

---

# CHILD PROTECTION AND CHILD ABUSE MANUAL

## Part I

# Background Information For Physicians

Manitoba  
Family Services  
and Housing



---

## **Quick Reference for Suspected Child Abuse**

-A suspicion that a child may be in need of protection requires a report to a child and family services agency or the police. Individuals are not required nor should they attempt to diagnose or investigate potential abuse cases.

-The immediate safety of the child is the paramount concern. If either a child and family services agency or the police cannot be reached in a timely fashion, evaluation at a medical facility should be considered.

-An immediate medical examination is indicated only in cases where acute injuries or symptoms are present. Where there is a history of chronic abuse, a child and family service agency and/or police investigation is necessary to determine the need for medical consultation and most importantly the need for protection of the alleged victims and other potential victims.

If you are unsure of an appropriate course of action, it might be helpful to consult by telephone with a local child and family services agency and/or the police. The Children's Hospital Child Protection Centre or if outside office hours, the Children's Hospital Emergency Room are also available for consultation.

### **Local Child and Family Services** \_\_\_\_\_

**Local Police  
Department** \_\_\_\_\_

**Children's Hospital Child Protection Centre 787-2811**

**Children's Hospital Emergency 787-2306**

---

# TABLE OF CONTENTS

<b>I. INTRODUCTION .....</b>	<b>5</b>
<b>II. WHAT IS CHILD ABUSE? .....</b>	<b>5</b>
Definitions/Statistics	
The Abuser	
The Child	
<b>III. LEGISLATION AND REPORTING.....</b>	<b>14</b>
Definition of Abuse	
Reporting by Physicians	
Release of Medical Information	
Failure to Report	
Death of a Child	
<b>IV. THE INVESTIGATIVE PROCESS .....</b>	<b>18</b>
<b>V. COURT AND CONFIDENTIALITY.....</b>	<b>20</b>
<b>VI. CONCLUDING REMARKS.....</b>	<b>22</b>
<b>ADDENDA:</b>	
I. .... Excerpted Federal and Provincial Legislation	
II. .... Death of Child: Guidelines for Autopsy Procedure	
III. .... Bibliography and Selected Readings	

---

## **PREFACE**

Manitoba was among the first provinces to formally adopt a multi-disciplinary approach to the reporting, investigation and treatment of child abuse. Physicians play a key role because, as primary care providers, they may be the initial contact for an abused or neglected child.

The protocols in these booklets have been developed for physicians to help ensure that the needs of abused and neglected children are met and their rights are protected. Information and tools for identification and management of children in need of protection are included. The booklets have been jointly prepared in consultation with the Departments of Family Services, Health, Justice, and Education and Training through the Provincial Advisory Committee of Child Abuse. They are supported by the College of Physicians and Surgeons of Manitoba and the College's Child Health Standards Committee.

These protocols refer to current provincial and federal legislation, and changes to such legislation will be made from time to time. It is important for care providers to stay up to date with legislation changes so that children receive appropriate care.

The College of Physicians and Surgeons of Manitoba

---

# I. INTRODUCTION

Child maltreatment includes emotional, physical, and sexual abuse, as well as neglect. It is a serious problem, which may have long-lasting effects on both the child and family.

These protocols have been prepared in order to assist the physician in dealing with child maltreatment. Part I has been prepared as a general information manual, recognizing that not all the known information on child maltreatment can be provided. Physicians are encouraged to read some of the other excellent references listed at the end of this manual. Part 2 is a guideline manual outlining **the physician's role** in cases of suspected child abuse.

The protocols are based on the expectation that the physician will participate as part of an inter-disciplinary process involving consultation, collaboration, and co-operation with child and family services agencies, law enforcement agencies, as well as any other relevant parties.

# II. WHAT IS CHILD ABUSE?

## DEFINITIONS/STATISTICS

### 1. How is child abuse defined?

Child maltreatment may be defined as active and/or passive harming of a child by a person who is responsible for the child's care (see Part III for legal definitions). Child maltreatment may occur in any or all of the following categories:

	<b>ABUSE: Active (Commission)</b>	<b>NEGLECT. Passive (Omission)</b>
<b>EMOTIONAL</b>	Attacks on the child's self-esteem (e.g. threats, gestures, verbal put downs), extreme over-indulgence and permissiveness.	Failure to meet the child's emotional needs for attachment (e.g. nurturing, cuddling, listening), failure to provide a consistently adequate environment conducive to the child's well-being.
<b>PHYSICAL</b>	Nonaccidental trauma (e.g. bruises, burns, fractures)	Abandonment, malnutrition, failure to thrive, lack of supervision that might lead to repeated accidents, failure to provide adequate medical care.
<b>SEXUAL</b>	Any sexual activity from touching and fondling to sexual homicide (may also include verbal assaults)	Condoning inappropriate activity, not reporting or responding to the child's disclosure of sexual abuse.

Two other specific forms of child abuse also exist.

1. *Munchausen by Proxy Syndrome* - parents subject their children to medications, medical procedures, and sometimes surgery for which there is no appropriate reason. In addition to extensive and unnecessary treatment, characteristic features of this syndrome are major disruptions to the child's medical and psychosocial status and a poor prognosis without long-term therapy.
2. *Shaken Baby Syndrome* – a constellation of findings (including retinal hemorrhage, subdural hemorrhage and/or intracerebral hemorrhage/damage and fractures of ribs and long bones) caused by violent shaking of a young infant or child.

## **2. How many children are abused or neglected in Canada?**

- In 1998, there were an estimated 21.52 investigations of child maltreatment per 1,000 children in Canada. Forty-five percent of these investigations were substantiated, 22% remained suspected, and 33% were found to be unsubstantiated.
- Child maltreatment investigations were divided into four primary categories: physical abuse (31% of all investigations), sexual abuse (10% of all investigations), neglect (40% of all investigations), and emotional maltreatment (19% of all investigations).
- Thirty-four percent of the physical abuse investigations were found to be substantiated. This compares with 38% for sexual abuse, 43% for neglect, and 54% for emotional maltreatment.

## **3. Are there more children being abused now than there were in the past?**

Although we know of more child abuse now than we did in the past, most experts feel that we find more child abuse now because physicians, nurses, social workers, teachers and other professionals are better able to detect child abuse. They know more about it, but the rate probably has not increased.

