

# Protection

**FOR PERSONS  
IN CARE**

**ANNUAL REPORT  
2010/2011**

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# 1. Legislation – *The Protection for Persons in Care Act*

## Background

The sick, frail, very young and elderly are among the most vulnerable members of our society, and are more likely to be victims of abuse. Abuse is a very challenging issue that may affect and involve family, friends and/or caregivers.

To promote patient safety in Manitoba's health care system, the Government of Manitoba proclaimed *The Protection for Persons in Care Act* on May 1, 2001. This legislation created a formal process for reporting, investigating and resolving allegations of abuse in hospitals, personal care homes and Selkirk Mental Health Centre. A September 30, 2010 amendment to the Act expanded the reporting requirements to include adult patients receiving care in emergency departments, urgent-care centres in health-care facilities and geriatric day hospitals.

## Key Points

- The act is designed to protect individuals in hospitals, personal care homes and Selkirk Mental Health Centre, from abuse.
- Under the act, the operator of a health facility has a duty to protect patients from abuse and maintain a reasonable level of safety for them. Under the act, patients are defined as:
  - adult in-patients in hospitals and Selkirk Mental Health Centre;
  - residents of personal care homes;
  - persons receiving respite care in a health facility;
  - a patient receiving services in a geriatric day hospital that is managed by a hospital (i.e. St. Boniface Hospital, Seven Oaks Hospital, Riverview Health Centre and Deer Lodge Centre); and
  - a patient receiving services in an emergency department or urgent care centre of a health facility,( i.e. Misericordia Urgent Care Centre).
- Reporting and investigation of abuse of children under 18 years of age is covered by *The Child and Family Services Act*. *The Vulnerable Persons Living with a Disability Act* relates to the reporting and investigation of abuse of these vulnerable individuals. Children and vulnerable persons are not included in the definition of "patients" in *The Protection for Persons in Care Act*.
- *The Protection for Persons in Care Act (PPCA)* requires any person - including a caregiver - who has a reasonable basis to believe that a patient in a health facility is, or is likely to be abused, to report the suspected abuse to the Minister of Health or his/her designate. The Protection for Persons in Care Office (PPCO) was established to act as this designate.

- The act protects individuals, including employees, from retribution for bringing reports of abuse to the attention of the appropriate authorities. It also provides protection from malicious reporting.
- The act requires that an inquiry be conducted when a report of abuse is received. If there are reasonable grounds to believe that a patient has been, or is likely to be abused, an investigator must be appointed to investigate the matter and prepare a report.
- If a professional is alleged to have committed abuse or fails to report abuse, he/she may be referred to his/her regulatory body, which is then required to investigate the matter.
- In response to an investigation, a health facility operator may be directed to take specific actions to protect a patient(s) from abuse. Operators are required to comply with any directions given under the act and to provide a report on the action taken.
- The act states that the patient (or his/her committee i.e. legally designated decision maker) must be consulted throughout the investigation process. The patient must be informed of the investigation outcome and any directives issued to the facility involved. The act also states that the investigator should try to accommodate the wishes of the patient to the fullest practical extent.
- The act prohibits any adverse employment action, legal action or interruption/alteration of services to the patient in response to a report of abuse made in good faith.
- Individuals who contravene the act can be fined up to \$2,000 and corporations found to be in violation of the legislation can face fines of up to \$30,000.

## 2. The Protection for Persons in Care Office

### Objective

The Protection for Persons in Care Office (PPCO) administers *The Protection for Persons in Care Act (PPCA)*. The objective of the PPCO is to manage the reporting and investigation of alleged patient abuse in designated health care facilities under the legislative requirements of the *PPCA*.

### Role of the PPCO

The role of the PPCO includes:

- receiving reports of alleged abuse on a dedicated reporting line;
- conducting inquiries by reviewing and analyzing all alleged abuse reports for validity and nature of complaint;

- conducting investigations on incidents of alleged abuse where reasonable grounds to believe abuse occurred exist;
- issuing directions to health facilities to improve policies and/or processes that address the identification, reporting, prevention and management of patient abuse;
- conducting follow-up audits of selected facilities that have received directions;
- acting as a resource to Manitoba Health and regional health authorities on abuse related issues;
- providing education for the public, health care staff and organizations about the *PPCA*, and on the identification, reporting, prevention and management of abuse;
- developing and distributing public information related to the *PPCA*; and
- making referrals of professionals to professional regulatory bodies for investigation.

