

# Protection

## **FOR PERSONS IN CARE**

ANNUAL REPORT  
2015/2016

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

### Background

To promote patient safety in Manitoba's health care system, the Government of Manitoba proclaimed *The Protection for Persons in Care Act* (the Act) on May 1, 2001. This legislation created a formal process for reporting, investigating, and resolving allegations of abuse in designated facilities which includes hospitals, personal care homes, and the 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.

A further amendment to the Act was proclaimed on March 15, 2013. Key changes made at this time included adding the definition of neglect to the Act. Reports of neglect had previously been captured under the more general definition of abuse and were received, reviewed, and investigated on that basis by the PPCO. Additionally, the Act now included the requirement to report a finding of abuse or neglect to the Adult Abuse Registry Committee. The amendments also formalized how the PPCO reports back to employers on the outcomes of investigations involving staff.

### Key Points

#### Defining abuse

Under *The Protection for Persons in Care Act*, 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 causes or is reasonably likely to cause death, serious harm, or significant loss of property.

#### Defining neglect

Under *The Protection for Persons in Care Act*, the definition of neglect is “...an act or omission that is mistreatment that deprives a patient of adequate care, adequate medical attention or other necessities of life or a combination of any of them and causes or is reasonably likely to cause death of a patient, or serious physical or psychological harm to a patient.”

#### Defining “Serious Harm”

The PPCO takes its guidance on what constitutes serious harm from a Supreme Court of Canada decision (R v McCraw, [1991] 3 SCR 72) as “any hurt or injury whether physical or psychological that interferes in a substantial way with the physical or psychological integrity, health or well-being of the complainant.” The Courts further clarified serious bodily harm by indicating that for serious bodily harm, the harm does not need to be permanent but does need to be serious enough that it interferes in a substantial way with the well being of a victim (R. V. T (V.J.) [2007] MBCA at para 25).

#### Duty to report

In Manitoba, it is mandatory to report suspected abuse or neglect promptly. This means that anyone who has a reasonable basis to believe abuse or neglect has occurred, or is likely to occur, must report these concerns as soon as possible. The PPCO requires facilities to report suspected abuse or neglect to the PPCO in writing only. Members of the public can report allegations of abuse or neglect in any manner they choose.

## Reporting safeguards

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.

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## 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*. The objective of the PPCO is to manage the reporting and investigation of alleged patient abuse and neglect in designated health care facilities under the legislative requirements of the Act.

### Role of the PPCO

The role of the PPCO includes:

- receiving reports of alleged abuse and neglect on a dedicated reporting line;
- conducting inquiries by reviewing and analyzing all alleged abuse and neglect reports for validity and nature of complaint;
- conducting investigations on incidents of alleged abuse and neglect where there are reasonable grounds to believe abuse or neglect occurred;
- recommending to the Minister or designate that directions or recommendations be issued to health facilities to improve policies and/or processes that address the identification, reporting, prevention, and management of patient abuse and neglect;

- making referrals of individuals who have been found to have abused or neglected a patient to the Adult Abuse Registry Committee as appropriate;
- acting as a resource to Manitoba Health and regional health authorities on abuse and neglect related issues;
- providing education for the public, health care staff, and organizations about the Act and on the identification, reporting, prevention, and management of abuse and neglect;
- developing and distributing public information related to the Act; and
- making referrals of professionals to professional regulatory bodies for investigation where appropriate.

### PPCO Staff

The PPCO is currently staffed by a Manager, 7 Abuse Prevention Consultants (investigators), 1 Intake and Database Clerk, and 1 Administrative Assistant. The PPCO reports to the Director, Corporate Services.

### Inquiry & Investigation

**Inquiry:** After receiving a report of alleged abuse or neglect, the PPCO opens an inquiry. During the inquiry, information is gathered by contacting the reporter, the alleged victim, if competent, the health care facility, and others as appropriate. The purpose of these contacts is to gather and review detailed information to determine whether or not there are reasonable grounds to believe that abuse or neglect has occurred or is reasonably likely to occur. The PPCO will proceed to investigation when there are reasonable grounds to believe that a patient has been or is likely to be abused or neglected.

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

- gathering evidence at the facility and conducting personal interviews with the parties involved such as the reporter, the person who has been abused or neglected (if they are competent), the person who is alleged to have abused or neglected, the health care management team at the facility if appropriate, and any witnesses who may be able to speak to the allegation;
- consulting with experts as appropriate (e.g., professional regulatory bodies);
- 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 or the Public Guardian and Trustee;
- identifying areas to improve patient safety and/or the facility's practices related to the abuse or neglect that occurred.