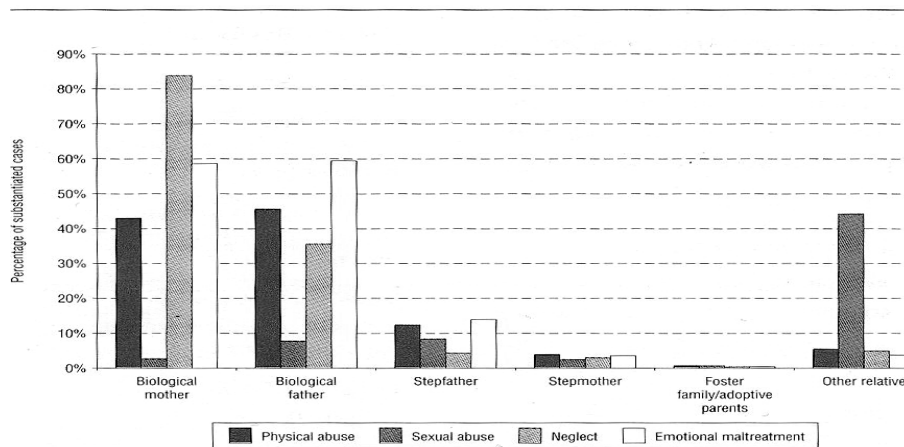
## **4. Does most abuse occur in low socio-economic families and in families not well educated?**

Child abuse occurs in all socio-economic groups. According to statistics, however, there are more reports of child abuse and neglect in lower-income families. This may be because many of these families are involved with public agencies, such as welfare, and public health clinics and hospitals. Lower-income families are more visible to the authorities and often have more of the stresses that can increase the possibility of abuse: for example, poverty, drug and alcohol problems. The cycle of violence is often intergenerational, with learned patterns of abusive behaviour. Child abuse is, however, not limited to the poor.

## THE ABUSER

### 1. Who is most likely to abuse a child?

#### *Alleged Perpetrator in Substantiated Child Maltreatment, Relatives, by Primary Category of Maltreatment 1*



### 2. What are some of the factors that may influence a person's personality in a way that would make him or her more likely to physically abuse a child?

- A parent who was abused and neglected as a child.
- A parent who was not properly nurtured as a child.
- A parent who rarely experienced positive parenting.

The existence of any one of these factors does not necessarily mean that a parent will be an abuser, but together, these feelings and experiences are often present in many of the parents who abuse their children.

### 3. What are some of the things that happen in a person's life that may make him or her likely to physically abuse a child at a specific point in time?

Many stressors (e.g. financial difficulties, marital difficulties, and injury or death of a family member) can affect a person's ability to think rationally and to maintain self-control. This may adversely affect how they react to their children's actions. For many, this reaction to stress is a learned pattern from their own childhoods, and in fact, relatively minor stresses may provoke this type of reaction.

### 4. Do most parents intend or plan to physically abuse their children?

1 Table excerpted from Child Maltreatment in Canada: Canadian Incidence Study of Reported Child Abuse and Neglect-Selected Results (see Addendum III)

Physical abuse of children can occur under many circumstances. Although in some cases, a child is unwanted or unloved, in many cases, this is not the situation. In these situations, the abuse can occur, for example, because of learned patterns of response by the parent or a belief in **excessive** corporal punishment as a means of discipline. Very often, there is no **intent to harm** the child; however, the resulting actions may, nonetheless, be considered abusive.<sup>2</sup>

**5. What are some of the factors that may influence a person's personality in a way that would make him or her more likely to sexually abuse a child?**

- A person who was sexually abused as a child.
- A person who was physically abused or neglected as a child.
- A person who grew up in a home where other people were physically and/or sexually abused.
- A person who grew up in a home where there was no respect for individual privacy.
- A person who grew up in a home where they were prematurely exposed to eroticized relationships and behaviours.
- A person "in a position of trust" who uses the imbalance in power and control and betrays the child.

The existence of any one of these factors does not necessarily mean that a person will be an abuser, but together, these experiences seem to have been part of the lives of many people who do sexually abuse children.

**6. What are some of the characteristics often seen in abusive families?**

- A child trying to meet the parent's emotional needs.
- Parent with unrealistic expectations of a child.
- Parent who demeans, does not recognize, or ignores the child's physical and/or emotional needs.
- Parent who seems to abdicate the parenting role and has very few, if any, expectations of the child.
- Family history of abuse and/or neglect.
- Unusual delay by a parent in seeking medical attention.
- Discrepancies or inconsistencies in the history, or a history that is not compatible with the presenting problem.

- Vagueness about specific and important details.
- Parent who does not demonstrate interest in the child's condition or well-being or who fails to visit or inquire about the child after admission to hospital.
- Frequent disruptions in continuity of medical care:
  - (a) changing physician and/or hospital.
  - (b) inordinate frequency of emergency visits.
  - (c) frequent relocation of the family.
  - (d) disregard for essential follow-up care.

## 7. What is considered emotionally abusive behaviour?

An emotionally abusive behaviour is any act by an adult (usually a caregiver) that diminishes or seeks to obliterate the child's sense of selfworth, self-esteem, or self-identity. A child is considered to be emotionally abused if the parent or caretaker uses a method of child-rearing *that routinely incorporates emotionally abusive acts*. Examples:

- Constant overt criticisms of the child's achievements.
- Constant belittling of the child's achievements.
- Constant use of derogatory nicknames (e.g. "knucklehead," "stupid").
- Frequent taunting or teasing of the child.
- Setting up the child to look incompetent.
- Ridiculing or laughing at the child's fears.
- Insistence on the child overcoming fears by repeated immersion in the fearful situation.
- Refusal to help the child in a dangerous or frightening situation.
- Punitive isolation of the child - deliberate intention to exclude child - siblings are encouraged not to speak or play with child.

## THE CHILD

### 1. How old are most children who are abused?

In 2000, the Child Protection Centre's statistics regarding children diagnosed as being physically or sexually abused indicated the following:

AGES	PHYSICAL ABUSE		SEXUAL ABUSE	
	Boys	Girls	Boys	Girls
0 - 2 years	9%	10%	1%	2%
2 - 6 years	16%	11%	8%	25%
6 - 12 years	23%	15%	4%	31%
Over 12 years	2%	15%	1%	28%

## 2. What are some characteristics that may predispose children to be at risk?

- The child with a congenital abnormality, either physical or mental.
- The premature infant or the ill newborn who is separated from his/her parent(s) during the neonatal period.
- The colicky or irritable child.
- The child who is rigid or non-cuddly.
- The unwanted child.
- The child with dubious paternity.
- The foster, adopted or stepchild.
- The exceptional child - for example, hyperactive.

## 3. What are some possible indicators of physical abuse?

### *Physical Indicators*

Bruises, welts, lacerations, or abrasions:

- on face, lips, mouth, gums, eyes
- on torso, back, buttocks, external genitalia, thighs
- in various stages of healing
- clustered, forming regular patterns
- reflecting shape of implement used to inflict, e.g. electrical cord, belt
- on several different surfaces
- regularly appearing after absence, weekend or vacation

Burns:

- cigar/cigarette, especially on soles, palms, or buttocks
- immersion burns, e.g. sock-like, glove-like on extremities, doughnut-shaped on buttocks or genitalia
- patterned like electric burner, iron, etc.
- rope burns on arms, legs, neck or torso
- infected burns, indicating delay in seeking treatment

Fracture/dislocations:

- to skull (other than unilateral, linear parietal which are often accidental), nose, facial structures, posterior ribs, spinous processes, sternum, scapula, and metaphyseal-epiphyseal fractures
- in various stages of healing
- multiple or spiral fractures

The physician should attempt to determine if the pattern of injuries is compatible with the explanation provided. In all cases where the explanation does not fit, and in cases of significant injury with no explanation, the possibility of the injury being inflicted or abusive is quite high.