### **3. The Manitoba Ombudsman's Report**

In March 2011, the Office of the Ombudsman released its report after its investigation into allegations of wrongdoing at the Protections for Persons in Care Office. The Investigation resulted in recommendations being made which were implemented in 2011. Statistics in 2011/2012 will reflect the results of the changes made following the recommendations.

# APPENDIX A

## PPCO DEFINITIONS

As a result of *The Manitoba Ombudsman's Report on the Protection for Persons in Care Office*, released March 11, 2011, the working definition of abuse changed. Changes in this definition and resulting activity in the PPCO, will be reflected in the statistics gathered, in the 2011/2012 PPCO Annual Statistical Report.

## ABUSE

*The Protection for Persons in Care Act* defines "abuse" as:

"mistreatment, whether physical, sexual, mental, emotional, financial or a combination of any of them that is reasonably likely to cause death or that causes or is reasonably likely to cause serious physical or psychological harm to a person, or significant loss to the person's property."

## INQUIRY & INVESTIGATION

The PPCO responds to allegations of reported abuse through inquiry, investigation, and issuing directions as appropriate to health care facilities to improve patient care.

**Inquiry:** After receiving a report of alleged abuse, the PPCO opens an inquiry. During the inquiry, information is gathered through contacting the reporter, the alleged victim if competent, the health care facility and others as appropriate, to gather detailed information to determine whether or not there are reasonable grounds to believe that abuse has occurred or is reasonably likely to occur. This process includes reviewing and analyzing the report for validity and nature of complaint. The PPCO will proceed to investigation when there are reasonable grounds to believe that the act or behaviour has or is likely to result in serious harm.

**Investigation:** If the PPCO determines that there are reasonable grounds to believe that a patient has been abused or is reasonably likely to be abused, an investigator will carry out a more extensive investigation. The investigation process includes:

- gathering evidence at the facility and holding personal interviews with parties involved such as the reporter, person who alleges has been abused, person who is alleged to have abused, health care management and witnesses;
- consulting with experts (e.g., physicians, wound management nurses, psychiatrists);
- reviewing pertinent documentation such as health records, facility and regional health authority policies and processes and provincial standards;
- communicating with other stakeholders as appropriate, such as the Police, Public Trustee; and
- identifying areas to improve patient safety and/or the facility's practices related to the abuse that occurred.

## OUTCOMES OF INQUIRY AND INVESTIGATION

### Inquiry

**No Investigation Warranted/Below Threshold:** Based on the information gathered, there are no reasonable grounds to believe that the act or behavior has or will likely cause serious harm or financial loss to an alleged victim that would require an investigation to be initiated.

**Unsupported:** Information gathered supports the decision that the abuse allegation was unsubstantiated or there was insufficient information to support the allegation that abuse occurred.

**Direct Referral or Contact:** Contacts/referrals are made with/to external agencies like professional regulatory bodies, law enforcement or the Public Trustee to request their investigation into an allegation.

**Outside the Act:** The incident is determined to be outside the mandate of the PPCO. This may mean that the alleged abuse did not occur in a designated health facility or the incident was determined not to be abuse.

