Infection Prevention and Control Lapse Disclosure Guidance Document

This document is in support of the Infection Prevention and Control Practices Complaint Protocol, 2008 (or as current), the Infectious Diseases Protocol, 2008 (or as current), and the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or as current) under the Ontario Public Health Standards.

Population and Public Health Division
Ministry of Health and Long-Term Care

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# Table of Contents

1. Introduction .................................................................................................................. 3  
   1.1 Disclaimer ............................................................................................................. 3  
2. Identifying a Lapse ...................................................................................................... 4  
   2.1 Definition ............................................................................................................. 4  
   2.2 Scope of requirements ......................................................................................... 4  
3. Initial Report .............................................................................................................. 5  
   3.1 Content of the Initial Report ................................................................................ 5  
   3.2 Process for Posting the Initial Report ................................................................. 6  
4. Final Report .............................................................................................................. 6  
   4.1 Content of the Final Report ................................................................................ 7  
   4.2 Process for Posting the Final Report ................................................................... 7  
5. Content of the Website ............................................................................................ 7  
   5.1 Preamble ............................................................................................................. 8  
6. Reporting to the Ministry ......................................................................................... 8  
7. References ............................................................................................................... 8  
   Appendix A: Flow of Information and When to Post an IPAC Lapse Identified via a  
               Complaint or Referral ....................................................................................... 10  
   Appendix B: Sample Initial and Final Report Template ............................................ 11
1. Introduction

The Ontario Public Health Standards (OPHS) specify the minimum public health programs and services that all boards of health are required to provide. The OPHS are published by the Minister of Health and Long-Term Care under section 7 of the Health Protection and Promotion Act (HPPA). The OPHS are supported by incorporated protocols that further delineate expectations for carrying out the standards’ requirements. The Infection Prevention and Control Practices Complaint Protocol, 2008 (or as current), the Infectious Diseases Protocol, 2008 (or as current), and the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or as current) are part of the Infectious Diseases Prevention and Control Program Standard.

The purpose of the Infection Prevention and Control Practices Complaint Protocol, 2008 (or as current) is to provide direction to boards of health with respect to reporting, investigating and responding to infection prevention and control complaints. The purpose of the Infectious Diseases Protocol, 2008 (or as current) is to provide boards of health with direction with respect to the prevention and management of infectious diseases of public health importance. The purpose of the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or as current) is to provide direction to boards of health to minimize the risk of contracting blood-borne and other types of infections for both clients and personal services workers during the delivery of personal services.

This guidance document was created to assist and direct boards of health with the disclosure of identified infection prevention and control (IPAC) lapses as required in the OPHS and Protocols. This guidance document pertains only to public disclosure of IPAC lapses and does not address other public health activities related to the management or investigation of IPAC lapses.

The Infection Prevention and Control Practices Complaint Protocol, 2008 (or as current), the Infectious Diseases Protocol, 2008 (or as current), and the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or as current) require boards of health to follow the protocols in accordance with this Guidance Document. “In accordance with” means that the requirements in this guidance document are mandatory activities for boards of health to undertake under the OPHS.

1.1 Disclaimer

This guidance document is not intended to provide legal advice or to be a substitute for the professional judgement of staff employed by local boards of health or legal counsel. Professional staff employed by local boards of health should consult with their manager and/or legal counsel, as appropriate. Where there is conflict between this guidance
document, the *Infection Prevention and Control Practices Complaint Protocol*, the *Infectious Diseases Protocol*, and the *Infection Prevention and Control in Personal Services Settings Protocol*, the OPHS, the HPPA or its regulations, the *Infection Prevention and Control Practices Complaint Protocol*, the *Infectious Diseases Protocol*, the *Infection Prevention and Control in Personal Services Settings Protocol*, OPHS, HPPA or its regulations, as the case may be, shall prevail.\(^3, 4, 5, 1, 2\)

### 2 Identifying a Lapse

#### 2.1 Definition

A lapse is defined as a deviation from IPAC standard of care, based on current IPAC standard of care documents from the Provincial Infectious Diseases Advisory Committee (PIDAC), Public Health Ontario (PHO), or the Ministry of Health and Long-Term Care (“the ministry”), where available, that the medical officer of health or designate believes on reasonable and probable grounds has or may result in infectious disease transmission to the premises’ clients, attendees or staff through exposure to blood, body fluids and/or potentially infectious lesions.