### ***Behaviourial Indicators***

- Lies very still while surveying surroundings
- Vacant or frozen stare
- Does not seek comfort when injured
- Fear of a particular person or place
- Indiscriminately seeks affection
- Wary of physical contact
- Apprehensive when other children cry
- Manipulative behaviour to get attention
- Behaviour extremes: aggressive, withdrawn
- Inappropriate or precocious
- Feels deserving of punishment
- Capable of only superficial relationships
- Afraid to go home
- Poor self-concept and self-esteem
- Reluctant to undress in front of others (age dependent)
- Uncharacteristic changes in behaviour
- Constantly tries to please the parent
- Role-reversal: child cares for parent, with emphasis on emotional caring
- Isolated, few friends
- Unusual need to achieve
- Reports injury by caretakers
- Impaired capacity to enjoy life

These behaviours are not to be considered diagnostic of abuse; rather, they are behaviours that may indicate abuse.

#### **4. What are some possible indicators of neglect?**

### ***Physical Indicators***

- Underweight, poor growth pattern, failure to thrive
- Abdominal distention
- Wasting of subcutaneous tissue
- Bald patches on the scalp
- Constant hunger, unkempt, inappropriate dress
- Consistent lack of supervision
- Poor hygiene:
  - persistent diaper rash
  - skin rashes
  - dirty hair and face

- persistent body odour
- Unattended needs:  
glasses, dental work, medical care (e.g. immunizations)
- Abandonment

### ***Behavioural Indicators***

- Inactive babies, no vocalization
- "Silent watchers" - children with hypervigilant, expressionless facial appearance
- Inappropriate seeking of affection
- Begging, stealing, hoarding food
- Extended stays at school (early arrival and late departure)
- Inconsistent attendance at school
- Constant fatigue, listlessness, or falling asleep in class
- Underachievers
- Obvious lack of energy when playing
- Pseudo-independence
- Assuming adult responsibilities and concerns (physical care for home and siblings)
- Child states there is no caregiver
- Alcohol or drug abuse
- Delinquency (e.g. thefts)
- Few or superficial friendships

These indicators are not to be considered **diagnostic** of neglect, rather, they are behaviours or features that may raise suspicion of neglect.

## **5. What are some possible indicators of sexual abuse?**

### ***Physical Indicators\****

- Bruises, bleeding, or lacerations in external genitalia, vaginal or anal areas
- Torn, stained or bloody underclothing
- Pain, swelling or itching in genital area
- Pain on urination
- Vaginal/penile discharge
- Poor anal sphincter tone
- Repeated urinary tract infections
- Recurrent abdominal pain
- Sexually transmitted disease, especially in pre-teens
- Pregnancy

\* The only physical findings that are **diagnostic** of sexual abuse are the presence of sperm or an STD in a child under 12 years of age (excluding perinatal transmission in infants).

## ***Behavioural Indicators***

Reactions similar to those precipitated by any other severe stress, including:

- regressive behaviour in younger children (e.g. bedwetting, thumb-sucking)
- sudden fears or phobias (e.g. of the dark or of a particular person, place or situation)
- running away from home
- abuse of drugs or alcohol
- noticeable personality changes (e.g. depression, anger, hostility, aggression)
- change in school performance
- suicidal thoughts or attempts
- self-mutilation

Reactions more likely related to sexual abuse, including:

- provocative drawings of sexual nature
- age-inappropriate sexual play (important to consider developmental and not just chronological age)
- compulsive masturbation
- bizarre, sophisticated or unusual sexual behaviour or knowledge
- overtly seductive behaviour or aversion to intimacy with adults
- promiscuity
- prostitution
- states that he/she is being sexually assaulted
- confusion about sexual identity, norms, love, caregiving/receiving

### **A caution about the use of indicators**

Since there are many types of abuse, abusers and abused children, no single list of indicators applies to all of them. Thus, one must exercise caution in the use of the tables. As well, the tables are not all-encompassing, but present many of the common indicators. These indicators should be used as a guide, together with other diagnostic skills, to determine the presence or absence of abuse. The presence of one of these indicators, or even several of them, does not necessarily mean that abuse has occurred. However, it may mean that the family does need some help. As well, it is estimated that as many as 25% of children who have been abused have no significant behavioural changes.

## III. LEGISLATION AND REPORTING

### 1. Definition of Abuse:

- "Abuse" means an act or omission by any person where the act or omission results in**
- (a) **physical injury to the child;**
  - (b) **emotional disability of a permanent nature in the child or is likely to result in such a disability; or**
  - (c) **sexual exploitation of the child with or without the child's consent. (The Child and Family Services Act of Manitoba).<sup>3</sup>**

As the abuse of children is not only a social and health problem, physicians must be aware of their **legal responsibilities.**

Changes to the **Criminal Code of Canada** and the **Canada Evidence Act** on January 1, 1988, created new child sexual abuse offences (a – j) and expanded the opportunities for Courts to receive children's testimony in cases of child sexual abuse.

Provincial child protection legislation is used to place children under protective supervision or to remove them from abuse situations. On the other hand, the following sexual offences in the **Criminal Code** (federal legislation) apply to **child sexual abuse:**

- (a) sexual interference (of a child under 14),
- (b) invitation to sexual touching,
- (c) sexual exploitation of a young person (age 14 – 18),
- (d) anal intercourse,
- (e) bestiality,
- (f) parent or guardian procuring the sexual activity of a child,
- (g) householder permitting sexual activity,
- (h) exposing genitals to a child (under 14),
- (i) vagrancy,
- (j) offences in relation to juvenile prostitution,
- (k) incest,
- (l) corrupting children,
- (m) indecent acts,
- (n) sexual assault,
- (o) sexual assault with a weapon, threats to a third party, or causing bodily harm, and
- (p) aggravated sexual assault.

Sexual activity without consent is always a crime, regardless of the age of the individuals. The definitions of the crimes in the new law reinforce the fact that children need to be protected. Persons

---

**3 Revised Manitoba Guidelines on Identifying and Reporting a Child in Need of Protection (Including Child Abuse) – “Manitoba Guidelines”**

**4 See Addendum I for excerpted sections of the Criminal Code of Canada and the Canada Evidence Act.**

who sexually abuse children cannot avoid criminal responsibility by claiming a child "consented" to the abuse.

