Allegations of Sexual Assault

Incident Response Toolkit

For Healthcare Organizations & Providers

HIROC

BLG
Borden Ladner Gervais

Supporting Your Team

Developed in collaboration with the law offices of BLG and with input from HIROC Subscribers.

HIROC would like to thank the HIROC Integrated Risk Management Advisory Committee, our helpful and involved Subscriber representatives, and BLG for their collaboration in developing this toolkit.

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Overview

There can be uncertainty when responding to allegations of sexual assault, which may impact incident management, patient experience, and potential legal claims.

Sexual assault allegations are increasing in society. It is not clear whether this is because they are happening more frequently or because there's been an increase in awareness through social media movements such as #MeToo, and are now, rightfully, more frequently reported. Healthcare organizations and providers have requested structured guidance and tools to respond to allegations of sexual assault of a person in care, including current and previous patients, clients, or residents. In collaboration with Borden Ladner Gervais LLP (BLG) and our Subscribers, we have developed this response toolkit to support your organization's leaders and frontline staff, in responding to reported, suspected, or witnessed incidents of sexual assault.

This toolkit is based on HIROC claims and Subscriber experience, and contains case studies, a sexual assault response checklist, a sample sexual assault incident response policy, and pan-Canadian legislation references. The checklist and recommendations feature three key sections: immediate actions, investigation, and organizational learnings. The toolkit, checklist, and sample policy have been developed with the following areas of focus:

- **Commitment to safety, well-being, dignity, and privacy of all involved individuals**
- **Reporting of and respectful investigation of any sexual assault concerns or allegations**
- **Sharing personal health information, or incident details; considering consent requirements**
- **Involvement of cross functional response team members**
- **Maintenance of open communication channels**
- **Compliance with internal polices and legal requirements**
- **Use of legal advice at various touchpoints where necessary**
- **Summarization and sharing learnings**

HIROC is available to our Subscribers to provide support throughout the process of responding to reported, suspected, or witnessed incidents of sexual assault. We can be reached at: (416) 733-2773 or claims@hiroc.com.

Note:

This toolkit focuses specifically on investigation of allegations of sexual assault and does not focus on general Incident Management Systems for emergency response, critical incidents, or general documentation practices. Organizations may refer to the following HIROC guides for more information on these topics:

- Applying the Incident Management System (IMS) for Critical Incidents and Multi-Patient Events
- Critical Incidents and Multi-Patient Events
- Strategies for Improving Documentation - Lessons from Medical-Legal Claims

This toolkit does not specifically address the collection of forensic evidence or sexual assault evidence kits and it is recommended that there be specific contact with legal counsel in relation to this.

This toolkit is intended for use when there is reported, suspected, or witnessed sexual assault to a person in care at an organization, and does not apply to reports of sexual assault between staff members. For matters involving staff members only, consult with your organization's Human Resources team. HIROC is available to assist and can be reached at riskmanagement@hiroc.com.

Misconceptions

Being mindful of misconceptions about sexual assault may assist in an effective response to a reported sexual assault of a person in care.

1 There are a high number of false reports of sexual assault

The number of false reports for sexual assault is very low, consistent with the number of false reports for other crimes in Canada. Sexual assault carries stigma that many individuals prefer not to report.[†]

[†]Government of Ontario. (2019). Dispelling the myths about sexual assault. https://www.ontario.ca/page/dispelling-myths-about-sexual-assault

2 Staff are comfortable reporting suspected or witnessed sexual assault

Often it is assumed staff are aware of the obligation to report and feel comfortable doing so. This often is not the case. Staff may second-guess events that may constitute sexual assault and fear coming forward for what may happen to them or the alleged assailant. It is imperative for leadership to foster a culture of transparency and openness to bring concerns of any nature forward. Staff should also be aware that reporting allegations of "abuse" including but not limited to allegations of sexual assault is required by law in some jurisdictions.

3 The report of suspected or witnessed sexual assault is always treated as a priority

Reporting may not always be given the priority that is required. Allegations of sexual assault must be treated as a priority—reported, escalated, and investigated with the utmost importance. A mishandled allegation of sexual assault may expose the organization to risks, liability, negatively impact organizational culture and reputation, and perpetuate an adverse patient and staff experience.

Reflections

While reading the case studies below, consider the following questions and how they apply to your current organizational practices:

- Regarding your local policy, what steps or actions are to be taken if a person in care reports a sexual assault?
- How are staff educated on the organizational policy and the expected actions including any mandatory reporting?
- What escalation measures are in place or are to be undertaken?
- What supports are available for the person in care, the staff involved, and the response team?
- What is your organization's practice for developing a care plan for someone under care with a known history of sexually inappropriate behaviour?
- Understanding that incidents might escalate over time, what is the process to communicate such incidents, and sharing of inappropriate behaviours? What information is shared during transfers of care?
- What are your organization's documentation practices following notification of a reported sexual assault?
- What is recorded in the health record versus an incident reporting system?

