# Allegation of Abuse Manager's Guide

An allegation of abuse made by a patient against a care team member can be frightening, unsettling and disruptive for the person making the allegation, the care team member, and the organization. In addition, such an allegation of abuse can create the perfect storm resulting in a regulatory finding, criminal actions and possibly a civil suit.

The following serves as the foundation for developing a staff and provider training program.  The Guide is provided in sections. In addition, there are links to additional resources that can be found on the WTWco.com website. This guide aims to offer support and guidance on this topic to the risk management professional audience.

The Guide may be customized to the specific demographics and needs of the organization.

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# Section 1 — Overview

## Abuse Basics: What is abuse and how do allegations occur?

### 1. Where does one begin in understanding how to define abuse?

**Response:**

It is important to note that the definition of abuse may vary by state, CMS or other regulatory/accreditation bodies, so it will be important to know requirements for each agency and organization.

### 2. Statistically, what types of abuse cases are being reported?

**Response:**

**When a person enters the hospital or other health care setting, and due to illness or disability, they move from a place of independence to dependence, and this may place even the person with decision-making capacity into a state of vulnerability.**

**However, some patients or residents, such as seniors or the developmentally delayed may be more vulnerable than others.**

The National Center on Elder Abuse (2022) reports the most common types of abuse include:

- Physical 29%
- Psychological 21%
- Gross neglect 14%

### 3. What are some of the risk factors that may make a person more susceptible to experience abuse or the perception of abuse?

| Type of Abuse | Risk Factors: |
|---|---|
| Emotional | Low social support, physical dependence, prior traumatic experience (PTSD) |
| Physical | Substance abuse, mental illness, social isolation or unemployment of the perpetrator, local social support of the victim |
| Sexual | Low social support, prior traumatic events (PTSD) |
| Neglect | Low income, poor health, inadequate social support |
| Financial | Physical disability, cognitive decline or cognitively diverse |

### 4. What are some examples of the types of behaviors that constitute abuse?

**Response:**

Examples of allegations of abuse against an employee or provider by a patient, resident or their family may include:

- Rough handling
- Physical injury
- Neglect
- Verbal or emotional abuse
- Sexual abuse/assault
- Sexual harassment
- Bullying
- Intimidation
- Financial misappropriation
- Inappropriate contact after discharge from the facility

**It is important to note that the definition of abuse may vary by state, CMS or other regulatory/ accreditation bodies**

**5. How can a healthcare professional spot the signs of abuse whether occurring pre-facility or after admission to the facility?**

**Response:**

The senior:

- Stops taking part in the activities he or she enjoys
- Looks messy, disheveled
- Insomnia
- Loss of weight
- Unexplained injuries
- Becomes withdrawn, or agitated
- Catatonic state – rocking back and forth
- Signs of being restrained
- Broken or missing assistive devices such as eyeglasses, hearing aids, etc.
- Develops preventable conditions such as bed sores

**6. What are some of the reasons a patient or resident would not ask for help?**

**Response:**

- The affected person may not be cognitively sure of their experience and may need time to process
- May worry about retaliation from the perpetrator or the other facility staff

**7. Why do allegations occur?**

**Response:**

There may be communication mishaps between the patient/resident and caregiver. Something as simple as differences in personality may be a trigger. Some patients/residents may experience something in that first encounter with the care team that left them feeling unsettled or confused causing a lack of trust.

**8. What about professional boundaries?**

**Response:**

The lines between patient and professional are frequently blurred, especially smaller facilities or in rural areas, where “the family doctor” can, after knowing a particular family of patients for years or even generations, become just as much “family” as “doctor.”

**9. Can the way a staff member physically approaches a patient/resident cause a challenging or fearful response? Does body language matter? Tone of voice?**

**Response:**

Some patients (such as those who are cognitively diverse) may have altered abilities to interpret their environment. They may misread something as simple as a hurried staff member who rushes towards them and may interpret that interaction as an assault.

Train staff on working with the cognitively diverse, traumatic brain injured or dementia patient.

**Train staff on working with the cognitively diverse, traumatic brain injured or dementia patient**

# Section 2 — Key Strategies for Prevention

## Training for managers

**1. What are the core elements of creating a written Allegation of Abuse prevention program?**

**Response:**

**Create a written AOA prevention program:**

- Use a multidisciplinary approach when building the organizational plan
- Start by reminding staff that everyone is a risk manager
- Seek out feedback from patients and residents about their care interaction and experiences
- Advise patients and employees alike that any concerning or problematic issues will be acknowledge, investigated, and addressed
- Trend data received from satisfaction surveys, complaints and reported grievances.

