



Tehsakititsén:tha

Kateri Memorial Hospital Centre

Policy and Procedure
on combatting the mistreatment of seniors and vulnerable adults.

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41.1. Preamble

As a continuous effort of fighting against mistreatment and to assert our commitment to combat mistreatment of seniors and any other persons in vulnerable situations, Kateri Memorial Hospital Centre (KMHC) has developed and adopted the following policy on ensuring best care practices, safe care environment and having a structure to immediately report any mistreatment situation.

Because no law exists specifically regarding the mistreatment of elders in Kahnawà:ke, the established provincial laws are referenced and used to guide operationalizing policy and protocol suitable for Kahnawa'kerónon.

The executive director, in collaboration with the manager of Quality Improvement, Risk Management and Innovation (QIRMI), is dedicated to creating and maintaining a safety culture, particularly in the context of the application of practices and/or procedures. He/she will take the necessary means to prevent mistreatment and to put an end to any case of mistreatment brought to his/her attention.

41.2 Policy Statements:

All direct care staff are to report any alleged or suspected situation of mistreatment of a resident or vulnerable adult under his/her care to the Local Service and Quality Complaints Commissioner immediately and without delay and, if possible, to his/her supervisor, the Ombudsperson or other trusted manager.

Users of KMHC services are informed of their right to report alleged mistreatment to the area manager or Ombudsperson and the right of legal representatives or residents to install a surveillance method (see annexe 4 – monitoring mechanism in long-term care) as per Health and Social Service Ministerial guidelines when there is a concern of mistreatment.

The Ombudsperson must be informed of all reports of alleged mistreatment and is responsible to coordinate and maintain a registry of investigations.

When alleged mistreatment by a staff towards a patient is concluded after investigation, the response can range from education to disciplinary action.

Sanctions are applicable if there is a direct or indirect reprisal, including intimidating behaviors to the person who reported mistreatment as linked to the Personnel Policy 21.0 Harassment.

41.3. Scope

This policy was developed to ensure that KMHC upholds the responsibility to be vigilant in identifying situations of mistreatment, as well as reinforcing the required actions to prevent mistreatment to elders and vulnerable adults. Supported by the Act to Combat Mistreatment of Seniors and Other Persons of full age in Vulnerable Situations (RLRQ, Ch. 6.3.), this policy aims to protect our vulnerable clients/users/residents across all service areas. This policy does not cover minors under the age of 18 as they would be covered under the Youth Protection Act (P-34.1).

41.4. Definitions

Mistreatment: Mistreatment exists, and it is a **single or repeated act, or lack of appropriate action**, occurring within any relationship where there is an expectation of trust, which causes **intentional or unintentional harm or distress** to a person.

Mistreatment can be intentional or non-intentional. To better address the phenomena, we must understand mistreatment in the large sense, that is including negligence (absence of appropriate action), and non-intentional mistreatment (the person who is mistreating the resident is not doing so intentionally, they may lack knowledge or time). Numerous situations of mistreatment are not intentional but must be treated with as much seriousness.

Protection regime: This refers to the preventative measures and safety nets that insure vulnerable persons, and/or those who are living with difficulties or are incapacitated, remain protected through legislation and policy regarding their legal rights. The Government of Quebec offers this information guide as a resource for navigating “legal protection” for persons in a vulnerable situation: <https://www.quebec.ca/en/justice-and-civil-status/legal-protection>.

Person in a vulnerable situation: means a person of full age whose ability to request or obtain assistance is temporarily or permanently limited because of factors such as a restraint, limitation, illness, disease, injury, impairment or handicap, which may be physical, cognitive or psychological in nature, such as a physical or intellectual disability or an autism spectrum disorder (RSQ, c. L-6.3., art. 2, paragraph 4).

Person working for the institution: a physician, dentist, midwife, personnel member, medical resident, trainee, volunteer or other natural person who provides services directly to a person on behalf of the institution (RSQ, c. L-6.3., art. 2, paragraph 5).

Health and social services provider: means any person who, in the exercise of his or her functions, directly provides health services or social services to a person, on behalf of an institution, private seniors’ residence, intermediate resource or family-type resource, including a person who carries on activities described in sections 39.7 and 39.8 of the Professional Code

(chapter C-26) as well as the operator of, or the person responsible for, the residence or the resource, if applicable;

Users: persons who receive care or services from an institution, regardless of the health and social services providers.

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41.5. Purpose

41.5.1. Objectives

1. To assure the security of residents and vulnerable adults, the well-being and the quality of life of users by putting in place measures to counter mistreatment and promote good/caring treatment
2. To elaborate the processes for the rapid and efficient identification and management of mistreatment
3. To inform staff, service providers and users of the right to reporting alleged mistreatment without reprisals
4. To assist care providers in developing skills as concerns mistreatment situations.
5. To establish the processes for the reporting, investigation and interventions related to mistreatment of older persons or vulnerable adults.

41.6. Guiding Principles

These principles were sourced from the "**Act to Combat Maltreatment of Seniors and other Persons of Full Age in Vulnerable Situations**" (2017) from the *Integrated Health and Social Services University Network for West-Central Montreal*. Pp. 7.