Case Study 1

A patient notified a nurse they were sexually assaulted by a fellow patient, in the evening while returning to the unit following a smoke break.

The patient's nurse notified the physician on-call.

Shortly thereafter, the healthcare team contacted several other units in an attempt to locate the alleged assailant.

The police were notified with the patient's consent. The patient provided the information to the police directly.

A patient fitting the description of the alleged assailant was located and moved to a secure area pending arrival of the police.

The next morning, the patient who reported the sexual assault left the hospital against medical advice.

No further investigation was carried out and no potential opportunities for improvement were identified by the hospital.

Several months later, the patient contacted the hospital's patient experience manager concerning the manner in which the organization responded to the reported sexual assault. Specifically, the organization did not conduct a formal investigation that the patient was aware of, and the patient reported ongoing psychological trauma from the incident. Senior leadership was immediately notified of the contact, and a critical incident investigation was initiated.

Internal Investigation

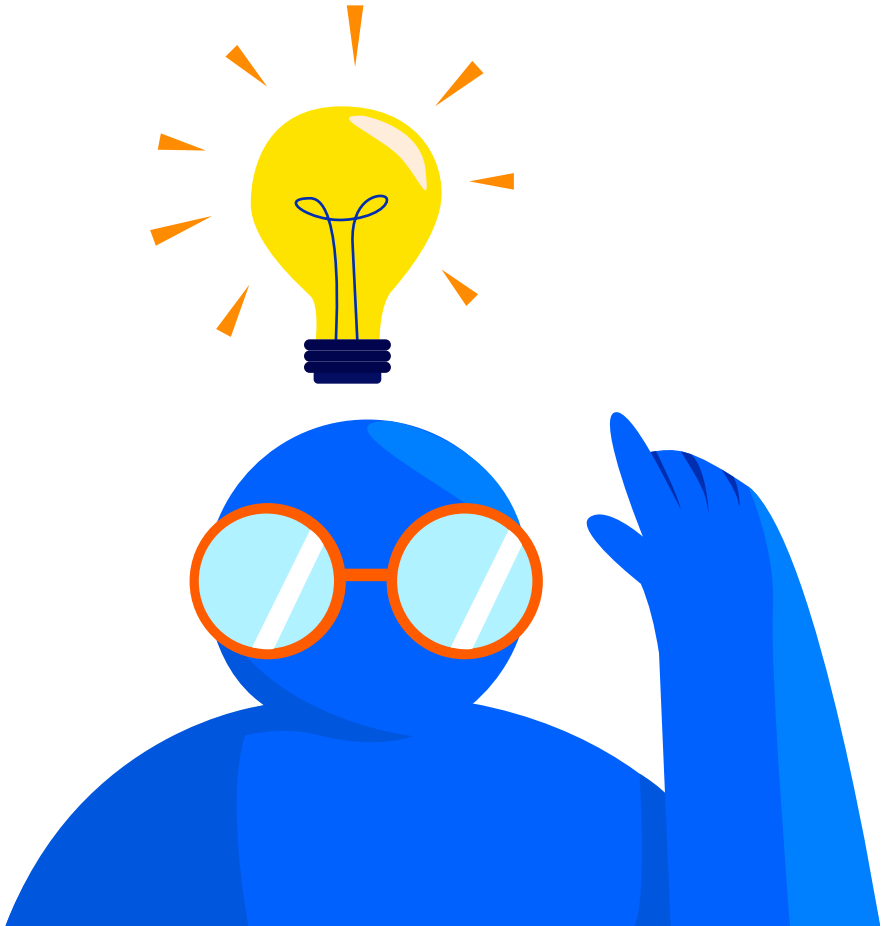
The results of the critical incident investigation found:

- The healthcare team on duty at the time of the assault were not familiar with and did not follow the hospital's sexual assault investigation policy.
- The healthcare team on duty felt at the time, they could handle and investigate the incident without the need to escalate to management. Overall, the team felt they "did a good job" managing the situation.
- The alleged assailant was an inpatient with a known history of inappropriate sexual behaviour. Previous sexual incidents had occurred in the hospital however, they were not escalated to management or documented.
- Based on the review of the information documented, it was not clear what level of investigation took place, including what steps had been taken to relocate the alleged assailant or to preserve evidence.

Potential Learning Opportunities

Opportunities for improvements were identified from a case review, including the importance of:

- Immediate escalation of any reported, suspected, or witnessed sexual assault to the manager, on-call administrator, risk manager, or senior leadership team.
- Recording based on the organization's policy all reported, suspected, or witnessed sexual assault incidents.
- Ensuring the organization's processes include timely investigation of any reported, suspected, or witnessed sexual assaults.
- Enacting necessary safeguards and care plans in response to the alleged assailant's history concerning sexually inappropriate pattern of behaviour.
- Securing and documenting steps taken to preserve evidence (e.g., full video surveillance, clothing).