**Patient Competent:** A competent patient has declined further PPCO involvement in the inquiry.

**Open:** The file is open because the inquiry process has not yet been completed.

### Investigation

**Founded:** Objective evidence supports that the abuse causing serious harm occurred.

**Unfounded:** Objective evidence does not support that the act or behavior was abuse in accordance with the PPCA.

**Open:** The file is open because the investigation has not yet been completed.



## APPENDIX B

# **Five Year Statistical Summary**

(April 1, 2006 – March 31, 2011)

**Five Year Statistical Tables for**

## **Fiscal Years 2006 – 2011**

### **Alleged Abuse Intake Reports**

Table 1: Number of intake reports received

Table 2: Breakdown of intake reports (numerical)

Table 3: Breakdown of intake reports (percent)

Table 4: Intake reports by type of abuse

Table 5: Intake reports by reporting source

Table 6: Intake reports by identified person who has abused

Table 7: Intake reports by type of facility

### **Inquiries**

Table 8: Outcome of inquiries

### **Investigations**

Table 9: Outcome of investigations

### **Founded Investigations**

Table 10: Founded investigations by type of abuse

Table 11: Founded investigations by identified person who has abused

### **Combined Inquiries & Investigations 2010 - 2011**

Table 12: Breakdown of intake reports by type of abuse and outcome  
(Inquiries and Investigations) 2010 - 2011

# Intake Reports 2006 - 2011

**Table 1: Number of intake reports received**

Fiscal Year	2006-07	2007-08	2008-09	2009-10	2010-11	8 months Review Post Ombudsman Report April 1, 2011 – Nov. 30, 2011
Number of intake reports	1,447	1,460	1,375	1,589	1,722	1413

**Table 2: Breakdown of intake reports (numerical)**

Category	2006-07	2007-08	2008-09	2009-10	2010-11	8 months Review Post Ombudsman Report April 1, 2011 – Nov. 30, 2011
Inquiries only	1,291	1,405	1,333	1,554	1,685	1350
Investigations	156	55	42	35	37	56
Total	1,447	1,460	1,375	1,589	1722	1413

**Table 3: Breakdown of intake reports (percent)**

Disposition	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11	8 months Review Post Ombudsman Report April 1, 2011 – Nov. 30, 2011
Inquiries only	89%	96%	97%	98%	98%	98%	96%
Investigations	11%	4%	3%	2%	2%	2%	4.0%

**Table 4: Intake reports by type of abuse**

Type of Abuse	2006-07	2007-08	2008-09	2009-10	2010-11	Ave % 2006-11
Physical	989	1,009	986	1,185	1,106	69.5%
Neglect (Physical)	66	74	62	61	70	4.4%
Emotional	88	93	84	99	122	6.4%
Financial	120	83	57	74	77	5.4%
Sexual	128	114	111	98	165	8.1%
Combination	55	86	75	72	182	6.2%
None/Unknown	1	1	0	0	0	0%
Total	1,447	1,460	1,375	1,589	1,722	100%

**Table 5: Intake reports by reporting source**

Reporting Source	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
Facility / staff	1,345	1,370	1,280	1,466	1,566	<b>92.5%</b>
Family / friends	53	57	57	78	80	<b>4.3%</b>
Patient	20	13	21	9	21	<b>1.1%</b>
Other	29	20	17	36	55	<b>2.1%</b>
Total	1,447	1,460	1,375	1,589	1,722	<b>100%</b>

**Table 6: Intake reports by identified person who has abused**

Person who has Abused	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
Patient	974	1,064	1,027	1,217	1,276	<b>73.2%</b>
Staff*	196	156	174	177	214	<b>12.1%</b>
Family / Friends	138	132	82	111	134	<b>7.9%</b>
Facility**	64	58	50	48	42	<b>3.4%</b>
Other / Unknown	75	50	42	36	56	<b>3.4%</b>
Total	1,447	1,460	1,375	1,589	1,722	<b>100%</b>

\*An employee identified as the person who has abused

\*\*Facility identified as having abused (ex: facility protocols were not followed resulting in abuse)

**Table 7: Reports by type of facility**

Type of Facility	2006-07		2007-08		2008-09		2009-10		2010-11		Ave. % 2006-11
	#	%	#	%	#	%	#	%	#	%	
PCH	1,302	90%	1,220	84%	1,221	89%	1,468	92%	1,509	88%	<b>88.5%</b>
Acute & SMHC*	144	10%	240	16%	154	11%	121	8%	213	12%	<b>11.5%</b>
Other / Non-Facility*	1	<0.1%	0	--%	0	--	0	--	0	--	<b>0%</b>
Total	1,447	100%	1,460	100%	1,375	100%	1,589	100%	1,722	100%	100%