Zero tolerance

No form of mistreatment is tolerated in the institution.

Proactivity

The institution takes a proactive approach to countering the mistreatment of users and addresses the problem openly, frankly and transparently. Respect for the rights and needs of users.

The institution is respectful of the rights of users/residents as described in the Act Respecting Health Services and Social Services (LSSSS) and the Charter of Human Rights and Freedoms and meets its needs by offering quality care and services.

Consent to care and services

Except as provided by law, the user's consent must be obtained prior to the provision of any care or service.

Safe care and work environments

The institution has the obligation to take reasonable measures to ensure that every user and every individual working for the institution has a safe environment, with a culture of respect and transparency.

Consultation and partnership

To ensure the application, respect and durability of the anti-mistreatment policy developed by the institution, consultation and partnership between the various players is essential. This includes professionals, directorates or sectors, Council of Physicians, Dentists and Pharmacists (CPDP), *Conseil des infirmières et infirmiers* (CII), other professional councils, Multidisciplinary Council (MC), associations and representatives of Intermediate Resources -Family-Type Resources (IR-FTR), user committees and unions.

41.7. Prevention, Training and Awareness

The organization will ensure anyone in the care environment of KMHC users will be sensitized and trained on recognizing the signs of mistreatment and how to report any suspicion with reasonable cause.

KMHC will ensure the accessibility of the policy to all employees, care providers, volunteers and community members by having the policy available on the internal and external websites and the internal common drive.

The organization will promote the reporting system of a mistreatment in partnership with the Users Committee and the Ombudsperson. The organization will work closely with the Users Committee and Ombudsperson to promote this policy to the users, caregivers and family members.

The QIRMI Team will develop information tools and training activities to prevent any abuse. A training on mistreatment and this internal policy is integrated into the orientation of each new employee, service provider and volunteer through a presentation and discussion with a quality improvement advisor. Yearly updates and reminders will be provided through an “Anti-Mistreatment Awareness Week” to occur in June to coincide with *World Elder Abuse Awareness Day*. Additionally, starting in 2024, minimally every 5 years mistreatment and KMHC’s internal policy will be a presentation topic during the all-staff Staff Excellence Trainings (full day training offered to all employees in September/October each year).

41.8. Responsibility of Application

The implementation of this policy is under the responsibility of Manager of Quality Improvement, Risk Management and Innovation.

Phone: 450-638-3930 Ext: 2206

Postal Address: PO Box 10, Kahnawake, QC J0L 1B0

41.9. Reporting a mistreatment

41.9.1. Frame of reference

It is important to understand that mistreatment occurs in a context of a relationship that the mistreated person may not want to stop. The person’s right to self-determination requires that they are part of and consent to the process. Interventions by the care team can include helping

the person being mistreated, and/or the person doing the mistreating, to recognize the mistreatment, improve their capacity to make decisions, supporting one or both, accompany the mistreated person in a way to reduce the negative consequence of the mistreatment.

To counter mistreatment, all staff or any person who does not work at KMHC are encouraged to report situations when they have reason to believe that an elder or a vulnerable adult who is receiving services from KMHC is being mistreated.

Staff that provide direct care and services, e.g., PABs, HCN, are obliged to report mistreatment of a person who lives in Long Term Care or is an adult under a protection regime (tutorship, curatorship, protection mandate that is homologated).

Another action to counter mistreatment is a change in the conditions for obligatory signaling or collaboration by professionals (Professional Code Chapter 26). Most importantly 'imminent danger' was redefined (see except below). The changes also include lifting professional secrecy and confidentiality as well as prohibition of legal proceedings when the report of obligatory signaling or collaboration is made in good faith.

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

23. Section 59.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended

(1) by replacing "an imminent danger of death or serious bodily injury to a person or an identifiable group of persons" in the first paragraph by "a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency";

(2) by adding the following paragraph at the end:

"For the purposes of the first paragraph, "serious bodily injury" means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons."

41.9.2. Management of mistreatment situation

To adequately manage alleged or confirmed situations of mistreatment, it is important to consider the following three essential aspects:

- Consent
- The key elements of the model for managing situations of mistreatment
- The different areas of expertise potentially required

Consent

Depending on the circumstances, the user or their representative should participate in each step of the process. In addition, if, in the management of the situation of mistreatment, care or services were required by the user, the rules usually applicable in terms of consent to care must

be respected. Similarly, if personal information about the user must be transmitted to third parties, the usual rules of confidentiality must be respected.

Key elements of the MODEL for managing situations of abuse

The management of mistreatment situations must follow an additional process that complements existing care and services. There are five key elements to managing situations of abuse which will be further detailed in the following sections.

The five key elements are:

- Identification of situations
- Reporting
- Fact checking
- Assessment of the person's needs and abilities
- Action and monitoring of the situation of abuse

The presentation of the key elements above follows a logical rather than a linear order. Depending on the situation, following the identification, it is possible that the other key elements will be carried out in a different order or even simultaneously. For example, before taking further action, a situation presenting a serious risk of death or serious physical and/or psychological injury that inspires a sense of urgency should be reported to the emergency services, even without the consent of the user.