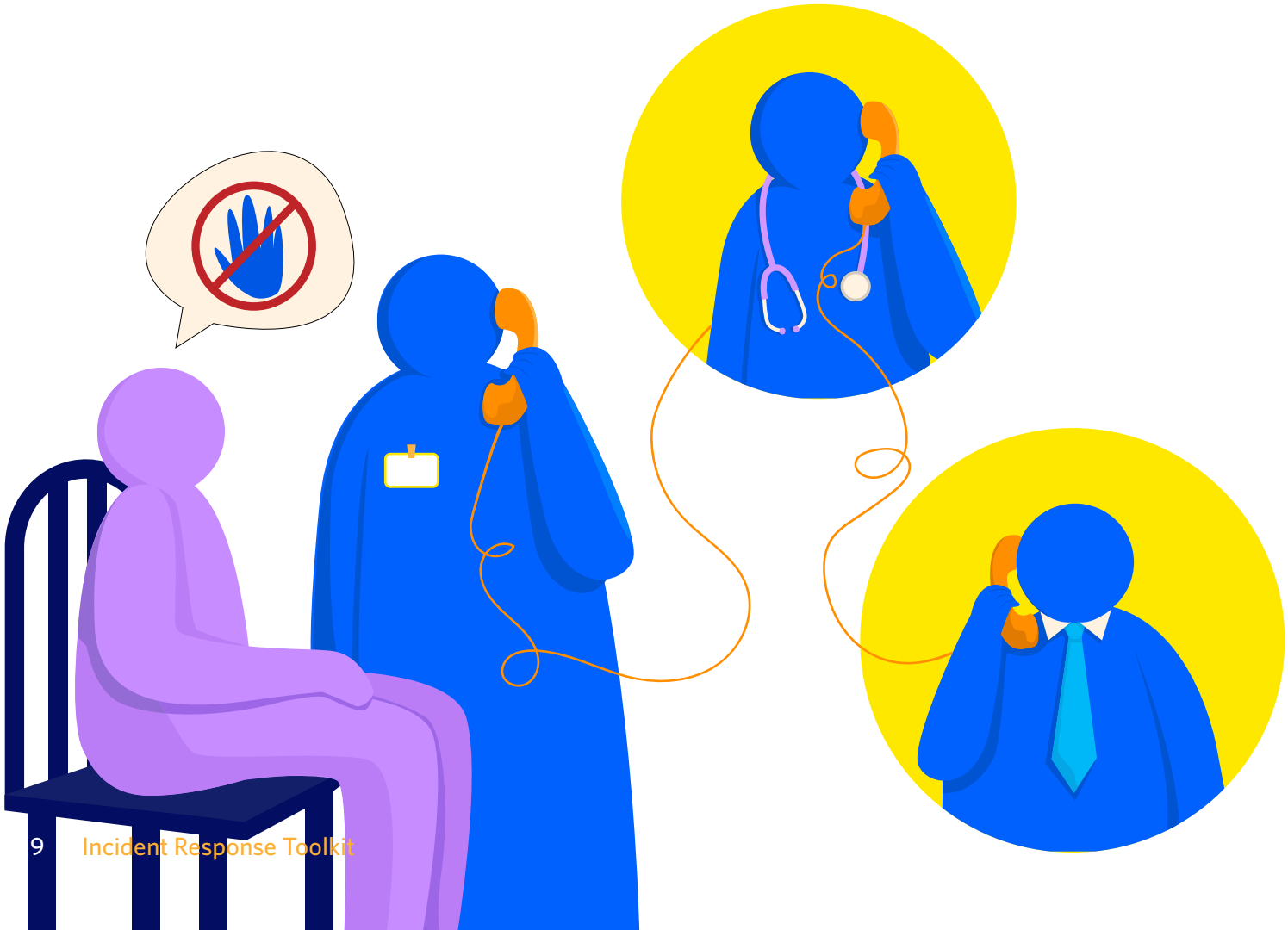
Case Study 2

A resident in a long-term care facility disclosed to their personal support worker (PSW) they had been sexually assaulted. Specifically, that there had been inappropriate touching by a staff member, in this case a regulated health professional.

The personal support worker notified the manager who then notified the physician on-call. Human Resources was notified shortly thereafter.

The resident gave consent for family and police to be notified.

As per organizational policy, the staff member was placed on paid leave while an investigation was undertaken.



Internal Investigation

- The investigation revealed two similar incidents had occurred involving the same staff member over a five-week period prior to the latest incident. The residents involved in these events were non-verbal and lacked capacity.
- The staff who witnessed the prior incidents were uncertain as to what they had observed and whether it constituted sexual assault. For these reasons, the incidents were never reported nor investigated.
- The substitute decision-makers of the two residents were notified of the incidents.
- The staff member's provincial regulatory body was notified after the completion of the internal investigation.

Potential Learning Opportunities

Opportunities for improvements were identified including:

- Development of staff awareness through education and training around:
    - What behaviours may constitute sexual assault.
    - The importance of reporting behaviours which appear to be or might be inappropriate to management without delay.
    - How to respond to reported, suspected, or witnessed incidents of sexual assault.
- The importance of ensuring leadership fosters a culture which encourages and facilitates staff bringing any concern of this nature forward.
- The need to enhance understanding of mandatory reporting requirements to the respective jurisdictional regulatory bodies, including any expected timelines and to other non-regulatory bodies as may be required.

