Freedoms; and,
- society's obligation to provide care and treatment to those individuals who, at times, may not appreciate their need for treatment due to their mental illness.

For the full Act - www.gov.mb.ca/health/mh/act.html

Protection for Persons in Care Act

This Act is a law to help protect adults from abuse while receiving care in personal care homes, hospitals or any other designated health facility.

The Act does not apply to outpatient care for those persons not remaining in a facility for at least 24 hours. The Act only applies to adult persons 18 years of age or older.

Under this law, the definition of abuse includes: physical, sexual, mental, emotional and financial mistreatment. Any of these, alone or in combination, is considered "abuse" if the mistreatment is reasonably likely to cause death, serious harm or significant loss to a person's personal property.

In Manitoba, it is now mandatory for anyone to report suspected abuse promptly. This means that any individual who has a reasonable basis to believe abuse is occurring, or is likely to occur, must report these concerns as soon as possible.

With the introduction of this legislation (May 01, 2001) Manitoba Health has established the Protection for Persons in Care Office (PPCO).

This office (PPCO) receives and investigates reports of suspected abuse in designated facilities as described above.

Reporting to the PPCO

If a person's life or wellbeing is in immediate danger, take steps to ensure the person's safety first.

Then call the Protection for Persons in Care Office's confidential, toll-free line at 1-866-440-6366 (outside Winnipeg) or 788-6366 in Winnipeg.

If you are not sure whether a situation needs to be reported, call the Office for assistance.

When suspected abuse is reported in good faith, the Act prohibits:

- any interruption in the care and services provided to patients and residents; and
- any action or proceedings against any person, including health facility employees, for reporting suspected abuse.

The Act also protects caregivers, and others who work with persons in care, against malicious reporting.

After receiving a report of suspected abuse, the Protection for Persons in Care Office will inquire into the matter. Where there is reason to believe that abuse has occurred, or is likely to occur, the matter is promptly investigated.

Under the law, a health facility operator may be required to take action as a result of this investigation. Where necessary, the incident may be referred to a professional regulatory body for further review.

Any failure to comply with the Act, including intentionally making a false report, may result in charges being laid and fines imposed.

6.2 Membership List of Working Group

Bev Goodwin - family member

Terry Hryniuk - Selkirk Mental Health Centre

Linda Hughes - RHA representative (Winnipeg)

Lois Patterson - RHA representative (Central)

Lynda Stiles - RHA representative (Brandon)

Tim Thompson - RHA representative (Thompson)

Marlene Permanand - Manitoba Health (Regional Support Services)

Jacques Gagne - Manitoba Health (Protection for Persons in Care Office)

Yvonne Block - Manitoba Health (Mental Health Branch) Co-Chair

Annette Willborn - (formerly) Manitoba Health (Policy and Planning Branch) Co-Chair

Consultation has also occurred with a consumer focus group, the Office of the Chief Provincial Psychiatrist and the Legislative Unit, Manitoba Health.