1- Identification of a mistreatment situation

Identifying potential situations of abuse is everyone's responsibility, and it involves **documenting** and **analyzing indicators, indices and/or risk factors** for mistreatment using clinical judgment and/or detection instruments. KMHC will ensure that all staff is able to identify and detect situation of mistreatment that could occur to elders or any vulnerable users.

Spotting: spotting is the action of paying attention to signs of abuse in order to identify them. Anyone can scout.

Detecting: detecting is the process carried out by a professional, often using tools that facilitate the identification of risk factors and/or signs of abuse.

Screening: this is a systematic identification process applied to a population (for example, to all senior residents of a CHSLD), carried out by a worker using tools that facilitate the identification of factors risk and/or signs of mistreatment.

2- Reporting cases of mistreatment

Report: a report is the transmission, verbal or in writing, of information relating to the situation

(presumed or confirmed) of mistreatment to the **Local Service and Quality Complaints Commissioner**. See ANNEX 1: Reporting situations of suspected mistreatment.

A situation of mistreatment for any elder or vulnerable adult by any staff member or any person, without sanction for reporting alleged mistreatment. Anyone who feels there is reason to believe mistreatment is occurring has the right to make a report.

As per policy and law, the Local Service and Quality Complaints Commissioner of the Montérégie Ouest must carry out the investigation of all complaints and reports of mistreatment received in the scope of care and services received within the establishment. Complaints are processed according to the examination of complaints procedure within the same deadlines as determined in this policy, i.e. a maximum of 45 days.

Distinction between report and complaint

Reporting is the act of a person (for example, a witness, a person working for the establishment, a volunteer or a relative) declaring a case of mistreatment suffered by another person. The complaint is filed by the abused user himself or by his representative.

Mandatory Reporting Conditions

Any health and social services provider or any professional within the meaning of the Professional Code (chapter c-26) who has reasonable cause to believe that a person is the victim of a singular or repetitive act or of a lack of appropriate action that seriously affects their physical or psychological integrity must report this case directly and without delay for the following adults:

- (1) a user of full age who is lodged in a facility maintained by an institution operating a residential and long-term care centre;
- (2) a user of full age who is taken in charge by an intermediate resource or by a family-type resource;
- (3) a person of full age who is under tutorship or for whom a protection mandate has been homologated;
- (4) any person of full age whose incapacity to care for himself or herself or to administer his or her property has been ascertained by medical assessment, but who is not under a protective measure; or
- (5) any other person in a vulnerable situation who is a resident of a private senior's residence.

All other persons are not obliged to report but are strongly encouraged to do so.

The obligation to report applies to people bound by professional secrecy, except for lawyers and notaries who, in the exercise of their profession, receive information concerning such a case. Mandatory reporters are required to report the facts and circumstances that led them to

suspect that a child has been abused or neglected.

Obligatory Report: All health and social services providers who have reason to believe an elder or adult under protection are being mistreated are obliged to report when the person is living in LTC or is an adult under a protection regime.

Who to report to

The Act to combat mistreatment provides two bodies to which to report situations (presumed or confirmed) of mistreatment:

(1) if the person (presumed or confirmed) being mistreated *does not* receive services from the establishment, in the cases of non-mandatory reporting, the consent must be obtained by the person (presumed or confirmed being mistreated). Once consent has been obtained, The Mistreatment Helpline should be contacted directly and without delay (see section 41.12 Resources for contact information). The Mistreatment Helpline will orient the individual making the report to the right resources and support.

(2) if the person (presumed or confirmed) being mistreated receives services or care from the establishment or an institution in the Réseau de la Santé et des Services Sociaux (RSSS) also known as the health and social services network, even when the mistreatment is not related to this care and services, the report must be made directly and without delay in English or French to the:

- The Local Service and Quality Complaints Commissioner of the Montérégie Ouest
 - Email : insatisfaction-plaintes.CISSMO16@ssss.gouv.qc.ca
 - Or toll-free at 1-800-700-0621 ext: 2462
- The **KMHC Ombudsperson** should also be informed of this report:
 - Alexis Shackleton - Ombudsperson
 - Phone: 450-638-3930
 - Email: alexis.shackleton.kahnawake@ssss.gouv.qc.ca

In both scenarios, consent of the person (presumed or confirmed) being mistreated should be obtained but is not mandatory. Please see mandatory reporting conditions for more information.

It is not mandatory for the reporter to inform his/her manager, the Ombudsperson or any other individual within the establishment of the reporting of mistreatment. It is up to the reporter if he/she wishes to remain anonymous.

Any report received by the Local Service and Quality Complaints Commissioner or Ombudsperson in relation to situations of mistreatment will be treated in the same way,

whether it is mandatory or not. The priority to be given to the cases will be based on the seriousness of the situation and it will be left to the judgment of the Ombudsperson.

If the report concerns the actions or a lack of action of a doctor, a dentist, a pharmacist or a resident, the report will be directed without delay, by the Local Service and Quality Complaints Commissioner or Ombudsperson, to the medical examiner.