Allegations of Sexual Assault Response Checklist

AREAS OF FOCUS

- Commitment to safety, well-being, dignity, and privacy of all involved individuals
- Reporting of and respectful investigation of any sexual assault concerns or allegations
- Sharing personal health information, or incident details; considering consent requirements
- Involvement of cross functional response team members
- Maintenance of open communication channels
- Compliance with internal polices and legal requirements
- Use of legal advice at various touchpoints where necessary
- Summarization and sharing learnings

Reporting Obligations

Review your provincial or territorial notification requirements.

Person in Care	Contact:
Minor	• Children's agency
Residents of long-term care, personal care home, retirement home	• Provincial or territorial agency

Alleged Assailant	Contact:
Regulated Professional	• Regulatory body or colleges
Employee, Volunteer	• Human resources • Seek legal advice • HIROC
Credentialed Staff	• Leadership • Chief of Staff • Seek legal advice • HIROC
Unionized	• Human resources • Offer union representation support • Seek legal advice
External Organization	• If alleged assailant also works at other organizations, seek legal advice with respect to notifying the organizations

IMMEDIATE ACTIONS

- ☐ **Remove individuals from imminent harm**
- ☐ **Provide support, medical treatment, or examination**
  - Obtain consent prior to proceeding and be respectful of wishes
- ☐ **Advise support person or substitute decision-maker**
  - Obtain consent to share information with support person
- ☐ **Provide emotional support to anyone involved**
  - Objectively and compassionately
- ☐ **Notify leadership and internal security**
  - Immediately, regardless of day or time
  - e.g., managers, on-call administration
- ☐ **Secure incident location and evidence**
  - e.g., clothing, linens, equipment, room setup, video surveillance
- ☐ **Report outside your organization following any regulatory or other legal obligations**
- ☐ **Expeditiously begin the Investigation Phase**

INVESTIGATION PHASE

- ☐ **Document recollection of events from involved individual**
  - Include potential witnesses
- ☐ **Offer to engage support network**
  - Obtain consent prior to sharing personal health or incident details with support networks
  - e.g., family, friends, other support networks
- ☐ **Notify and consult with HIROC**
- ☐ **Police involvement**
  - Obtain consent to notify police and to disclose to them personal health information or forensic evidence
  - If no consent, seek legal advice regarding notification to police on a no-names basis and without sharing personal health information
- ☐ **Conduct investigation promptly**
  - If police or external body involvement, seek legal advice as to whether to hold off organization's investigation
  - Record facts only and remain objective
  - Treat and retain all records, evidence, and documents as potentially subject to criminal proceedings, legal disclosure, and regulatory body investigations
- ☐ **Maintain ongoing support and communication**
- ☐ **Involve your communications department and senior leadership**
  - Respect confidentiality and privacy of involved individuals

LEARN AND DEBRIEF

- ☐ **Finalize documentation**
  - Store documentation electronically in a central and secure location
  - Retain documentation indefinitely
- ☐ **Share learnings and preventative measures**
  - Communicate across your organizations
  - e.g., leadership, staff, partners, and volunteers
- ☐ **Communicate back to the person in care**
  - Follow their communication preferences

PRINTABLE CHECKLIST
We encourage you to print PAGES 11 & 12 together on 1-page front and back!

Checklist Details by Task

Documentation

- Remain neutral, objective, and factual
- Handle all evidence, records, notes, or documents as subject to disclosure for legal, criminal or regulatory body investigations
- Record only healthcare-related information in the health record
- Record incident through incident reporting tools
- See Reporting Obligations

What to document and store (at a minimum):

- Meetings, dates, times, people
- Notes
- Interviews
- Full video surveillance
- Staff attendance or visitor logs
- Policies, protocols, and guidelines
- Health records
- Steps taken to secure evidence
- Any notifications or communications
- Police information and interactions

During interviews document (at a minimum):

- Contact information
- Incident date and time
- Location
- Description of event and notable details
- Alleged assailant's name or description
- Witnesses' name or description

Storage of documentation

- Secure and centralized location
- Retain documentation indefinitely or follow jurisdictional limitation period

Supporting Individuals

- Provide objective and compassionate support
- Respect individual perspectives
- Recognize and be aware of potential personal biases

Persons in care

- Offer to engage family, friends, social work, specialized consults, or other support individuals
- Obtain consent from person in care or substitute decision maker prior to sharing personal health information or incident details to support network

Offer individuals who witness incident or receive report:

- Employee assistance programs
- Occupational Health
- Union representation

Police Involvement

- Obtain consent to notify police and to disclose to them personal health information or forensic evidence
- If no consent to go to police, seek legal advice to notify police on a no-names basis and without sharing personal health information
- Support the person in care with police notification
- Follow organization's policy on police involvement
- Where appropriate, facilitate police interviews
- Retain information related to police investigation
- Document interactions