Upon completion of an investigation that has determined that abuse or neglect occurred, the PPCO must refer an individual to the Adult Abuse Registry Committee if it is determined that the abuse or neglect did not occur due to a lack of proper training or that the person is employable, or may become employable or is able to do volunteer work, or may be able to do volunteer work.

The PPCO is dedicated to ongoing quality improvement. It continues to review its practices on an ongoing basis to ensure it remains in compliance with *The Protection for Persons in Care Act*.

APPENDIX A

# Five Year Statistical Summary

(April 1, 2011 – March 31, 2016)

# Five Year Statistical Tables for Fiscal Years 2011 – 2016

## **Alleged Abuse Intake Reports**

- Table 1: Number of intake reports received
- Table 2: Disposition of intake reports (numerical)
- Table 3: Disposition 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 Inquires

## **Investigations**

- Table 9: Outcome of Investigations

## Intake Reports 2011 - 2016

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

Fiscal Year	2011-12	2012-13	2013-14	2014-15	2015-16
Number of intake reports	2,094	2,222	2,403	2,541	2,771

- There continues to be an increase in the number of reported allegations of abuse/neglect received by the PPCO. This is seen to be a result of increased awareness of the need to report potential abuse and neglect to allow the PPCO to follow up on cases and determine if there are issues that need to be addressed.
- The PPCO continues to provide educational presentations to inform facilities, services providers, and administrators of the requirements of the Act for reporting allegations of abuse and neglect.

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

Category	2011-12	2012-13	2013-14	2014-15	2015-16
Inquiries only	1,967	2,081	2,289	2,423	2,696
Investigations	127	141	114	118	75
Total	2,094	2,222	2,403	2,541	2,771

- For a file to proceed to investigation, the PPCO must be able to satisfy Subsection 5(2) of *The Protection for Persons in Care Act* (the Act) which says that there must be reasonable grounds to believe that a patient is or is likely to be abused or neglected before a more extensive investigation can be conducted. The PPCO continues to make decisions to elevate a file to investigation in a manner which is consistent with the Act.

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

Disposition	2011-12	2012-13	2013-14	2014-15	2015-16	% 2015-16
Inquiries only	94%	94%	95%	95%	97%	97%
Investigations	6%	6%	5%	5%	3%	3%

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

Type of Abuse	2011-12	2012-13	2013-14	2014-15	2015-16	% 2015-16
Physical	1,480	1,735	1,849	1,922	2,196	79.20%
Neglect (Physical)	53	69	105	104	124	4.47%
Emotional	191	194	186	147	160	5.80%
Financial	89	77	56	46	50	1.80%
Sexual	122	123	107	175	132	4.80%
Combination	43	24	100	147	108	3.90%
Open cases – Type of abuse not yet determined	116	0	0	0	1	0.03%
Total	2,094	2,222	2,403	2,541	2,771	100%

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

Reporting Source	2011-12	2012-13	2013-14	2014-15	2015-16	% 2015-16
Facility / Staff	1,938	2,039	2,221	2,390	2,651	95.67%
Family / Friends	102	121	96	97	72	2.60%
Patient (Self Reporting)	13	31	24	22	17	0.61%
Other	41	30	60	30	31	1.12%
Combination	0	1	2	2	0	0.00%
Total	2,094	2,222	2,403	2,541	2,771	100%

- Under *The Protection for Persons in Care Act*, facilities are required to report suspected abuse or neglect. This accounts for facilities as the overwhelming reporter to the PPCO.
- Included in the definition of other would be the police, the Public Guardian and Trustee of Manitoba, the Manitoba Ombudsman, etc.

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

Respondent	2011-12	2012-13	2013-14	2014-15	2015-16	% 2015-16
Patient	1,603	1,776	1,946	2,083	2,315	83.54%
Staff*	254	194	232	290	292	10.54%
Family / Friends	144	123	118	99	104	3.75%
Facility**	20	55	64	26	1	0.04%
Other / Unknown	69	72	41	40	51	1.84%
Combination	4	2	2	3	8	0.29%
Total	2,094	2,222	2,403	2,541	2,771	100%

\* 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: Intake Reports by type of facility**

Type of Facility	2011-12		2012-13		2013-14		2014-15		2015-16		% 2015-16
	#	%	#	%	#	%	#	%	#	%	
PCH	1,920	91.69%	1,927	86.7%	2,033	84.6%	2,212	87.05%	2,293	82.75%	82.75%
Acute & SMHC*	174	8.31%	295	13.3%	370	15.4%	329	12.95%	478	17.25%	17.25%
Total	2,094	100%	2,222	100%	2,403	100%	2,541	100%	2,771	100%	100%

\* SMHC = Selkirk Mental Health Centre – SMHC is designated under PPCA as coming within the jurisdiction of the PPCO.