**2. What policies and procedures should we have in place that would support the prevention program?**

**Response:**

- Responding to an allegation of abuse
- Patient/Resident Rights
- Care of the neuro diverse
- Hiring practices – including when and how often background and criminal checks may be completed
- Conducting a credible investigation
- State reporting requirements for licensed professionals

**3. What should we include in our orientation program for onboarding staff?**

**Response:**

In addition to general orientation subject matter, add in staff competency assessment and credentialing for the following topics:

- Elder Abuse
- Recognizing signs of abuse
- Boundary Setting (specific to romantic or sexual relationships with patients)
- Mandatory state reporting
- Documenting the difficult encounter
- Organizational escalation and notification

**Seek out feedback from patients and residents about their care interaction and experiences**

**4. What about ongoing education?**

**Response:**

**Train for the demographic population you serve:**

- Raise awareness, keep the topic of AOA front and center
- How to proactively identify care situations and personal behaviors when engaging the neuro diverse patient that may be construed as abuse
- Train staff on how to look for signs and of neglect and abuse to include skin tears, multiple fractures, and inability to explain bruising.
- Enhancing Communication skills
- Patient/Resident rights
- Conflict resolution
- Verbal de-escalation
- Proficiency in working with those who have behavioral health history or have demonstrated acting out behavior
- Insight on working with the patient who lacks decisional capacity or is cognitively/neuro diverse.

**Resource:** Crisis Prevention Institute: Dementia Care Training

**5. What are some other ways to reduce the occurrence of such allegations?**

**Response:**

- Effective shift-to-shift communication and handoff
- Factual and timely documentation
- See something – say something: Create a safe reporting environment where any concern can be raised in a confidential manner
- Train staff to report “early” any suspicions or concerns
- Trend data received from satisfaction surveys, complaints and reported grievances and look for patterns by department, unit, provider or employee

**6. What about the use of chaperones? Can any staff member serve as a chaperone?**

**See Section 5**

**See something say something: Create a safe reporting environment where any concern can be raised in a confidential manner**

# Section 3 — Elements of an Organizational Response Plan

**1. Would your staff know what to do and who to call if a patient alleges abuse?**

**Response:**

- It is essential that the organization creates a thorough and credible response plan.
- Ensure that staff are aware of what steps should be taken if such an allegation is made through the development of a written response plan.
- In other words, how to activate the plan.

**2. What are the core elements of creating a written response plan?**

**Response:**

- Use of a multidisciplinary team
- Clear and concise steps
- Keep the document simple but be thorough
- Your plan can be written as a policy or a procedural checklist
- Keep the plan active and current
- Train staff on the plan and the internal process
- Ensure the plan outlines an escalation pathway for notification

**See Sample:** Incident and Event Reporting

**3. What makes for a good notification escalation pathway?**

**Response:**

- Certain events are more serious than others and will require additional resources and support to resolve and manage.
- Critical events and those that create media attention require senior leadership involvement and your marketing team.
- A thorough escalation pathway ensures for notification of the key team members who would support this work.
- Notify the legal team and ensure that the claims team via a PCE is looped in.
- Collaboration with different roles and departments are essential elements of an organizational response plan to an allegation of abuse.

**See Sample:** Incident and Event Reporting

**4. What role would law enforcement play when an allegation of abuse has been made?**

**Response:**

- Partner with local law enforcement when the plan is under development or being reviewed for updates.
- All parties need to remain focused the organizational policies in place.

Critical events and those that create media attention require senior leadership involvement and your marketing team

**5. What about conducting the investigation? What might be an effective approach?**

**Response:**

- Identify one point of contact for the patient and family to minimize any conflicting information
- Assign a team member to review the medical record and create a timeline
- Determine early who will interview the patient, any witnesses, and the employee who the allegation was made against.
- Maintain confidentiality - verbal and written
- Ensure for ongoing leadership updates
- Conduct a debrief of the investigation
- Provide shared learnings about the event when prudent to do so.
- Utilize an interview template for staff; ensure that questions are specific to the event under review and consistent amongst all those interviewed.

**6. Such an allegation can be emotionally draining to the care team. What steps can be taken?**

**Response:**

- Rumors and confusion amongst the care team may also occur when they learned about the allegation and while the investigation is underway.
- The supervisor or administrator may need to diffuse the situation, provide updates when possible and advise of the confidential nature of the investigation.
- Employee Assistance Programs or Human Resources may be of assistance to the care team for emotional support.

**7. Does the organization or an individual have a requirement to report the event to a licensing agency or the Board?**

**Response:**

- Familiarize the care team with those requirements as to whether a report needs to be made to Department of Health, accreditation body or a licensing board.
- Loop in your in-house legal team.
- Mandatory reporting requirements exist for those situations where a patient or a resident has experienced abuse or neglect within the facility.
- In some states there are both individual reporting requirements as well as organization.
- Policies should reflect what your states mandatory reporting requirements are and who at your organization will make the final decision to file such a report.