**Children under 12** are never considered able to consent to sexual activity. **Children 12 or more, but under 14**, are deemed unable to consent to sexual acts except under specific circumstances involving sexual activity with their peers. **Young persons 14 or more, but under 18**, are protected from sexual exploitation and their consent is not valid if the person touching them for a sexual purpose is in a position of trust or authority over them, or if they are in a relationship of dependency with that person.

It is not a defence to these crimes for the accused to say that he or she believed the young person was older. The person accused of the crime has to prove that all "reasonable steps," such as asking for identification showing proof of age, were taken.

It is recognized that adolescents, as part of their normal development, may engage in some sexual exploration. To allow for this, the law says that it is not a crime for two adolescents who are close to the same age to agree to sexual activity. The consent of both adolescents is, of course, essential.

In cases where the alleged victim is 12 or more, but under 14, the defence that the victim consented to the sexual activity can therefore be raised by an adolescent accused of sexual abuse. The defence can be accepted by the Court if the accused is less than two years older than the victim, but not yet 16 years of age. However, the defence is not available if the accused is in a **position of trust or authority** in relation to the victim, or if the victim is in a relationship of dependency with the accused. The age of consent for anal intercourse taking place in private between consenting individuals is 18, unless the young persons are married to each other.

## 2. Reporting by Physicians:

**Many professionals believe that they must be able to prove abuse before reporting it. This concept is incorrect. The Child and Family Services Act** requires any person to **report a child in need of protection (including child abuse)** to an agency or a parent or guardian. *It is the responsibility of an agency, which means a child and family services agency and/or the police, to investigate.*

The current legislation states "**... where a person has information that leads the person reasonably to believe that a child is or might be in need of protection ..., the person shall forthwith report the information to an agency or to a parent or guardian of the child.**" The key words in understanding the legal obligation to report are "**reasonably to believe.**" The obligation to report is based on what a reasonable person ought to do in a given situation.

In those cases where a physician has **information that leads the physician reasonably to believe** that a child is or might be in need of protection or that this may be a suspected or alleged case of child abuse, the physician shall immediately report the information to the appropriate local child and family services agency (all of whom should provide access 24 hours a day, 7 days a week).

In most situations, a **physician will notify an agency where:**

- (a) a physician does not know the identity of the parent or the guardian of the child;
- (b) a physician has information that leads the person reasonably to believe that the parent or guardian
  - (i) is responsible for causing the child to be in need of protection; or
  - (ii) is unable or unwilling to provide adequate protection to the child in the circumstances; or
- (c) a physician has information that leads the person reasonably to believe that the child is or might be suffering abuse.

There are multi-disciplinary/regional abuse teams/committees in all regions with special training and expertise in protection/abuse investigations, who are available for consultation.

Under the **Revised Manitoba Guidelines on Identifying and Reporting a Child in Need of Protection (including Child Abuse)**, agencies, the police and medical/health professionals are required to **consult immediately** with each other upon notification of an incident.

In Manitoba, **the duty to report** "... applies even where the person has acquired the information through the discharge of professional duties or within a confidential relationship ..." This subsection excludes only information shared between a lawyer and a client.

The legislation places a **continuing obligation on a physician to report** a child in need of protection to an agency where the parent or guardian is unable or unwilling to provide adequate protection to the child. **No action lies against a physician who in good faith reports a child in need of protection. Furthermore, the identity of the reporting physician is not to be disclosed** to the family of the child except as may be required in the course of a judicial proceeding.

It is the role and mandate of the child and family services agency and the police to investigate immediately and to determine whether or not abuse has occurred and what the appropriate actions should be.

It is expected that the management of child abuse cases within a hospital setting will be from an interdisciplinary perspective and that a hospital child abuse team should be a member of the **regional/agency abuse committee** involving the local Child and Family Services agency, law enforcement, medical/health personnel and other related professionals.

It is essential that physicians and local hospitals should be familiar with the key regional child protection/abuse workers, police and/or related professionals.

Once the matter is reported to an agency, the responsibility of determining whether a child is "in need of protection" rests primarily with the agency as mandated under the Act, and in taking the action necessary for the protection of the child.

### 3. Release of Medical Information: Law and Ethics and The Personal Health Information Act (PHIA)

Confidentiality was for many years a state of **voluntary** non-disclosure, and was governed by codes of ethics, the usual norm that prevented disclosure. The Personal Health Information Act of Manitoba (June 1998) now outlines the legal obligation to confidentiality. Section 22(2), however, allows a physician to release personal health information without patient consent where “**use of the information is authorized by an enactment of Manitoba or Canada.**” This includes:

- (i) where a child is "in need of protection" under s.18 of the **Child and Family Service Act**,
- (ii) where information is subpoenaed or when the person with the information or records is required by **subpoena** to produce.

### 4. Failure to Report:

**Failure to report** by any professional can have three serious consequences:

- (1) The **child will not receive the protection** required and/or is likely to sustain further abuse.
- (2) The **family situation is likely to continue to deteriorate**, putting the youngster (and any siblings) at further risk.
- (3) The doctor could face both **legal and professional penalties** as a result of the matter being reported to the College of Physicians and Surgeons, that is "... where the director has reasonable grounds to believe that a person has caused a child to be "in need of protection" as provided under **The Child and Family Services Act** of Manitoba or has failed to report information in accordance with the legislation, the director may report the physician "to the professional society or association or regulatory organization of which the person is a member or that governs the professional status of the person."<sup>5</sup>

The **Act** further states that:

**"Where a professional society or association or regulatory organization receives a report of a person under subsection (1), the professional society or association or regulatory organization shall investigate the matter for the purpose of determining whether the professional status of the person ought to be reviewed or disciplinary proceedings commenced against the person.**<sup>6</sup> Such actions can result in the physician being charged with a summary conviction offence.

---

<sup>5</sup> Manitoba Guidelines

<sup>6</sup> Manitoba Guidelines

## 5. Death of a Child:

In accordance with Section 7(9) of **The Fatality Inquiries Act**, all children's deaths are reportable to a medical examiner regardless of the apparent cause of death.

The medical examiner will determine if a child's death was natural, if the child was attended by a physician or delegate in the period of 14 days preceding death, **and** if the cause of death is known with reasonable medical probability. Under these circumstances, the death certificate may be signed by the attending physician.

In all cases where the manner of death is nonnatural (accident, suicide, homicide or undetermined), autopsies are **mandatory** and must be performed by a pathologist at either Westman Laboratories in Brandon or the Children's Hospital in Winnipeg. The pathologist will take routine swabs (whether or not a history of sexual abuse was given), collect exhibits for full toxicology and, in many cases, order total body X-rays. The death certificate will be signed by the Medical Examiner.