Investigation

Planning

- Investigate any allegations of sexual assault promptly
- Consider whether the investigation team will be internal and/or external
- If police involvement, seek legal advice as to whether to hold off organization's investigation components pending police investigation
- Consider other bodies who may investigate (e.g., legal, health region, regulatory body, agency)
- Investigation team should be cross-departmental
- Follow organization's policy, law, and seek legal advice regarding police requests for documentation, interviews, warrants, etc.
- Review staff attendance or visitor log to identify potential witnesses
- Review provincial, or territorial critical incident review requirements (refer to your policies)

Conducting

- Remain factual, neutral, and objective
- Conduct meetings with potential witnesses
- Document investigation

Seek Legal Advice

At any point, from initial report of incident, throughout response protocol, and specifically when assessing:

- When to commence investigation
- Internal versus external investigation
- Police involvement

When involvement of:

- Employee
- Regulated Health Professional
- Volunteer
- Credentialed staff

Communications

With person in care:

- Designate primary contact for follow-up
- Explain incident investigation process
- Explain expectations and roles
- Identify their communication preferences
- Consider present and future care and counselling needs

Following your policies and as appropriate:

- Share outcomes of investigation
- Share recommendations going forward

Communications department support

- Implement media monitoring
- Proactive statements and responses if required
- Internal messaging

Reporting Obligations

- When relating information, remain neutral, objective, and factual
- Follow your communication and escalation protocols
- Consider all reporting obligations for your organization
- Document what has been relayed and to whom (e.g., date reported, copy of letters)
- Consider notifying external organizations where alleged assailant also works and seek legal advice
- Review your provincial or territorial requirements (see HIROC's Allegation of Sexual Assault Incident Response Toolkit appendices)

Policy and Procedure Template

Subject:	**Allegations of Sexual Assault Response Policy**		
Section:	Policy Section, Division, Name of Organization		
Issued By:	Department Name	Approval Date:	yyyy-mm-dd
Approved By:	Name, Position, or Committee	Effective Date:	yyyy-mm-dd

1. Purpose

To outline the interventions and best practices for staff to follow in the event of a reported, suspected, or witnessed sexual assault.

2. Policy

Sexual assault of a [patient-client-resident] in any form is unacceptable and will not be tolerated by [insert name of organization]. All reported, suspected, or witnessed incidents of sexual assault of a [patient-client-resident] will be appropriately investigated in a systematic manner that is fair and equitable to individuals involved.

Our organization is committed to:

- Providing a safe environment, where all employees, physicians and midwives who hold privileges, agency personnel, contracted staff, students, learners, credentialed staff, and volunteers are expected to immediately escalate all reported, suspected, or witnessed incidents of sexual assault and are assured that they will not be subject to reprisals for such reporting.
- Ensuring [patients-clients-residents] who report an incident of sexual assault are:
  - Heard
  - Respected – their right to dignity and confidentiality is respected and protected throughout the process of communication, investigation and organizational response, regardless of whether the event is perceived as unconfirmed or consensual
  - Treated with compassion, recognizing they are the final decision-makers for their own best interests
- Respecting the [patient-client-resident]'s wishes to:
  - Choose the support services or care they feel are most appropriate
  - Choose what and how much they communicate about their experience
  - Be protected from reprisal for reporting an incident
- Ensuring the investigation procedures are thorough, respectful, transparent and involves those persons required to effectively investigate the matter and respond to the needs of [patients-clients-residents], the person reporting, and the person alleged to have committed the sexual assault.
- Providing appropriate education and training about responding to reported, suspected, or witnessed incidents of sexual assaults including but not limited to staff, physicians and midwives holding privileges, employees, agency personnel and contracted staff, students, learners, and volunteers.

Principles governing this policy

- All employees, agency, contracted staff, students, learners, credentialed staff, and volunteers are expected to immediately report sexual assault incidents they have witnessed or have knowledge of, or where they suspect that sexual assault of a [patient-client-resident] has occurred or may occur.
- [Patients-Clients-Residents] are encouraged and supported in reporting an incident as soon as they are able to do so.
- Managers, program, and executive leads are expected to take immediate action in responding to a reported, suspected or witnessed, sexual assault.
- The organization is committed to safety, takes allegations seriously, and will investigate all reports of sexual assault. This includes but is not limited to reports of a sexual assault of a historical nature where the report is based on an event from weeks, to years, to decades prior. An investigation will be completed recognizing there may be limits on the investigation due to the passage of time.

Definitions

Sample of terms to include within the definitions section:

Sexual Abuse (i.e. assault)
See HIROC's Allegations of Sexual Assault Incident Response Toolkit—Appendix 4 for various definitions by province and territory to use the most appropriate definition.

Critical Incident
See HIROC's Allegations of Sexual Assault Incident Response Toolkit—Appendix 3 for Critical Incident Legislation by province or territory to use the most appropriate definition. An investigation may be legally required in some jurisdictions, even though the incident may not qualify as a 'critical incident'.