If breaches in IPAC are identified but the medical officer of health or designate does not believe that the breach would result in an infectious disease transmission to the premises’ clients, attendees or staff, the definition of a lapse has not been met and there is no need for a public report. The flow chart in Appendix A of this Guidance Document identifies when an Initial or Final Report of a lapse identified via complaint or referral is required to be publicly posted.

#### 2.2 Scope of requirements

The disclosure requirements relate to all IPAC lapses that become known through complaints, referrals, or communicable disease surveillance in the following settings:

- Personal services settings;
- Settings not routinely inspected by the board of health; and
- Settings in which the lapse is linked to the conduct of a regulated health professional.

This does not include complaints or referrals regarding health hazards in the environment.
3 Initial Report

An Initial Report must be completed and posted online by a board of health if a medical officer of health or designate becomes aware of and identifies an IPAC lapse. The lapse could be identified as a result of a complaint, communicable disease surveillance, or referral from a regulatory college, other medical officer of health or the ministry. To prepare an Initial Report, complete the “Initial Report” section of the template provided in Appendix B.

3.1 Content of the Initial Report

As per the template provided, each Initial Report must contain:

a) The date the medical officer of health or designate identified the IPAC lapse*;

b) How the medical officer of health or designate became aware of the IPAC lapse (e.g., complaint, communicable disease surveillance, referral from a regulatory college, other medical officer of health or the ministry);

c) The type of premises;

d) The name and address of the premises;

e) Summary description of the IPAC lapse identified;

f) Referral to a regulatory college (if applicable);

g) A brief description of the corrective measures to be taken;

h) The date(s) any order or directive was issued to the owner/operator (if applicable); and

i) How to contact the board of health for more information.

The summary description should contain a concise (4-5 sentences maximum) description of the service or concern related to the lapse. If more than one IPAC lapse is identified, the board of health shall summarize the lapses that require corrective measures and indicate those lapses that present the greatest risk to clients, attendees or staff of the premises.

The brief description of corrective measures should contain a concise description of the corrective measures required to correct the lapse, including the type of corrective measure(s) (e.g., following best practices for use of equipment, including cleaning, disinfection and sterilization; removal of equipment), the method assisting the realization of corrective measures (e.g., education, verbal or written order) and the extent of the

* If a lapse is traced to a premises from a case of a disease, this date refers to the date that the link to the premises was confirmed.
corrective measure(s) needed (e.g., minimal changes, moderate changes, extensive changes).

Note that no personal information as defined in the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) or personal health information as defined in the Personal Health Information Protection Act (PHIPA) should be disclosed in an Initial Report. When in doubt about whether information constitutes either personal information or personal health information, the board of health should consult with its own legal counsel, as appropriate.

3.2 Process for Posting the Initial Report

Within two weeks of identification of the IPAC lapse that does not involve patient notification, the board of health shall post the Initial Report on the board of health’s website in a location that is easily located by the public. To complete the Initial Report, fill in a copy of the reporting template which is available by contacting the ministry at OPHS.Protocols.moh@ontario.ca. A sample of the template is included in Appendix A as reference. The template can be formatted by users to match the visual style of board of health websites.

If an investigation involves, or is expected to involve, patient notification, boards of health should refrain from posting Initial Reports until preliminary patient notification has occurred. Any subsequent patient contact and/ or testing is considered part of the investigation, and as such, the Final Report should not be posted until all aspects of the investigation have been completed.

As more information becomes available during the course of an investigation, the Initial Report must be updated to ensure transparency of the most relevant and current information. The date of revision must also be indicated on the report. In determining an appropriate time frame for doing so, the board of health should consider the urgency of the new relevant information, and whether a potential risk to the public exists if there is a delay in updating the public report(s).