Medicolegal autopsy reports are available to physicians at no cost upon written request to the Office of the Chief Medical Examiner. In those cases where charges are pending or have been laid, the release of these reports requires approval of the Crown Attorney's office. (See Addendum II).

## IV. THE INVESTIGATIVE PROCESS

The Act requires an agency to immediately investigate a report that a child is, or reasonably might be, in need of protection. This process involves the following steps:

### (1) Investigation and verification, including the following activities:

- Decisions and actions on behalf of the child focusing on the child's safety and well-being.
- Immediate consultation and coordination with other professionals involved, with particular attention to medical, police and agency personnel.
- Mutual sharing of all relevant information by the agencies and professionals involved in the investigations and treatment process.
- Decisions and actions with the parents/ guardians, focusing on the investigation and verification of the allegations with immediate follow-up steps, plans for co-ordination and preparation for possible court attendance.
- Further interviews and discussions with family members, friends and relatives as indicated as part of the community resource network.

### (2) Decisions and actions concerning legal disposition

- In case of an apprehension, if the child is not to be returned home immediately, the child and family services agency must proceed to court within four days.

- Documentation and information for court presentation must be prepared even though, in some cases, no court appearance takes place.
- Ongoing contact with the child and family occurs based on the decisions by the multidisciplinary team or court orders, such as Orders of Supervision, Temporary or Permanent Guardianship. The child may remain at home, may be removed temporarily and returned or may be removed permanently from the parent and/or caregiver (see Section V - Court and Confidentiality).

### **(3) Agency Child Abuse Committees**

The provincial regulations of **The Child and Family Services Act** set out specific procedures to be followed in the management of child abuse cases. The Act requires agency abuse committees to review *all suspected cases of child abuse*.

Child abuse committees are composed of persons from many disciplines and include the agency child abuse co-ordinator, a qualified medical practitioner, local law enforcement personnel, a representative from the local school division, plus any others who may have significant input (e.g. Probation Services, Elder).

### **(4) Reporting to the Provincial Abuse Registry**

The Director of Child and Family Services is required by the Act to maintain a Child Abuse Registry. Upon completion of a full abuse investigation, an agency, where there is a finding of abuse (and upon the review of the agency's child abuse committee) may submit to the Director of Child and Family Services the names of individuals for entry in the registry where:

- (a) that individual has been convicted of abusing the child;
- (b) a court finds on the basis of abuse by that individual(s) that a child is in need of protection; or
- (c) where an agency's child abuse committee **has reviewed** the case and is of the opinion that the child has been a victim of abuse and/or a person has abused a child, the names of the abuser will be forwarded to the Director.

Under (c), the abuser will be given notification of a committee's intent to discuss registration. That individual will have 30 days in which to provide any further information to the committee for their discussion. If the committee decides to proceed with registration the individual will be notified. If he/she wishes to appeal, a separate appeal hearing will occur in the Court of Queen's Bench.

### **(5) Criminal prosecution**

- In all cases of physical and sexual abuse the Crown Attorney shall determine the appropriateness of laying any charges upon completion of the preliminary investigation by the regional abuse team.
- In circumstances where the seriousness and urgency of the case dictates, charges may be laid without prior consultation. It is expected, however, that subsequently there will be ongoing consultation from the initial reporting to the final disposition.

## (6) Medical Evidence

- Medical practitioners are often requested to assess a child in the context of possible abuse. Physicians can at anytime consult with the Child Protection Centre at Children's Hospital at (204)787- 2811 for advice, or to refer a patient. The results of the medical examination are to be communicated (preferably in writing) to the investigating agency.
- To assist physicians in the role of formulating an accurate diagnosis, in facilitating a comprehensive medical examination or in hospitalizing the child potentially at risk, guidelines and forms have been developed:
  - (a) ***Child and Adolescent Physical Assault Form; [the CAPA Form]*** and
  - (b) ***Child and Adolescent Sexual Assault Form (for examination within 48 hours of assault) [the CASA Form]***.

These forms and their use are discussed in more detail in Part II of these guidelines.

## V. COURT AND CONFIDENTIALITY

**The following processes apply in general although each case is specific to its circumstances and variations may occur.**

1. Child abuse cases can be legally processed by two routes (which often occur simultaneously):
  - (1) the Family Court and
  - (2) the Criminal Court.Therefore the legislation that principally guides child protection services is to be found either in:
  - (a) **The Child and Family Services Act (Manitoba)**
  - (b) **The Criminal Code (Canada).**
2. It is important to note that where a child is defined to be in need of protection, an apprehension hearing will take place in **Family Court**. This type of hearing will take place regardless of whether a criminal hearing is scheduled to take place.
3. In order for an abuse case to be heard in Family Court, the Child and Family Services agencies will have investigated a report of abuse in a child. This means that, as well as interviewing the child and family, the agency will have sought information from pertinent collateral sources.
4. As a result of this investigation, the agency will determine whether or not it is necessary to remove the child from the home (apprehension). When apprehension of a child occurs, evidence must

subsequently be presented in Family Court. The court hearing is necessary in order to facilitate an impartial inquiry regarding the child's need for protection and to allow the parents to present (with legal representation) their interpretation of the events of concern to the agency.

5. Generally, a Family Court hearing does not attempt to find a guilty party. It attempts to answer the question, "Is the child in need of protection?" If the judge finds the child to be in need of protection, he or she will grant the application (made by the agency) for an Order of Guardianship or Supervision of the child. With the exception of extreme cases of child abuse (for example, the child permanently disabled by the abusive injury or a previous history of abusive injuries) this Order of Guardianship (granted at a first hearing) would be a Temporary Order of Guardianship.
6. Permanent Orders of Guardianship of a child are rarely requested at a first hearing. It is hoped that during the period of temporary guardianship, the parents will be able (with help) to make the type of changes that would result in a non-abusive home environment. The Temporary Order of Guardianship also allows the child to receive, through substitute care, the nurturing and stimulation appropriate to his/her age and developmental stage, thus helping to ameliorate some of the deficits of the abusive home.
7. In addition to the Family Court hearing, a **Criminal Court** hearing may be scheduled for the same case. It is important to note that the criminal process varies considerably from that of Family Court. For a Criminal Court hearing to take place, charges must be laid against one or both parents (or other persons). The primary purpose in Criminal Court is to determine the guilt or innocence of the alleged offender(s), not the protection needs of the child. This does not mean that the Criminal Court disregards the needs of the child but that the focus is different from that of Family Court.
8. In those cases where an alleged offender is found guilty in the Criminal Court, sentencing will take place as it would for any other criminal offence. Therefore, a person found to be guilty of child abuse may be put on probation or given a jail sentence. Sentencing can occur in Criminal Court regardless of the decision made in Family Court. On the other hand, a guardianship order can be made in Family Court even if the alleged offender is found not guilty in Criminal Court. Therefore, the two processes can be viewed as separate in intention and focus, but both related to abuse allegations.
9. Manitoba, like other provinces, has developed guidelines for helping to determine which cases should be referred to Criminal Court. All sexual abuse cases are referred to the police (special unit) for investigation. The police, in consultation (where necessary) with the crown prosecutor, determine whether charges will be laid. If charges are laid, the case will be processed through the criminal system.
10. Physical abuse cases, where there are serious injuries that can be conclusively determined to be abusive in nature (by medical practitioner), are usually referred to the police for investigation. If charges are laid, the case will be processed through the criminal system in the same manner as sexual abuse cases.
11. In both types of abuse, the difficulty in criminal prosecution is related to the type of evidence that is admissible in Criminal Court. When abuse occurs in young children (particularly nonverbal children) and there are no witnesses to the abusive act, it is often difficult to proceed in Criminal

Court unless there is corroboration such as medical evidence. Recent changes in the Criminal Code have reduced, but not completely eliminated, these difficulties.