Alleged Assailant
A person who has been reported to have sexually assaulted a [patient-client-resident].

Procedures

Develop your own procedures customized to local context, following the guiding principles of this toolkit. You may use the Allegations of Sexual Assault Response Checklist from HIROC's Allegations of Sexual Assault Incident Response Toolkit as part of your response procedure.

Also consider your organization's workplace violence policies related to sexual assault of staff and any policies which outline the mandatory reporting obligations in your jurisdiction and reference accordingly.

Regulatory Requirements

Replace with your local regulatory requirements. Refer to the appendices of HIROC's Allegations of Sexual Assault Incident Response Toolkit, available online at: https://www.hiroc.com/resources/allegations-sexual-assault-incident-response-toolkit

Appendices

Appendix 1

Ad Hoc Response Team Representatives

Response Team: Awareness of a critical incident should trigger an organizational response that will result in the ethical and respectful care of those involved. Additionally, ensure an effective transfer of learnings to help prevent the recurrence of such events in the future.

Consider creating an ad hoc response team if the organization does not have an incident management team. Consider the most appropriate representatives to meet promptly and effectively after an allegation of sexual assault is reported for enacting the response plan. Identify accountability for coordinating the plan.

When organizing the team, consider:

- Senior leadership
- Program and Operations Manager
- Patient/Family Liaison (e.g., Patient Relations)
- In-house Legal/Legal advice
- Risk/Quality/Safety Manager
- Human Resources
- Communications Department
- Others as appropriate

Appendix 2

Mandatory Reporting Requirements By Province or Territory

Information reviewed as of September 2020

Province or Territory	Legislation	Relevant Sections
Alberta	*Health Professions Act,* RSA 2000, H-7.	nn.1, 127.1, 127.2
	Child, Youth and Family Enhancement Act, RSA 2000, c C-12.	1, 4, 5
	Protection for Persons in Care Act, SA 2009, Cp-29.1	s.7, s.9
British Columbia	*Health Professions Act,* RSBC 1996, c 183.	32.3, 32.4
	Child, Family and Community Service Act, RSBC 1996, c 46.	13, 14, 16
	Adult Guardianship Act, RSBC 1996, c 6.	s.46, s.50
Manitoba	*The Regulated Health Professions Act,* CCSM 2009, c R117.	1, 138, 167, 168, 169
	The Child and Family Services Act, CCSM c C.80.	1, 8.16, 8.17, 18
	Protection for Persons in Care Act, CCSM P144	s.3-4
	Vulnerable Persons Living with a Mental Disability Act CCSM c V90	s.21
New Brunswick	*The Medical Act,* SNB 1981, c 87.	52.2, 52.3
	Family Services Act, SNB 1980, c F-2.2.	29.2, 30
Newfoundland and Labrador	*Health Professions Act,* SNL 2010, c H-1.02.	2, 27
	Medical Act, SNL 2011, c M-4.02.	41, 42
	Children and Youth Care and Protection Act, SNL 2010, c C-12.2.	2, 7, 11
	Adult Protection Act, SNL 2011, c A-4.01	s.12
Northwest Territories	*Child and Family Services Act,* SNWT 1997, c 13.	1, 7, 8, 9
Nova Scotia	*Medical Act,* SNS 2011, c 38.	2
	Children and Family Services Act, SNS 1990, c 5.	3, 23, 24, 24A, 25, 25A
	Protection for Persons in Care Act, SNS 2004, c 33	s. 4(2), 5, 6, 7
	Protection for Persons in Care Regulations, NS Reg 364/2007	s. 3(1)
	Adult Protection Act, RSNS 1989, c 2	s. 5, s. 16
Nunavut	*Child and Family Services Act,* SNWT (Nu) 1997, c 13.	7, 8,9
Ontario	*Regulated Health Professions Act,* SO 1991, c 18.	85.1, 85.2, 85.3, 85.4, 85.5, 85.6, 85.6.1, 85.6.3
	Child and Family Services Act, RSO 1990, c 11.	72, 72.1
	Long-Term Care Homes Act, SO 2007, c 8	s. 21, 22, 24
	Long-Term Care Homes Act, General O Reg 79/10	s.100-106
Prince Edward Island	*Registered Health Professions Act,* RSPEI 1988, c R-10.1.	1, 62
	Child Protection Act, SPEI 2000, c 3 (2nd Sess).	10, 11
	Adult Protection Act, RSPEI 1988, c A-5	s.24
Québec	*Youth Protection Act,* CQLP c P-34.1.	38, 39, 39.1, 43, 44, 45, 45.1, 45.2
Saskatchewan	*Registered Nurses Act,* 1988 SS 1988-89, c R-12.2.	25, 26, 27, 28
	The Child and Family Services Act, SS 1989-90, c C-7.2.	G, 11, 12, 13
Yukon	*Medical Professions Act,* RSY 2002, c 149.	30
	Child and Family Services Act, Services Act, SY 2008, c 1.	21, 22, 23
	Adult Protection and Decision Making Act, SY 2003, c 21	s.61

Appendix 3

Definition References for Critical Incident Legislation By Province or Territory

Be aware that reporting of allegations of "abuse" including but not limited to allegations of sexual assault is required by law in some jurisdictions, even though a sexual assault or sexual abuse may not be categorized as a critical incident.