The Initial Report must be available online until a Final Report is completed. Archived reports must be available from the board of health upon request. All posted reports shall be compliant with relevant legislation including the Accessibility for Ontarians with Disabilities Act (AODA), the French Language Services Act (FLSA) (if applicable), MFIPPA and PHIPA.

4 Final Report

A Final Report shall be completed and posted by the board of health once the recommended corrective measures have been completed. Please note that the same template is used for the Initial and Final Reports with the difference being that the Final Report requires completion of the “Final Report” section of the template.
4.1 Content of the Final Report

A Final Report must contain the information outlined above, for the Initial Report, as well as:

a. A brief description of corrective measures taken; and
b. The date all corrective measures were confirmed to be completed.

The brief description of corrective measures taken should be updated to describe the corrective measures that were used to correct the lapse, including the type of corrective measure(s) (e.g., following best practices for use of equipment including cleaning, disinfection and sterilization; removal of equipment), the method assisting the realization of corrective measures (e.g., education, verbal or written order) and the extent of the corrective measure(s) needed (e.g., minimal changes, moderate changes, extensive changes).

Note that no personal information as defined in MFIPPA or personal health information as defined in PHIPA should be disclosed in a Final Report. When in doubt about whether information constitutes either personal information or personal health information, the board of health should consult with its own legal counsel, as appropriate.

4.2 Process for Posting the Final Report

Within two weeks of the confirmation that all corrective measures were taken, the board of health shall replace the Initial Report posted on the board of health’s website with the Final Report. The Final Report must be posted in the same location as the Initial Report was and must be easily located by the public. To complete the Final Report, fill in the remaining sections of the accessible PDF template used for the Initial Report.

If any information is found to have been incorrect at the time when it was noted, the Final Report shall be updated. The date of revision must also be indicated on the report. All posted reports must be compliant with relevant legislation including the AODA, the FLSA (if applicable), MFIPPA and PHIPA.

Boards of health shall make full investigation reports available upon request subject to applicable law (e.g., MFIPPA and PHIPA). To accomplish this, boards of health shall establish and implement a policy to ensure that the public can access full investigation reports upon request (see preamble below).

5 Content of the Website

The board of health shall include the following preamble on the web page on which reports are posted. The board of health is encouraged to consult with its legal counsel
regarding the adequacy of this preamble and whether any additional legal disclaimers are required from their perspective.

Boards of health subject to French language requirements must ensure that this preamble is posted in both English and French (available in the French version of this Guidance Document).

5.1 Preamble

“This website contains reports on premises where an infection prevention and control lapse was identified through the assessment of a complaint or referral, or through communicable disease surveillance. It does not include reports of premises which were investigated following a complaint or referral where no infection prevention and control lapse was ultimately identified.

These reports are not exhaustive, and do not guarantee that those premises listed and not listed are free of infection prevention and control lapses. Identification of lapses is based on assessment and investigation of a premises at a point-in-time, and these assessments and investigations are triggered when potential infection prevention and control lapses are brought to the attention of the local medical officer of health.

Reports are posted on the website of the board of health in which the premises is located. Reports are posted on a premises-by-premises basis, i.e., will correspond with one site only. Should you wish to view a full investigation report for any posted lapse, please contact [insert appropriate contact information].”

6 Reporting to the Ministry

Boards of health shall submit IPAC Lapse Summary Reports to the ministry semi-annually. Direction on report content and submission instructions will be provided by the Public Health Division.

7 References


Appendix A: Flow of Information and When to Post an IPAC Lapse Identified via a Complaint or Referral

1. Member of the public files a complaint regarding infection prevention and control in any facility with a board of health.

2. A regulatory college notifies a board of health of a complaint regarding infection prevention and control in a regulated facility.

3. Board of health is made aware of potential infection prevention and control lapse through alternate source (e.g., other board of health, ministry).