## 12. Family and Criminal Court Appearances

Physicians may be called to testify either in Family Court or as a part of the proceedings in Criminal Court. Clear **documentation** of your findings and actions undertaken is advised. The forms provided in the addenda are recommended. As Court proceedings are complex, you may wish to request assistance in organizing Court testimony. This may be available depending on the purposes of your testimony, from the Crown Attorney, the legal counsel for the child and family services agency, or the legal counsel of your choice, preferable one who has a background in family law. Upon receiving a subpoena, a physician should call the Crown Attorney or defence lawyer to arrange an appropriate time for court attendance, and discuss what evidence will be required at that time.

## 13. Confidentiality

Under the **Revised Manitoba Guidelines**, it is noted that ***"to ensure that the best course of action is taken in every case, there should be a mutual sharing of all relevant information by the agencies and professionals involved in the investigation."***

The **rules of medical confidentiality** and **The Personal Health Information Act** apply but, it is important to remember that **The Child and Family Services Act takes precedence** in dealing with all children "in need of protection."

## VI. CONCLUDING REMARKS

It is expected that the management of child abuse will be from an interdisciplinary perspective, with the protection of children and families as a central focus. Physicians play an important role in bringing together resources in hospital with those in the community to provide optimal care. As part of the continuing commitment to providing sound and effective services to children and families at risk, physicians play an often critical role in the identification, treatment and subsequent prevention of child abuse through their expertise, their knowledge and experience.

# **ADDENDUM I**

## **EXCERPTED FEDERAL LEGISLATION**

### **LAWS PERTAINING TO ASSAULT AND SEXUAL ASSAULT (CRIMINAL CODE OF CANADA)**

#### **Assault**

265. (1) A person commits an assault when

- a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- b) he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe upon reasonable grounds that he has, present ability to effect his purpose; or
- c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

(2) Application:

This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

(3) Consent:

For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

- a) the application of force to the complainant or to a person other than the complainant;
- b) threats or fear of the application of force to the complainant or to a person other than the complainant;
- c) fraud; or
- d) the exercise of authority.

(3) Accused's belief as to consent:

Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.

#### **Sexual Assault**

271. (1) Every one who commits a sexual assault is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding ten years; or
- (b) an offence punishable on summary conviction.

#### **Sexual Assault with a Deadly Weapon, Threats to Third Party causing Bodily Harm**

272. Every one who, in committing a sexual assault,

- (a) carries, uses or threatens to use a weapon or an imitation thereof,
- (b) threatens to cause bodily harm to a person other than the complainant,
- (c) causes bodily harm to the complainant, or
- (d) is a party to the offence with any other person, and is guilty also of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

### **Aggravated Sexual Assault**

273.(1) Every one commits an aggravated sexual assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.

(2) Every one who commits an aggravated sexual assault is guilty of an indictable offence and is liable to imprisonment for life.

#### **Corroboration Required**

274. Where an accused is charged with an offence under section 151 (Sexual Interference), 152 (invitation to Sexual Touching), 153 (Sexual Exploitation), 155 (incest), 159 (Anal Intercourse), 160 (Bestiality), 170 (Parent or Guardian Procuring Sexual Activity), 171 (Householder Permitting Sexual Activity), 172 (Corrupting Children), 173 (indecent Acts), 212 (Procuring), 272 (Sexual Assault with a Deadly Weapon ...), or 273 (Aggravated Sexual Assault), no corroboration is required for a conviction and the judge shall not instruct the jury that it is unsafe to find the accused guilty in the absence of corroboration.

### **Evidence of Complainant's Sexual Activity - Idem Factors that judge must consider**

276. (1) In proceedings in respect of an offence under section 151, 152, 153, 155 or 159, subsections 160(2) or (3), or section 170, 171, 172, 173, 271, 272 or 273, evidence that the complainant has engaged in sexual activity, whether with the accused or with any other person, is not admissible to support an inference that, by reason of the sexual nature of that activity, the complainant

(a) is more likely to have consented to the sexual activity that forms the subject-matter of the charge;

or

(b) is less worthy of belief.

(2) In proceedings in respect of an offence referred to in subsection (1), no evidence shall be adduced by or on behalf of the accused that the complainant has engaged in sexual activity other than the sexual activity that forms the subject-matter of the charge, whether with the accused or with any other person, unless the judge, provincial court judge or justice determines, in accordance with the procedures set out in sections 276.1 and 276.2, that the evidence

(a) is of specific instances of sexual activity;

(b) is relevant to an issue at trial; and

(c) has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.

(3) In determining whether evidence is admissible under subsection (2), the judge, provincial court judge or justice shall take into account

(a) the interests of justice, including the right of the accused to make a full answer and defence;

(b) society's interest in encouraging the reporting of sexual assault offences;

- (c) whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case;
- (d) the need to remove from the fact-finding process any discriminatory belief or bias;
- (e) the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury;
- (f) the potential prejudice to the complainant's personal dignity and right of privacy;
- (g) the right of the complainant and of every individual to personal security and to the full protection and benefit of the law; and
- (h) any other factor that the judge, provincial court judge or justice considers relevant.

### **Reputation Evidence**

277. In proceedings in respect of an offence under section 151, 152, 153, or 159, subsection 160(2) or (3), or section 170, 171, 172, 173, 271, 272, or 273, evidence of sexual reputation, whether general or specific, is not admissible for the purpose of challenging or supporting the credibility of the complainant.

### **Spouse May Be Charged**

278. A husband or wife may be charged with an offence under section 271, 272 or 273 in respect of his or her spouse whether or not the spouses were living together at the time the activity that forms the subject-matter of the charge occurred.

## **CHILD SEXUAL ABUSE LEGISLATION (CRIMINAL CODE OF CANADA)**

### **Consent No Defence**

150.1(1) Where an accused is charged with an offence under section 151 or 152 or subsection 153(1), 160(3) or 173(2) or is charged with an offence under section 271, 272 or 273 in respect of a complainant under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge.