Information reviewed as of September 2020

Province or Territory	Legislation	Relevant Provisions
Alberta	*Mental Health Services Protection Act,* RSA 2018, c M-13.2. There is no reference to critical incident in the *Regional health Authorities Act,* RSA 2000, c R-10. Provincial Policy for Alberta Health Services: Recognizing and Responding to Hazards, Close Calls and Clinical Adverse Events[†]	Schedule
British Columbia	*Hospital Act Regulation,* BC Reg 121/97.	s.21[††]
Manitoba	*The Regional Health Authorities Act,* 2018 CCSM c R34	s.53.1 – 53.10
New Brunswick	*Health Quality and Patient Safety Act,* RSNB 2016 c 21 and NB Reg 2018-60.	Entire Statute and Regulation relevant[‡]
Newfoundland and Labrador	There is no specific legislation.	
Northwest Territories	*Hospital Insurance and Health and Social Services Administration Act,* RSNWT 1988 c T-3.	s. 25.1-25.11
Nova Scotia	There is no specific legislation. The Department of Health and Wellness has a Serious Reportable Event Interim Reporting Policy The Nova Scotia Health Authority has the following relevant policies: NSHA Patient Safety Incident Management NSHA Quality Review	
Nunavut	There is no specific legislation.	
Ontario	*Public Hospitals Act,* RRO 1990, Reg 965. *Long-Term Care Homes Act*, General O Reg 79/10	ss. 1, 2(3.1 – 3.3), (4), (5) s.107
Prince Edward Island	There is no specific legislation.	
Québec	*Act Respecting Health and Social Services,* CQLR 2019 c S-4.2	ss.8[‡‡], 233.1, 235.1, 431(6.2)
Saskatchewan	*The Provincial Health Authority Act,* SS 2017, c P-30.3 *Personal Care Homes Regulations,* RRS, c P-6.01, Reg 2	s.8-2 s.13(1)
Yukon	There is no specific legislation.	

[†] **Alberta:** A Clinical Adverse Event is defined in the Alberta policy as "an event that reasonably could or does result in an unintended injury or complications arising from health care management, with outcomes that may range from (but are not limited to) death or disability to dissatisfaction with health care management, or require a change in patient care".

[††] **British Columbia:** This section is entitled "Duty to Report Adverse Events". A "Serious Adverse Event" is defined as "an accident that (a) took place in a hospital or private hospital, (b) was likely cause of, or likely significantly contributed to, severe harm to or the death of a patient, (c) was not expected or intended to occur, and (d) was not caused by or related to an underlying medical condition of the patient". (s.21 (1)).

[‡] **New Brunswick:** A "Patient safety incident" means "an unintended event that (a) occurs when health services are received by a patient, and (b) contributes to or results in, or could have contributed to or resulted in, harm to the patient or the death of the patient".

[‡‡] **Québec:** "Accident" means "an action or situation where a risk event occurs which has or could have consequences for the state of health or welfare of the user, a personnel member, a professional involved or a third person" (s.8).

Appendix 4

Definitions of Sexual Assault and Sexual Abuse By Province or Territory

Information reviewed as of September 2020

Province or Territory	Legislation	Definition
Alberta	Health Professions Act, RSA 2000, H-7.	s.1(nn.1) "sexual abuse" means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct: **(i)** sexual intercourse between a regulated member and patient of that regulated member; **(ii)** genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member; **(iii)** masturbation of a regulated member by, or in the presence of, a patient of that regulated member; **(iv)** masturbation of a regulated member's patient by that regulated member; **(v)** encouraging a regulated member's patient to masturbate in the presence of that regulated member; **(vi)** touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member. s.1(nn.2) "sexual misconduct" means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.
	Protection for Persons in Care Act, SA 2009, c P-29.1	ss. 1(2)(d)
British Columbia	Adult Guardianship Act, RSBC 1996, c 6	s. 1 defines "abuse" as including "sexual assault"
	Health Professions Act, RSBC 1996, c 183.	There is no definition included in the Act. However, s.26 states: "Professional misconduct" includes sexual misconduct, unethical conduct, infamous conduct or conduct unbecoming of the health profession.
Manitoba	The Regulated Health Professions Act, CCSM 2009, c R117.	There is no definition of sexual abuse, assault or misconduct.
	Protection for Persons in Care Act, CCSM C P144	s.1(1) defines "abuse" as including "mistreatment, whether physical, sexual..."
	Vulnerable Persons Living with a Mental Disability Act, CCSM c V90	s.1(1) defines "abuse" as including "mistreatment, whether physical, sexual..."

