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# Bill 40

## **An Act respecting reporting of adults in need of assistance and the provision of assistance to those adults**

**Ms F. Gélinas**

**Private Member's Bill**

1st Reading      November 1, 2021

2nd Reading

3rd Reading

Royal Assent



#### EXPLANATORY NOTE

The Bill enacts the *Support for Adults in Need of Assistance Act, 2021*. The Act requires regulated health professionals to report to a board of health if they have reasonable suspicion that an individual who is 16 years of age or older is being abused or neglected. The failure to report is an offence.

The Act requires a board of health to ensure that each report it receives is assessed and verified within a certain time period. The Act also permits board of health employees certain rights of entry into premises to carry out these requirements.

The Act provides that every board of health shall establish a team that will review cases and recommend a support and assistance plan for individuals in need. The review team must include at least one legally qualified medical practitioner. For each case, employees and the chair of the review team have reporting obligations to the medical officer of health of a board of health. The medical officer of health shall ensure that the number of reports received by a board of health, the number of cases for which the reported information was verified, the reasons for which reports were made and the outcomes of the reports are published on the board of health's website every six months.

## **An Act respecting reporting of adults in need of assistance and the provision of assistance to those adults**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### **Definitions**

1 In this Act,

“adult” means an individual who is 16 years or older; (“adulte”)

“board of health” has the same meaning as in the *Health Protection and Promotion Act*; (“conseil de santé”)

“regulated health professional” means a member of a College of a health profession or group of health professions established or continued under an Act named in Schedule 1 to the *Regulated Health Professions Act, 1991*. (“membre d’une profession de la santé réglementée”)

### **Duty to report adult in need of assistance**

2 (1) Despite the provisions of any other Act, if a regulated health professional has a reasonable suspicion that an adult is being abused or neglected, the regulated health professional shall immediately report the suspicion and the information on which it is based to a board of health.

### **Ongoing duty to report**

(2) A regulated health professional who has additional suspicions that an adult is being abused or neglected shall make a further report under subsection (1) even if the regulated health professional has made previous reports with respect to the same adult.

### **Report directly to board of health**

(3) A regulated health professional who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the board of health and shall not rely on any other person to report on the regulated health professional’s behalf.

### **Duty to report under the *Child, Youth and Family Services Act, 2017***

(4) Nothing in this section affects the duty to report a suspicion under section 125 of the *Child, Youth and Family Services Act, 2017*, including, for greater certainty, in the case of a regulated health professional who may have made a report under this section or an employee of a board of health with knowledge of any information reported by a regulated health professional.

### **Offence**

(5) A person who has a duty to report a matter under subsection (1) or (2) is guilty of an offence if,

- (a) the person fails to report the suspicion under subsection (1) or (2); and
- (b) the information on which the suspicion was based was obtained in the course of the person’s professional or official duties.

### **Penalty**

(6) A person convicted of an offence under subsection (5) is liable to a fine of not more than \$5,000.

### **Section overrides privilege; protection from liability**

(7) Subject to subsection (8), this section applies even if the information reported may be confidential or privileged, and no action for making the report shall be instituted against a regulated health professional who made the report unless the regulated health professional acts maliciously or without reasonable grounds for suspicion.

### **Solicitor–client privilege**

(8) Nothing in this section abrogates any privilege that may exist between a lawyer and the lawyer’s client.

### **Conflict**

(9) This section prevails despite anything in the *Personal Health Information Protection Act, 2004*.

### **Board of health to assess and verify report**

3 (1) A board of health that receives a report under section 2 that an adult is or may be being abused or neglected shall ensure that an assessment and verification of the reported information is carried out by an employee of the board of health or of another board of health.

#### **Deadline**

(2) The assessment and verification must be carried out within the following applicable deadline:

1. 48 hours, if the reported information suggests that the adult is in immediate need of assistance.
2. 72 hours, if the reported information suggests that the adult is in a vulnerable situation but may not be in immediate need of assistance.
3. 120 hours, in all other cases.

#### **Protection from liability**

(3) No action or other proceeding shall be instituted against an employee or officer of a board of health, acting in good faith, for an act done in the execution or intended execution of the duty imposed on the board of health by subsection (1) or for an alleged neglect or default of that duty.

#### **Rights of entry**

(4) Sections 41 to 43 of the *Health Protection and Promotion Act* apply with necessary modifications in respect of the assessment and verification of information.

#### **Same**

(5) For the purpose of subsection (4), subsection 41 (2) of the *Health Protection and Promotion Act* is deemed to mention, as a purpose, carrying out the assessment and verifying the information.

#### **Penalty for obstruction**

(6) Any person who contravenes subsection 42 (1) of the *Health Protection and Promotion Act*, as it applies by application of subsection (4), is guilty of an offence and, upon conviction, is liable to a fine of not more than \$5,000.

#### **Review team**

4 (1) Every board of health shall establish a review team that includes at least one legally qualified medical practitioner.

#### **Chair**

(2) The members of a review team shall choose a chair from among themselves.

#### **Duty of team**

(3) If an employee of a board of health verifies information reported under section 2, the employee of a board of health shall refer the matter to a review team, along with the employee's assessment.

#### **Recommendations**

(4) The review team or a panel of at least three of its members, designated by the chair, shall,

- (a) review the case; and
- (b) recommend to the board of health a support and assistance plan for the adult.

#### **Incapable adult**

(5) If the review team or panel of the review team has reason to believe that the adult may be incapable, the support and assistance plan shall include consultation with any substitute decision-maker of the adult and, if necessary in order to assist the adult, consultation with the Public Guardian and Trustee respecting the need to assess the adult's capacity or to make a court application to appoint a guardian of property or a guardian of the person.

#### **Disclosure to team permitted**

(6) Despite the provisions of any other Act, a person may disclose to a review team or to any of its members information reasonably required for a review under subsection (4).

#### **Section overrides privilege; protection from liability**

(7) Subsection (6) applies although the information disclosed may be confidential or privileged and no action for disclosing the information shall be instituted against a person who acts in accordance with subsection (6), unless the person acts maliciously or without reasonable grounds.

**Internal and public reporting**

**5** (1) An employee of a board of health who receives a report under section 2 shall advise the board of health's medical officer of health that such a report has been received.

**Same**

(2) An employee of a board of health who carries out an assessment and verification of the reported information under section 3 shall report to the medical officer of health of the board of health as to whether or not the report has been referred to a review team.

**Same**

(3) The chair of a review team established under section 4 shall ensure that the outcome of each report referred to the review team is reported to the medical officer of health of the board of health.

**Public information**

(4) The medical officer of health of a board of health shall ensure that the following information is published on the website of the board of health for every six-month period:

1. The number of reports received by the board of health under this Act and the number of those cases for which the information reported was verified.
2. A general description of the reasons for which the reports were made and the outcomes of the reports.

**Same**

(5) In publishing information under subsection (4), the board of health shall ensure that no personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* is disclosed.

**Commencement**

**6 This Act comes into force on the first anniversary of the day it receives Royal Assent.**

**Short title**

**7 The short title of this Act is the *Support for Adults in Need of Assistance Act, 2021*.**