(2) Notwithstanding subsection (1), where an accused is charged with an offence under Section 151 or 152, subsection 173(2) or section 271 in respect of a complainant who is twelve years of age or more but under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge unless the accused

- (a) is twelve years of age or more but under the age of sixteen years;
- (b) is less than two years older than the complainant; and
- (c) is neither in a position of trust or authority towards the complainant or is a person with whom the complainant is in a relationship of dependency.

(3) No person aged twelve or thirteen years shall be tried for an offence under section 151 or 152 or subsection 173(2) unless the person is in a position of trust or authority towards the complainant is in a relationship of dependency.

(4) It is not a defence to a charge under section 151 or 152, subsection 160(3) or 173(2), or section 271, 272 or 273 that the accused believed that the complainant was fourteen years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

(5) It is not a defence to a charge under section 153, 159, 170, 171 or 172 or subsection 212(2) or (4) that the accused believed that the complainant was eighteen years of age or more at the time the offence is alleged to have been committed unless the accused took all reasonable steps to ascertain the age of the complainant.

### **Sexual Interference**

151. Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Invitation to Sexual Touching**

152. Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Sexual Exploitation**

153.(1) Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.

(2) In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

### **Incest**

155.(1) Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.

(2) Every one who commits incest is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

(3) No accused shall be determined by a court to be guilty of an offence under this section if the accused was under restraint, duress or fear of the person with whom the accused had the sexual intercourse at the time the sexual intercourse occurred.

(4) In this section, "brother" and "sister", respectively, include half-brother and half-sister.

### **Anal Intercourse**

159.(1) Every person who engages in an act of anal intercourse is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(2) Subsection (1) does not apply to any act engaged in, in private, between (a) husband and wife, or (b) any two persons, each of whom is eighteen years of age or more, both of whom consent to the act.

(3) For the purposes of subsection (2),

- (a) an act shall be deemed not to have been engaged in private if it is engaged in in a public place or if more than two persons take part or are present; and
- (b) a person shall be deemed not to consent to an act
  - (i) if the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent misrepresentations respecting the nature and quality of the act, or
  - (ii) if the court is satisfied beyond a reasonable doubt that that person could not have consented to the act by reason of mental disability.

### **Bestiality**

160.(1) Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(2) Every person who compels another to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(3) Notwithstanding subsection (1), every person who, in the presence of a person under the age of fourteen years, commits bestiality or who incites a person under the age of fourteen years to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

### **Parent or Guardian Procuring Sexual Activity**

170. Every parent or guardian of a person under the age of eighteen years who procures that person for the purpose of engaging in any sexual activity prohibited by this Act with a person other than the parent or guardian is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person procured for that person is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person so procured is fourteen years of age or more but under the age of eighteen years.

## **Householder Permitting Sexual Activity**

171. Every owner, occupier or manager of premises or other person who has control of premises or assists in the management or control of premises who knowingly permits a person under the age of eighteen years to resort to or to be in or on the premises for the purpose of engaging in any sexual activity prohibited by this Act is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, if the person in question is under the age of fourteen years, or to imprisonment for a term not exceeding two years if the person in question is fourteen years of age or more but under the age of eighteen years.

## **Corrupting Children**

172. (1) Every one who, in the home of a child, participates in adultery or sexual immorality or indulges in habitual drunkenness or any other form of vice, and thereby endangers the morals of the child or renders the home an unfit place for the child to be in, is guilty of an indictable offence and liable to imprisonment.

## **Indecent Acts**

173.(l) Every one who willfully does an indecent act  
(a) in a public place in the presence of one or more persons, or  
(b) in any place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.

## **Procuring**

212.(1) Every one who  
(a) procures, attempts to procure or solicits a person to have illicit sexual intercourse with another person, whether in or out of Canada,  
(b) inveigles or entices a person who is not a prostitute or a person of known immoral character to a common bawdy-house or house of assignation for the purpose of illicit intercourse or prostitution,  
(c) knowingly conceals a person in a common bawdy-house or house of assignation,  
(d) procures or attempts to procure a person to become, whether in or out of Canada, a prostitute,  
(e) procures or attempts to procure a person to leave the usual place of abode of that person in Canada, if that place is not a common bawdyhouse, with intent that the person may become an inmate or frequenter of a common bawdy-house, whether in or out of Canada,  
(f) on the arrival of a person in Canada, directs or causes that person to be directed or takes or causes that person to be taken, to a common bawdy-house or house of assignation,  
(g) procures a person to enter or leave Canada, for the purpose of prostitution,  
(h) for the purposes of gain, exercises control, direction or influence over the movements of a person in such manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally,  
(i) applies or administers to a person or causes that person to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower that person in order thereby to enable any person to have illicit sexual intercourse with that person, or  
(j) lives wholly or in part on the avails of prostitution of another person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

(2) Notwithstanding paragraph (1)(j), every person who lives wholly or in part on the avails of prostitution of another person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

(3) Evidence that a person lives with or is habitually in the company of a prostitute or lives in a common bawdy-house or in a house of **assignation is**, in the absence of evidence to the contrary, proof that the person lives on the avails of prostitution, for the purposes of paragraph (1) (j) and subsection (2).

(4) Every person who, in any place, obtains or attempts to obtain, for consideration, the sexual services of a person who is under the age of eighteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

#### **CANADA EVIDENCE ACT PROVISIONS SECTION 16, "WITNESS WHOSE CAPACITY IS IN QUESTION..."**

16. (1) Where a proposed witness is a person under fourteen years of age or a person whose mental capacity is challenged, the court shall, before permitting the person to give evidence, conduct an inquiry to determine a) whether the person understands the nature of an oath or a solemn affirmation; and b) whether the person is able to communicate the evidence.

(2) A person referred to in subsection (1) who understands the nature of an oath or a solemn affirmation and is able to communicate the evidence shall testify under oath or solemn affirmation.

(3) A person referred to in subsection (1) who does not understand the nature of an oath or a solemn affirmation but is able to communicate the evidence may testify on promising to tell the truth.

(4) A person referred to in subsection (1) who neither understands the nature of an oath or a solemn affirmation nor is able to communicate the evidence shall not testify.

(5) A party who challenges the mental capacity of a proposed witness of fourteen years of age or more has the burden of satisfying the court that there is an issue as to the capacity of the proposed witness to testify under oath or a solemn affirmation.

# ADDENDUM II

## DEATH OF A CHILD: GUIDELINES FOR AUTOPSY PROCEDURE

Mandated autopsies are performed on all "nonnatural" child deaths in accordance with standards set by the Provincial Chief Medical Examiner. (For details, see the Protocols of the CME.)

The **Fatality Inquiries Act** requires that the autopsy be performed by a pathologist at either the Children's Hospital, Health Sciences Centre in Winnipeg or at the Westman Laboratories in Brandon.