Appendix 4: Definition of Sexual Assault and Sexual Abuse By Province or Territory

Province or Territory	Legislation	Definition
New Brunswick	The Medical Act, SNB 1980, c F-2.2.	S.3 states "sexual abuse" includes **(a)** sexual intercourse or any other form of physical sexual relations between the member or associate member and the patient **(b)** touching, of sexual nature or in a sexual manner, or the patient by the member or associate member, and behaviour or remarks of a sexual nature by the member or associate towards a patient, but does not include touching, behaviours or remarks or a clinical nature appropriate to the service provided.
Newfoundland and Labrador	Health and Professions Act, SNL 2010, c H-1.02.	S.34(c) "conduct deserving of sanction" includes **(i)** professional misconduct, **(ii)** unprofessional conduct, **(iii)** professional incompetence **(iv)** conduct unbecoming a health professional, incapacity or unfitness to practise as a health professional, and acting in breach of this Act, the regulations or by-laws.
	Adult Protection Act, SNL 2001, c A-4.01.	s. 2(a) defines "abuse" as including "sexual assault"
Northwest Territories	Protection Against Family Violence Act, SNWT 2003, c24	s. 1(2) "sexual abuse" not defined but contained within the definition of "family violence"
Nova Scotia	Medical Act, SNS 2011, c 38. Nursing Act, SNS 2019, c 8.	S.2 (f) "conduct unbecoming" means conduct outside the practice of medicine that tends to bring discredit upon the medical profession. S.2 "professional misconduct" includes such conduct or acts relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonorable or unprofessional, including...(c) abusing a person verbally, physically, emotionally or sexually.
	Protection for Persons in Care Regulations, NS Reg 364/2007	s. 3(1) defines "abuse" as including: (d) sexual contact between service provider and patient or resident; (e) non-consensual sexual contact between patients or residents.
Nunavut	Family Abuse Intervention Act, S Nu 2006, c 18.	s. 3(1) "sexual abuse" not defined but contained within the definition of "family abuse"
Ontario	Regulated Health Professions Act, SO 1991, c 18.	Schedule 2, s.1(3) "In this code, "sexual abuse" of a patient by a member means, (a) sexual intercourse or other forms of physical sexual relations between the member and the patient, (b) touching, of a sexual nature, of the patient by the member, or (c) behaviour or remarks of a sexual nature by the member towards the patient. 1993, c. 37, s. 4.
	Long-Term Care Homes Act, SO 2007, c 8.	s. 2(1) defines "abuse" as including "sexual abuse"
	Long-Term Care Homes Act, General O Reg 79/10	s. 2(1) and s. 2(3)

Appendix 4: Definition of Sexual Assault and Sexual Abuse By Province or Territory

Province or Territory	Legislation	Definition
Prince Edward Island	Registered Health Professions Act, RSPEI 1988, c R-10.1.	There is no definition of sexual abuse, assault or misconduct.
	Adult Protection Act, RSPEI 1988, c A-5.	s. 1(a) defines "abuse" as including "mistreatment, whether physical, sexual..."
Québec	Professional Code, 2019, c-26.	59.1 The fact of a professional taking advantage of his professional relationship with a person to whom he is providing services, during that relationship, to have sexual relations with that person or to make improper gestures or remarks of a sexual nature, constitutes an act derogatory to the dignity of his profession.
Saskatchewan	Registered Nurses Act, 1988 SS 1988-89, c R-12.2.	There is no definition of sexual abuse/assault/misconduct. Section 26(2) states that the discipline committee may find a nurse guilty of professional misconduct if the nurse has: (a) abused a client verbally or physically (b) misappropriate a client's personal property (c) inappropriately used the nurse's professional status for personal gain.
	The Victims of Domestic Violence Act, SS 1194, c V-6.02.	s. 2(d) defines "domestic violence" as including "sexual abuse"
Yukon	Adult Protection and Decision Making Act, SY 2003, c21	s. 58 defines "abuse" as including "sexual assault"
	Family Violence Prevention Act, RSY 2002, c 84	s. 1. "sexual abuse" not defined but contained within the definition of "family violence"

Appendix 5

Additional Resources

Information reviewed as of September 2021

Province or Territory	Resource
Alberta	About Protection for Persons in Care
British Columbia	Protecting Adults from Abuse, Neglect, and Self Neglect
Manitoba	Protection for Persons in Care
	What is The Vulnerable Persons Act?
New Brunswick	Adults Victims of Abuse - Protocol
New Foundland and Labrador	Adult Protection
	Adult Protection Services - Western Health
Northwest Territories	Protecting Elders from Abuse and Neglect
Nova Scotia	Protection for Persons in Care Act - Overview
	Protection for Persons in Care Act - Fact Sheet
	Protecting Vulnerable Adults
Ontario	A Guide to the Long-Term Care Homes Act, 2007 and Regulation 79/10
	Reporting Child Abuse and Neglect: It's Your Duty
Prince Edward Island	Adult Protection Program
Québec	Elder Mistreatment and Neglect

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