Responding to a report or a complaint of alleged mistreatment

- All persons who might receive a report on situations of suspected mistreatment must be able to identify those situations which respond to the conditions for mandatory reporting and ensure the follow through.
- For the situations that do not respond to obligatory reporting, must assure follow up with appropriate service
- If the situation reported is not concerning a user, is not an emergency and does not constitute an obligatory signaling,
 - It is important to offer the person who is presumed mistreatment the services of the establishment
 - If they refuse, it is important to inform them of their rights, the available resources and to propose a protection scenario in case of need.
- All employees, supervisors or managers receiving a report of mistreatment must receive this without making a judgment
- Put in measures that protect the confidentiality of the person making/documenting the signaling and that of all persons implicated are put in place

Take measures to minimize the risk of reprisal to the resident, patient, their family or the employees involved by preserving anonymity of the person who signaled, e.g. meeting outside of work hours or in a non-identifiable office. If there is immediate or possible danger for the security of the resident who signaled, increase their surveillance, to get proof, corroborate the presumed *perpetrator* to avoid the signaler being identified by deduction as they may be the only witness in the situation.

Any person who fails to comply with their obligation to report a case of mistreatment without delay commits an offence.

Investigation of alleged mistreatment

1. Is coordinated by the Local Service and Quality Complaints Commissioner who assigns the investigation as appropriate
2. The guide (annex 3) is used to organize and document the investigation
3. Measures to coordinate actions are put in place after a signaling and include actions such as (recourse to peacekeepers, immediate suspension of the employee, increased supervision of the resident, displacing the resident to another unit)

Determine the priority of intervention relative to the risk level for the resident and the implicated persons, as well as of the representatives of different disciplines implicated.

Follow up

Adequate supports are an integral part of the intervention to diminish the risk of repetition and assure the security and wellbeing of all involved. Updated intervention plans with the actions of surveillance, prevention, security, psychological support are required. Recommendations stemming from the investigation are reviewed by the Ombudsperson and those involved in the mistreatment situation. The Quality Oversight Committee receive a report on the achievement of recommendations.

Sanctions

Criminal or other sanctions may follow a finding of mistreatment. The following are sanctionable offences:

- Any person who commits an act of mistreatment against a person in a residential and long-term care centre, on these premises or while travelling, commits an offence;
- A person who, in the exercise of their duties, commits an act of mistreatment against an adult user to whom they directly provide health or social services at home on behalf of an establishment;
- Any person who threatens or intimidates a person or attempts to exercise or exercises reprisals against them on the grounds that they comply with the law regarding identification or reporting of potential mistreat, exercise a right provided for in the law or report behaviour that contravenes this law commits an offence;
- Any person who hinders or attempts to hinder in any way the exercise of the duties of an inspector or investigator commits an offence;

If an individual wishes to report a sanctionable offence, they may do so by filling out the form titled: Criminal Sanction Request Form in relation to Mistreatment. Available at: https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/sante-services-sociaux/documents-adm/coordonnees/demande-sanction-penale-maltraitance_mai-2023.pdf

For information regarding possible penal and other sanctions, refer to Annex 5. Personnel Policy 21.0 Harassment is complimentary to this policy.

The Concerted Intervention Process regarding mistreatment

In French this group is known as the *Processus d'intervention concerté (PIC) concernant la maltraitance*. The PIC can be activated by a reporter for a RSSS user when there is an alleged complex situation of mistreatment and meets the three criteria for activating the PIC.

What is a PIC?

The PIC allows rapid, concerted and complementary actions from stakeholders in the fields of health and social services, justice, public security and personal protection.

It aims to harmonize the management of mistreatment situations which require collaboration between organizations such as the Public Curator, the Financial Markets Authority, police forces, the Commission on Human Rights and Youth Rights, etc.

Within Kahnawake the following individuals are members of the PIC:

- Mandie Montour & Natalie Deer- General Managers, Caisse Populaire Kahnawake
- Jody Diabo- Assist Chief Peacekeeper, Kahnawake Mohawk Peacekeepers
- Vandana Chaubey- Clinical Supervisor of Home and Community Care, Kahnawake Shakotia'takehnhas Community Services
- Robin Guyer- Director of Community and Nursing Care, Kateri Memorial Hospital Center

What are the three criteria to activate the PIC?

To activate the PIC, the following three criteria must all be met:

1. There is a situation of mistreatment of a person in a vulnerable situation according to the Act to combat mistreatment;
2. Consultation is required with partners external to the establishment and CISSMO to put an end the situation of mistreatment;
3. The situation of mistreatment could constitute a criminal or penal offense.

Other options for activating the PIC:

1. Advisory Support (without sharing confidential information):
 - The person alleged to have been mistreated, or their legal representative, has not given consent to share their information;
 - Consultation is required to try to find strategies to obtain consent;
 - Consultation is required to determine whether the PIC criteria are united
2. Intervention with consent (with sharing of confidential information):
 - The alleged abused person, or their legal representative, has given their consent to share information and the three criteria for activation are combined
3. Serious risk of death or serious injury with sharing of confidential information when:
 - The responder has reasonable grounds to believe that there is a serious risk of death or serious injury (physical or psychological), and that the nature of the threat inspires a sense of urgency. Consent is not required since there are serious risks for the person allegedly abused.

Who coordinates the PIC?

Specialized regional coordinators established in public RSSS establishments coordinate the PICs in collaboration with their regional committee.