Total body X-rays are done and full toxicological analysis is performed. In addition, swabs for the detection of sexually transmitted diseases (STD) are taken. Metabolic screening is done for the detection of congenitally inherited disease processes. If at all possible, in any suspected violent death, the autopsy is attended by the Police Department's Identification Unit. In Winnipeg, consultation is sought from the Children's Hospital Child Protection Centre prior, during, and following the autopsy procedure.

The Office of the CME in Manitoba is responsible under the Fatality Inquiries Act and Vital Statistics Act for the inquiry/investigation and certification of all deaths by violence, as well as unexpected, unexplained or unattended deaths. In the event of a child-in-care, the CME shall review the actions taken by the Child and Family Services Agency(cies).

In 1992, the CME established the Children's Inquest Review Committee (CIRC) including representation from the CME's Office; the criminal justice system (the Assistant Deputy Attorney-General) and the police (both Royal Canadian Mounted Police and the Winnipeg Police Services Youth Division/Child Abuse Unit); the pediatric pathologist from Children's Hospital and the Director of the Child Protection Centre; the Assembly of Manitoba Chiefs; the Child and Family Support Branch; the College of Physicians and Surgeons: Child Health Standards Committee; the Provincial Advisory Committee on Child Abuse and the Provincial Children's Advocate. The CME chairs CIRC, which reviews all non-natural child deaths in Manitoba on a monthly basis. Following initial notification, the CME determines which child deaths will be reviewed by CIRC for the purposes of recommending whether an inquest should be called.

### DEATH OF A CHILD

#### I. NOTIFICATION

All children's deaths must be reported to the Chief Medical Examiner's Office

#### II. INQUIRY

Medical Examiner or Medical Examiner's Investigation to ascertain cause and manner of death

##### Natural Death

Vital Statistics (3 criteria)  
natural - known cause - attended  
Attending physician may sign death certificate

#### III. INVESTIGATION (WITH OR WITHOUT AUTOPSY)

-Involves a medical examiner to determine cause and manner of death

-Medical Examiner **must** sign death certificate

##### Criminal Code of Canada

Death reported to law enforcement authorities and Crown Attorney's Office

#### IV. INQUEST REVIEW BOARD

##### Child and Family Services

(Child in care)  
Report generated to Minister of Family Services with recommendations of Chief Medical Examiner

##### Hospital/MAN/College of Physicians and Surgeons

If there are complaints concerning standards of care

##### Provincial Advisory Committee on Child Abuse

##### College of Physicians and Surgeons (Child Health Standards Committee)

#### V. INQUEST

Judge issues a report with recommendations

# ADDENDUM III

## BIBLIOGRAPHY AND SELECTED READINGS

"AAP Guidelines for the Evaluation of Sexual Abuse in Children." Pediatrics. Vol.87, No. 2, February 1991.

**Child Maltreatment in Canada: Canadian Incidence Study of Report Child Abuse and Neglect – Selected Results.** Health Canada 2001. Editors Nico Trocme et al.

**Canadian Paediatric Society Statement: The Paediatrician's Role in Child Sexual Abuse.** Canadian Paediatric Society's Secretariat: 401 Smyth Road, Ottawa, Ontario, K1H 8L1; Telephone: (613) 737-2728; Fax: (613) 737-2794.

Chu, James A. and Dill, Diana L.: "Disassociative Symptoms in Relation to Childhood Physical and Sexual Abuse." American Journal of Psychiatry 147:7, July 1990 - Pages 887-892.

Feldman, Kenneth W. (1992). Patterned abusive bruises of the buttocks and the pinnae. Pediatrics, 90(4), 633-636.

Government of Manitoba, Revised Manitoba Guidelines on Identifying and Reporting a Child in Need of Protection (including Child Abuse), 1999

Heger, A., Emans, S.J., Muram, D., "Evaluation of the Sexually Abused Child", Oxford University Press, Inc © 2000

Kessler, Daniel B. and Hyden, Philip: **CLINICAL SYMPOSIA: Physical, Sexual, and Emotional Abuse of Children.** No. 2 (Canada), 1991. Published by CIBA Pharmaceutical Company, Division of CIBA-GEIGY Corporation - CME, Pharmaceuticals Division, CIBA-GEIGY Canada Ltd., 6860 Century Avenue, Mississauga, Ontario, L5N 2W5.

Lindsay, D.; Embree J. - "Sexually Transmitted Diseases: A Significant Complication of Childhood Sexual Abuse." Canadian Journal of Infectious Diseases. Vol.3, No.3. May/June 1992.

Ludwig, Stephen, & Levin, Alex V. (1991). Proceedings of the first North American conference on child abuse and neglect. Pediatric Emergency Care, 7(5), 310-320.

McCann, J. et al: "Genital Findings in Prepubertal Girls Selected for Non-abuse: a Descriptive Study". Pediatrics. Vol. 86, No. 3, September 1990.

McRae, K.N., Hurd, J., Ferguson, C.A., Longstaffe, S., and Gutkin, R., (1984). **"The Winnipeg Children's Hospital, Child Protection Centre: A Provincial Medical Initiative."** Canadian Medical Association Journal, 130, Pages 981-984.

McRae, K.N., Cameron, A., Ferguson, C.A., Loadman, E., Longstaffe, S., and Snyder, R., (1984). "The Forensic Paediatrician as Child Advocate." Developmental and Behavioral Paediatrics, 5(5), Pages 259-262.

Reece, Robert, Ludwig, Stephen, " **Child Abuse, Medical Diagnosis and Management**" Lippincott Williams & Wilkins © 2001

Rivera, Margo - **Multiple Personality: An Outcome of Child Abuse.** Toronto: Education/Disassociation, 1991.

Rogers, Rix G.: Reaching for Solutions: The Report of the Special Advisor to the Minister of National Health and Welfare on Child Sexual Abuse in Canada (1990). Copies may be obtained through: National Clearinghouse on Family Violence, Health and Welfare Canada, Ottawa, Ontario, K1A 1B5. Toll-free: 1-800-267-1291.

"Sexual Abuse: Sexually Transmitted Diseases in Children". CMAJ: Vol. 134, June 1996.

Sigurdson, E., Strang, M., Doig, T., (1987, October). **"What do Children Know About Preventing Sexual Abuse? How Can Their Awareness be Increased?"** Canadian Journal of Psychiatry 32, Pages 551-557

Sigurdson, Eric, and Reid, Grant: **Child Abuse and Neglect: The Manitoba Risk Estimation System (MRES)** (Copyright) Reference Manual. December 1992.

Wells, Mary: **Canada's Law on Child Sexual Abuse: A Handbook.** Minister of Justice and Attorney General of Canada. Communications and Public Affairs, Department of Justice Canada, Ottawa, Ontario, K1A 0H8. Telephone: (613) 957-4222. 1990.