\*SMHC = Selkirk Mental Health Centre

\*\* Example – Abuse in an individual's home

## Inquiries 2006 - 2011

**Table 8: Outcome of Inquiries**

Outcome of Inquiries	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
No Investigation Warranted/Below Threshold	1,016	1,107	1,108	1,330	1,405	82%
Direct Referral	11	4	2	4	2	.4%
Outside of the Act	44	36	29	17	27	2.1%
Patient Competent	7	5	25	43	38	1.6%
Unsupported (Unfounded)*	213	246	160	146	183	13%
Open	0	7	9	21	30	.9%
<b>Total</b>	<b>1,291</b>	<b>1,405</b>	<b>1,333</b>	<b>1,561</b>	<b>1,685</b>	<b>100%</b>

**\*Note:** In 2009-10, "Unsupported" replaced "Unfounded" as an outcome of inquiries. This was done to avoid confusion with the term "Unfounded" used in the outcome of investigations.

## Investigations 2006 - 2011

**Table 9: Outcome of investigations**

Outcome of Investigations	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
Founded	141	37	27	25	12	74%
Unfounded	15	17	13	12	12	21%
Open	0	1	2	2	13	5%
<b>Total</b>	<b>156</b>	<b>55</b>	<b>42</b>	<b>39</b>	<b>37</b>	<b>100%</b>

## Founded Investigations 2006 - 2011

**Table 10: Founded investigations by type of abuse**

Type of Abuse	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
Physical	67	14	15	17	7	49.6%
Neglect (Physical)	11	7	6	3	3	12.4%
Emotional	11	3	0	0	0	5.8%
Financial	19	8	4	3	0	14%
Sexual	16	4	1	1	1	9.5%
Combination	17	1	1	1	1	8.7%
<b>Total</b>	<b>141</b>	<b>37</b>	<b>27</b>	<b>25</b>	<b>12</b>	<b>100%</b>

**Note:** Six 2009-10 founded investigations were closed in 2010-11. The breakdown by "Type of Abuse" of these 2009-10 founded investigations is included in the 2010-11 statistics above.

**Table 11: Founded investigations by identified person who has abused**

Alleged Abuser	2006-07	2007-08	2008-09	2009-10	2010-11	Ave. % 2006-11
Patient	55	14	13	11	5	40.5%
Staff*	52	9	7	11	5	34.7%
Family / Friends	21	9	3	2	0	14.5%
Facility**	9	3	3	1	0	6.6%
Other	4	2	1	0	2	3.7%
<b>Total</b>	<b>141</b>	<b>37</b>	<b>27</b>	<b>25</b>	<b>12</b>	<b>100%</b>

\***Note:** An employee identified as the person who has abused

\*\***Note:** Facility identified as alleged abuser (ex: facility protocols not followed resulting in abuse)

## Combined Inquiries & Investigations 2010 - 2011

**Table 12:** Breakdown of intake reports by type of abuse and outcome (inquiries and investigations) 2010 - 2011

Outcome → Type of Abuse ↓	Investigations			Inquiries						Total
	Founded	Unfounded	Open	Below Threshold	Direct Referral	Outside of the Act	Patient Competent	Unsupported*	Open	
Physical	7	5	6	1,018	0	3	12	52	3	<b>1,106</b>
Neglect (Physical)	3	2	1	19	1	9	1	27	7	<b>70</b>
Emotional	0	0	0	94	0	6	6	16	0	<b>122</b>
Financial	0	0	0	17	1	5	8	31	15	<b>77</b>
Sexual	1	2	3	129	0	0	5	24	1	<b>165</b>
Combination	1	3	3	128	0	4	6	33	4	<b>182</b>
Total	12	12	13	1405	2	27	38	183	30	<b>1,722</b>

**\*Note:** In 2009-10, "Unsupported" replaced "Unfounded" as an outcome of inquiries. This was done to avoid confusion with the term "Unfounded" used in the outcome of investigations.