Private establishments do not have designated PIC stakeholders within their establishment. They can refer to a designated PIC worker through the Mistreatment Hotline.

Who does the PIC apply to?

A PIC targets all seniors and all adults in vulnerable situations.

A PIC therefore covers people who already receive health and social services from an RSSS establishment and those who are not followed by the RSSS.

Who to contact for more information on the PIC?

Contact the Mistreatment Helpline for more information.

See ANNEX 3: Guide for Investigation and Report of Suspected Mistreatment Situations

41.10. Confidentiality

KMHC, through the Ombudsperson, will take the steps necessary to ensure that information that identifies a person who makes a complaint/report is kept confidential, except with the consent of that person. The Ombudsperson may however communicate the name of a person making a complaint/filing a report to the police.

41.11. Prohibition of reprisals against a whistleblower

It is prohibited to retaliate against a person who, in good faith, makes a complaint, makes a report or cooperates in the investigation of a complaint or the processing of a report. It is also prohibited to threaten a person with retaliation to prevent them from making a complaint, reporting a matter or cooperating in the investigation of a complaint or the processing of a report. A person cannot be prosecuted for having, in good faith, made a complaint, made a report or cooperated in the examination of a complaint or the process of a report, regardless of the outcome. (Articles 22.2 and 22.3 of the Law to Combat Mistreatment).

41.12. FNQLHSSC Documents and Resources

It is also important to inform clients and users about the resources that are available to them as a preventative measure to combat mistreatment. The *First Nations of Quebec and Labrador Health and Social Services Commission* offer guidance and information about all federal programs accessible to elders through the following online resource page:

<https://files.cssspnql.com/s/VPzmbVgxV0gTl1v>

Indigenous Service Canada Phone Assistance

Telephone assistance is also available at the following phone number: 1-800-277-9915.

First Nations and Inuit individuals

There is a specific helpline that tailors to the cultural realities of First Nations and Inuit individuals who are seeking culturally trained professionals for support regarding elder mistreatment.

Elder Mistreatment Help Link and Information

The Elder Mistreatment Helpline by *Aide Abus Aïnés* offers services across Quebec, 7 days a week from 8am-8pm. More information about their services can be accessed here:

<https://www.aideabusaines.ca/en/first-nations-and-inuit/>

The Mistreatment Help Helpline

The helpline can be reached 7 days a week between 8am to 8pm EST by calling the phone number: **1-888-489-2287**

Psychological assistance or any assistance in reporting

For any individual requiring assistance in reporting or any psychological support throughout the process, they may contact:

- The CAAP (Complaints Assistance and Support Center) of Montréal:
 - Website: <https://caapmonteregie.ca/en/>,
- The KMHC User's Committee
 - Phone: 450-638-3930 ext.: 2205.
- The Mistreatment Helpline
 - Phone: Toll-free 1 888 489-2287 or 514 489-2287
 - Website: <https://lignemaltraitance.ca/en>

For any employee requiring assistance in reporting or any psychological support throughout the process, they may contact the resources above and:

- Human Resources a KMHC
- The Employees Assistance Program (EAP)
 - Phone: available 24hr/day 7 days/week at 1-877-207-8833
 - Website: login.lifeworks.com Username: kahnawakeen
Password: lifeworks
- The Mistreatment Helpline resources for Professionals and Practitioners
 - Phone: Toll-free 1 888 489-2287 or 514 489-2287
 - Website: <https://lignemaltraitance.ca/en/professionals>

Recourse

If the reporter or an individual involved is unsatisfied with the answers or conclusions by the Local Service and Quality Complaints Commissioner, he/she may contact the Public Curator by the following means:

- Québec office: 418 643-2688
- Montréal office: 514 873-2032
 - Toll-free: 1 800 463-5070

- Email: protecteur@protecteurducitoyen.qc.ca
- Website: www.protecteurducitoyen.qc.ca

41.13. References

Anti-Mistreatment Policy: A policy to Counter the Mistreatment of Older Adults and all Other Adults in Situations of Vulnerability (Quebec). https://msss365-my.sharepoint.com/:b:/g/personal/mendy_sanarikone_kahnawake_ssss_gouv_qc_ca/EduXFU-Hkl4dPoy45iqoH8hMBgra3wugbPzRyR-q7YQezfw

Exemple de politique pour les centres d’hébergement et de soins de longue durée privés (2023) : <https://www.creges.ca/publication/politique-pour-les-centres-dhebergement-et-de-soins-de-longue-duree-privés/>

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ANNEXES

ANNEX 1

Reporting situations of suspected mistreatment

Reporting is the verbal or written transmission of information concerning a real or suspected situation of mistreatment. All involved must realize that without reporting, mistreatment will not stop.