4. Board of health receives complaint regarding a potential infection prevention and control lapse.

5. Does the complaint involve an Independent Health Facility (IHFs) or an Out-of-Hospital Premises (OHPs)?
   - **YES**: The board of health shall contact the appropriate oversight body. For IHFs, the MOH or IHF program area should be contacted. For OHPs, CPSO should be contacted.
   - **NO**: The board of health shall contact the appropriate regulatory college and undertake all steps identified in the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.

6. Does the complaint involve a member of a regulatory college?
   - **YES**: The board of health shall assessment the complaint as per the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.
   - **NO**: The board of health shall investigate the complaint as per the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.

7. Does the preliminary assessment require further investigation?
   - **YES**: The board of health shall investigate the complaint as per the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.
   - **NO**: If no IPAC lapses were identified, the board of health should notify relevant stakeholders. A public report is not necessary.

8. Was an IPAC lapse identified and corrective measures advised/ordered?
   - **YES**: If an IPAC lapse was identified, the board of health shall notify relevant stakeholders, complete an Initial Report, including details of any corrective measures recommended and make this report publicly available. Refer to the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.
   - **NO**: The board of health shall complete a follow-up inspection to determine whether corrective measures were adequately implemented. The board of health should notify relevant stakeholders of these results, complete a Final Report, including details of how the IPAC lapse concerns were addressed, and make this report publicly available. Refer to the most current version of the Infection Prevention and Control Practices Complaint Protocol or the Infection Prevention and Control in Personal Services Settings Protocol.
Appendix B: Sample Initial and Final Report Template

Please note that this is a sample of the required Initial and Final Report Template that must be posted once an IPAC lapse has been identified. When posting, please use a copy of the template which is available by contacting the ministry at OPHS.Protocols.moh@ontario.ca.

This copy below is for information purposes only.

Please do not include any personal information or personal health information on this Template. If you have any question about whether information constitutes personal health information or personal information, please consult your legal counsel.
Sample: Public Health Unit Infection Prevention and Control Lapse Report

<table>
<thead>
<tr>
<th>PUBLIC HEALTH UNIT INFECTION PREVENTION AND CONTROL LAPSE REPORT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Report</td>
</tr>
<tr>
<td>Premise/facility under investigation (name and address)</td>
</tr>
<tr>
<td>Type of premise/facility: (E.g. clinic, personal services setting)</td>
</tr>
<tr>
<td>Date Board of Health became aware of IPAC lapse</td>
</tr>
<tr>
<td>Date of Initial/Report posting</td>
</tr>
<tr>
<td>Date of Initial Report update(s) (if applicable)</td>
</tr>
<tr>
<td>How the IPAC lapse was identified</td>
</tr>
<tr>
<td>Summary Description of the IPAC Lapse</td>
</tr>
<tr>
<td>IPAC Lapse Investigation</td>
</tr>
<tr>
<td>Did the IPAC lapse involve a member of a regulatory college?</td>
</tr>
<tr>
<td>If yes, was the issue referred to the regulatory college?</td>
</tr>
<tr>
<td>Were any corrective measures recommended and/or implemented?</td>
</tr>
<tr>
<td>Please provide further details/steps</td>
</tr>
<tr>
<td>Date any order(s) or directive(s) were issued to the owners/operators (if applicable)</td>
</tr>
<tr>
<td>Initial Report Comments and Contact Information</td>
</tr>
<tr>
<td>Any Additional Comments (Do not include any personal information or personal health information)</td>
</tr>
<tr>
<td>If you have any further questions, please contact:</td>
</tr>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Title</td>
</tr>
<tr>
<td>E-mail address</td>
</tr>
<tr>
<td>Phone number</td>
</tr>
<tr>
<td>Final Report</td>
</tr>
<tr>
<td>Date of Final Report posting:</td>
</tr>
<tr>
<td>Date any order(s) or directive(s) were issued to the owner/operator (if applicable)</td>
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<tr>
<td>Brief description of corrective measures taken</td>
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<td>Phone number</td>
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