1. Employees report directly to the Local Service and Quality Complaints Commissioner, and, if he/she chooses, to their manager or delegate, to a social worker, to the clinical manager of the area, or a director in whom they have confidence. If the reporting is not done directly to the Local Service and Quality Complaints Commissioner, the trusted delegate must do so without delay.
2. Residents and family report to the Local Service and Quality Complaints Commissioner or The Mistreatment Helpline and may also inform the representative of the elder or adult in a situation of vulnerability, an employee, manager or director they have confidence in or a users' committee member.
3. All who receive a report of alleged mistreatment should report directly and without delay the Local Service and Quality Complaints Commissioner and may, if they do not wish to remain anonymous, inform the clinical manager and the Ombudsperson or their delegate. In the case of mandatory reporting, the Ombudsperson or their delegate is informed immediately.
4. If the mistreatment includes a criminal act, the local peacekeepers are informed. If the mistreated person is not a resident in Long-Term Care or does not receive services from KMHC, mandatory reporting can be made directly to the Peacekeepers.

The **Kahnawa:ke Peacekeepers**: 450-632-6505

Reporting Documentation:

AH-223 is required in the name of the victim of alleged mistreatment by a professional witnessing or informed in the following mistreatment situations:

- Resident/patient to resident/patient mistreatment
- Staff to patient or resident mistreatment
- Family/visitor to resident/patient mistreatment

The AH-223 form is to be completed

- in the name of the mistreated resident or patient
- by making no judgments, note **the name of the perpetrator is not mentioned**
- in the name of the perpetrator only if the perpetrator is also a resident or patient and has been

injured in the mistreatment situation - Note the behavior of the perpetrator requires a clinical intervention to decrease triggers, e.g. separate mealtimes

Staff Accident form is completed by the staff member when:

- Mistreated by patient or resident, e.g. physical aggression*
- Mistreated by family member or visitor, e.g. belittlement

*It must be emphasized that residents may have responsive behaviors; staff investigate how to decrease responsive behaviors, document approaches which work and use these

approaches so as not to trigger responses which may result in mistreatment of the staff member.

DRAFT

ANNEX 2

Investigation of alleged mistreatment
<p data-bbox="207 247 1040 279">Responding to a report or a complaint of alleged mistreatment</p> <ul data-bbox="289 289 1425 1129" style="list-style-type: none"><li data-bbox="289 289 1425 394">▪ All persons who might receive a report on situations of suspected mistreatment must be able to identify those situations which respond to the conditions for mandatory reporting and ensure the follow through.<li data-bbox="289 405 1425 468">▪ For the situations that do not respond to obligatory reporting, must assure follow up with appropriate service<li data-bbox="289 478 1425 541">▪ If the situation reported is not concerning a user, is not an emergency and does not constitute a obligatory signaling,<li data-bbox="289 552 1425 615">▪ It is important to offer the person who is presumed mistreatment the services of the establishment<li data-bbox="289 625 1425 688">▪ If they refuse, it is important to inform them of their rights, the available resources and to propose a protection scenario in case of need.<li data-bbox="289 699 1425 762">▪ All employees, supervisors or managers receiving a report of mistreatment must receive this without making a judgment<li data-bbox="289 772 1425 835">▪ Put in measures that protect the confidentiality of the person making/documenting the signaling and that of all persons implicated are put in place<li data-bbox="289 846 1425 1129">▪ Take measures to minimize the risk of reprisal to the resident, patient, their family or the employees involved by preserving anonymity of the person who signaled, e.g. meeting outside of work hours or in a non-identifiable office. If there is immediate or possible danger for the security of the resident who signaled, increase their surveillance, to get proof, corroborate the presumed perpetrator to avoid the signaler being identified by deduction as they may be the only witness in the situation
<p data-bbox="207 1140 711 1171">Investigation of alleged mistreatment</p> <ul data-bbox="289 1182 1425 1480" style="list-style-type: none"><li data-bbox="289 1182 1425 1213">▪ Is coordinated by the Ombudsperson who assigns the investigation as appropriate<li data-bbox="289 1224 1425 1255">▪ The guide (annex 3) is used to organize and document the investigation<li data-bbox="289 1266 1425 1371">▪ Measures to coordinate actions are put in place after a signaling and include actions such as (recourse to peacekeepers, immediate suspension of the employee, increased supervision of the resident, displacing the resident to another unit)<li data-bbox="289 1381 1425 1480">▪ Determine the priority of intervention relative to the risk level for the resident and the implicated persons, as well as of the representatives of different disciplines implicated
<p data-bbox="207 1491 342 1522">Follow-up</p> <ul data-bbox="240 1533 1425 1822" style="list-style-type: none"><li data-bbox="240 1533 1425 1596">▪ Adequate supports are an integral part of the intervention to diminish the risk of repetition and assure the security and wellbeing of all involved.<li data-bbox="240 1606 1425 1669">▪ Update intervention plans with the actions of surveillance, prevention, security, psychological support required.<li data-bbox="240 1680 1425 1711">▪ Recommendations stemming from the investigation are reviewed by the<li data-bbox="240 1722 1425 1753">▪ Ombudsperson and those involved in the mistreatment situation.<li data-bbox="240 1764 1425 1822">▪ The Quality Oversight Committee receive a report on the achievement of recommendations.

ANNEX 3

Guide for Investigation and Report of Suspected Mistreatment Situations

Legend for responsibility

A= nurse, social worker, clinical manager who is the first to receive a report of mistreatment

X= Clinical Service Manager, Social Worker, Medical Examiner

X, the manager of the clinical service, the social worker or medical examiner is designated to investigate reports of suspected mistreatment of residents or adults in situations of vulnerability and completes the following investigation and documents.

- Name and DOB of Resident or Adult in a situation of vulnerability
- Name of reporter of alleged mistreatment and date of report
- **A**, Name of those receiving the initial report and dates (e.g. PAB informs Nurse in Charge; housekeeper informs Plant manager who informs CC who informs Clinical Manager)
- Brief description of alleged mistreatment, Who, What, When, Where, Why/Context
- Date of the alleged mistreatment
- Response of the reporter to the alleged mistreatment: (e.g. asked Perpetrator to leave, separated mistreating resident from mistreated resident, etc.)
- The response by **A** to the immediate needs of the allegedly mistreated person include (examples) and were documented by **A** in the progress notes on DATE.
- Physician consulted to evaluate injuries
- observation of the mistreated person's behavior and changes (care planning to determine if signs are indicators of mistreatment)
- observation of alleged perpetrator if they were another resident or inpatient (care planning) o protection from the alleged perpetrator
- Date and time the Ombudsperson or their delegate is informed and date /time **X** is designated to direct investigation.
- Date and time incident report completed.

Part A: Summary of the investigation conducted by X which includes

A discussion with the mistreated person (name all participants) regarding the incident of presumed mistreatment 'who what when where or why/context?' Summarize the content of the interview.

- An interview is conducted by X with the individual suspected of mistreatment. Summarize the content of the interview. If staff, a temporary or permanent note is put in the personnel file of the employee suspected of mistreatment indicating the steps taken to investigate the facts surrounding the situation.
- An interview conducted with staff working on the same floor or on the same day at the time of the alleged mistreatment incident, or with other potential witnesses, to

determine what they had seen or heard “who, when, what, where, and why/context”. Summarize the content of the interview/s.

- Evaluation and analysis of all signs to confirm whether the negative consequences experienced by the person are related to the mistreatment situation. List findings.
 - A review of the user’s chart to determine if there have been incidents or events that may have led to the alleged mistreatment situation. List findings.

Part B: Actions taken to address the alleged mistreatment

- Informs an appropriate family member, e.g. Power of Attorney of the situation of presumed mistreatment and the actions taken to protect the person. Note any reactions judged pertinent and document in the chart and on the AH-223. Contact QIMRI Manager if response suggests litigation.
- Informs the peacekeepers in situations where there is a criminal offense or fits situation of mandatory reporting of a person who is not a user of KMHC. Document peacekeeper taking the report and date and time.
- List of the actions put in place to avoid that the user be in contact with the presumed perpetrator (if judged necessary).
- List the measures put in place to protect the confidentiality of the situation and the identity of the presumed perpetrator.
- Informing all people involved of the recourse and support mechanisms.
 - For any individual requiring assistance in reporting or any psychological support throughout the process, they may contact:
 - The CAAP (Complaints Assistance and Support Center) of Montérégie:
 - Website: <https://caapmonteregie.ca/en/>,
 - The KMHC User’s Committee
 - Phone: 450-638-3930 ext.: 2205.
 - The Mistreatment Helpline
 - Phone: Toll-free 1 888 489-2287 or 514 489-2287
 - Website: <https://lignemaltraitance.ca/en>
 - For any employee requiring assistance in reporting or any psychological support throughout the process, they may contact the resources above and:
 - Human Resources a KMHC
 - The Employees Assistance Program (EAP)
 - Phone: available 24hr/day 7 days/week at 1-877-207-8833
 - Website: login.lifeworks.com Username: kahnawakeen Password: lifeworks
 - The Mistreatment Helpline resources for Professionals and Practitioners
 - Phone: Toll-free 1 888 489-2287 or 514 489-2287
 - Website: <https://lignemaltraitance.ca/en/professionals>

- If the reporter or an individual involved is unsatisfied with the answers or conclusions by the Local Service and Quality Complaints Commissioner, he/she may contact the Public Curator by the following means:
 - Québec office: 418 643-2688
 - Montréal office: 514 873-2032
 - Toll-free: 1 800 463-5070
 - Email: protecteur@protecteurducitoyen.qc.ca
 - Website: www.protecteurducitoyen.qc.ca

Part C: Post Investigation

Analysis/conclusions:

- Summary of findings validating if mistreatment occurred or did not occur

If mistreatment occurred,

- An interview is conducted by **X** with the person suspected of mistreatment during which the evidence of mistreatment collected during the investigation is presented to them. If a staff member, a human resource representative is present. The employee suspected of mistreatment has the right to be accompanied by a Personnel Committee member. Summarize content of interview and participant names.
- List the corrective measures put in place to prevent further mistreatment, e.g. education, buddying, etc.
- Date that **X** advised the resident/patient and family of the information relative to the investigation without revealing information which could constitute a breach of confidentiality.

Elements to follow-through:

- Success of the measures to prevent further mistreatment
- Success of the measures to address identified root causes of the mistreatment e.g. increased supervision

NOTE: The Ombudsperson is informed periodically of the investigation and conclusions regularly during the process. A similar investigation guide can be used by clinical managers when the alleged perpetrator is not an employee or other resident/patient.

ANNEX 4

Monitoring mechanism in Long-Term Care

Reference: <https://publications.msss.gouv.qc.ca/msss/fichiers/2022/22-834-06F.pdf>

The installation of monitoring mechanisms is one of the actions to counter mistreatment of residents in Long-Term Care (LTC). When a resident or their representative is concerned that mistreatment is occurring, they are encouraged to report their concern to the social worker, the care coordinator, or a nurse. These professionals, with the care team, can collaborate and determine what actions to take to verify if, in fact, mistreatment is occurring and how to intervene. If the resident or their representative decides to install a monitoring mechanism in the resident's room, the following conditions apply:

- Monitoring is permitted only to assure the security of the resident and to assure the quality of care and services offered, notably to detect mistreatment towards the resident.
- The device is installed by the resident or their representative with the resident's consent when it can be obtained. No other person can install monitoring devices in resident rooms.
- The use of the monitoring mechanism is to be reassessed periodically and removed when it is no longer needed for the reasons it was installed. Re-evaluation includes determining if the motives justifying the installation continue to be valid, if the objectives sought by the installation have been met and if the modalities of use of the mechanism have been respected.
- The installation must respect the privacy of other residents and must not capture images or sounds coming from outside the resident room or images from the bathroom (unless the purposes sought by the installation of the mechanism justify it, in which case it need to be clarified with management.
- The mechanism can be concealed or not and is used for monitoring e.g. a monitoring camera, an electronic tablet or a smart phone.
- The monitoring must not be continuous, e.g. the monitoring is interrupted during determined times, e.g. usual hygiene care times.
- The installation and use of the monitoring mechanism must not entail costs for the institution nor require modifications to property owned by KMHC without the permission of KMHC.
- Images and sounds captured by a monitoring mechanism are recorded only if this recording is necessary for the ends identified in #1. The resident or their representative is responsible to assure the confidentiality and security of the recordings, along with their destruction.
- If the conditions to installing a monitoring mechanism are not respected, the removal of the mechanism can be demanded.

Any resident or representative who requires support as regard the installation of a monitoring mechanism can contact:

- the unit social worker or service manager who can assist in evaluating or re-evaluating the rationale for installing a monitoring mechanism, ensure a better comprehension of the rules related to installing a monitoring mechanism and possible alternatives
- IT support for installation support – extension 2299

ANNEX 5

Possible Sanctions

Examples of sanctions applied by an establishment in relation to a situation of mistreatment
Employees: Disciplinary measures such as a warning, a letter in personnel file, suspension or dismissal
Members of the Council of Physicians, Dentists and Pharmacists (CPDP): Disciplinary measures such as reprimand, status change, removal of privileges, suspension of status or privileges for a determined period or revocation of status or privileges
Midwives: Disciplinary measures such as reprimand, modification or removal of one or multiple rights written in the contract or termination of the contract
Managers and Directors: Disciplinary measures such as dismissal, none renewal of contract, resolution of contract, suspension without pay or demotion
RI/RTF: Non-renewal or termination of specific or particular agreement
RPA: Revocation of temporary certification of conformity, refusal of delivery, revocation or refusal to renew le certificate of conformity

Examples of other possible sanctions in regards to individuals and establishments in relation to a situation of mistreatment or who tolerate a situation of mistreatment
Members of a professional order: A professional order may, notably, impose to one of its members the following sanctions: Reprimand, temporary or permanent deregistration from the roll to practice, fees, removal of a permit to practice, removal of a specialized certificate, limitation or suspension of the right to practice professional activities.
Establishments: The Ministry of Health Services and Social Services may, notably, impose the following measures to an establishment: Appoint surveyors/observers, investigators, demand the submission of action plans, assume temporary administrative authority (public and private establishments), suspend or revoke permit.
All individuals: Following an investigation of the Commission on Human Rights and Youth Rights, there may be proceeding before the Human Rights tribunal who, in the exercise of their functions, may make all procedural and practical decisions and orders necessary, particularly related to the rights of elderly or disabled persons to be protected against any form of exploitation. Penal or criminal prosecution may also be applied. For example, one may be found responsible for criminal negligence, by performing an act or by omission of action, demonstrating carelessness or recklessness regarding the wellbeing or security of an individual.

Penal Sanctions

Article 21

Failure to fulfill your obligation to report a case of mistreatment (per person: \$2,500 to \$25,000)

Article 21.1

Committing an act of mistreatment towards a person in a long-term care center, in a private residence for seniors, as an intermediate resources, or as a family-type resources on these premises or in transition of care or toward a person at home (per person: \$5,000 to \$125,000/ second offense \$10,000 to \$250,000)

A person who, in the exercise of their duties, commits an act of mistreatment towards an adult user for whom they provide direct health services or social services at home on behalf of an establishment (per person: : \$5,000 to \$125,000/ second offense \$10,000 to \$250,000)

Article 22.2

Threatening or intimidation of a whistleblower or attempt to carry out or carry out retaliation against a whistleblower (per person: \$2,000 to \$20,000/ second offense \$10,000 to \$250,000)

Article 22.8

Obstruction or attempts to obstruct in any way the exercise of the functions of an inspector or investigator (per person: \$5,000 to \$50,000/ second offense \$15,000 to \$150,000)