**8. What should we watch for as we anticipate any fall out following this event?**

**Response:**

What could go wrong? Some of the following scenarios could occur because of this event.

- Failure to provide a safe environment for patients/residents
- Criminal charges
- Abuse of a vulnerable person
- Office of Civil Rights
- Failure to provide a safe environment for employee
- Loss of reputation in the community served
- Time consuming and unsubstantiated allegations
- Unannounced survey
- The organization is not in a state of survey readiness post the incident

# Section 4 — Reporting Requirements and Survey Readiness

**1. Should law enforcement become involved?**

**Response:**

- Law enforcement notification should occur as an allegation of abuse may result in a criminal finding.
- Recommendation is to bring in law enforcement early.
- Having law enforcement present early will ensure for proper attention and necessary community referrals.
- The officers may elect to not pursue an investigation further but continued investigation by the organization is still warranted once law enforcement has cleared the case.
- Also notify in-house counsel in order to extend legal protections to your investigation.

**2. Does the organization or an individual have a requirement to report the event to an organizational licensing agency or to a professional licensing Board?**

**Response:**

- Familiarize the care team with those requirements as to whether a report needs to be made to Department of Health, accreditation body or a licensing board.
- Mandatory reporting requirements exist for those situations where a patient or a resident has experienced abuse or neglect within the facility.
- In some states there are both individual reporting requirements as well as organization.
- Policies should reflect what your states mandatory reporting requirements are and who at your organization will make the final decision to file such a report.

**3. If the event of an unannounced survey following an allegation of abuse event, what would be needed to be survey ready?**

**Response:**

- Documented evidence of a credible investigation.
- Timeline
- Policies and procedures on patient rights, resolving complaints and grievances, investigating incidents, etc.
- Employee files
- Police report number
- Availability of the HR file(s)
- Management of the investigative notes and file.

**Familiarize the care team with those requirements as to whether a report needs to be made to Department of Health, accreditation body or a licensing board**

### 4. What makes an investigation thorough and credible?

**Response:**

- It's in the details, the steps taken and how complete the investigation is documented.
- How well did the organization activate their response and was the accusation taken seriously?
- Was the manager able to be in contact with patient/resident and family promptly?
- An important feature to the timeline is how well the team can speak to the event.
- The order of the activities does not have to be perfect if the needed steps were taken.
- The use of a checklist is helpful and can serve as a guide for leadership to follow.
- With regards to the interviews of staff – were the Items consistent, the environment for the interview private and were all staff treated in a compassionate and fair manner.
- Was the care team supported and provided with emotional support, as needed.
- What did the debrief, post event show? What was done with the shared learnings? Did this event result in any changes in policy?

### 5. How well was the potential for repercussions addressed?

**Response:**

- Did the organization provide a safe environment for patients and staff?
- Was the claims team notified and a potential compensable event reported?
- What is the organizational plan for handling unsubstantiated or baseless allegations?
- Is there an organizational policy and procedure for how complaints originating out of the Office of Civil Rights are handled?
- Has the marketing team prepared a holding statement should the event come to the awareness of the media?

### 6. Should we notify our insurance carrier?

**Response:**

- Failure to immediately notify your insurance agency or insurance company of the lawsuit may result in the forfeiture of your rights under the policy.
- Notification should be timely – ideally within 72 hours of the event – review your policy to be certain of the requirements.
- Notice provides your carrier with an opportunity to investigate the underlying facts and effectively participate in the defense and resolution of the lawsuit in the event of a civil suit.
- In many liability policies, the insurer has the right to control the defense.

**Failure to immediately notify your insurance agency or insurance company of the lawsuit may result in the forfeiture of your rights under the policy**

# Section 5 — The Role of Chaperones

**1. What are some important considerations for utilizing a chaperone?**

**Response:**

- The American Medical Association (2022) recommends the use of chaperones during sensitive exams as there is evidence that chaperones provide comfort and offers dignity and respect to the patient/resident during sensitive exams
- Having a chaperone present also offers safety for the care team.

**2. What exactly is a chaperone and in what settings is a chaperone used?**

**Response:**

- A chaperone is an employee who serves as an impartial observer and is present during an intimate examination of a patient/resident or anytime a patient/resident requests a chaperone be present.
- A chaperone will usually be a health professional who is familiar with the procedures involved in the examination.
- The chaperone will usually be the same sex as the patient/resident.

**3. What type of exams are considered "intimate"?**

**Response:**

- Intimate examinations are examinations of the breast, genitalia, and rectum.
- However, some patient/residents may regard any examination in which the doctor needs to touch or be very close to them as intimate. Example: examination of the fundi using an ophthalmoscope in a darkened room.

**4. What role does a chaperone play?**

**Response:**

- The chaperone is present for the patient/resident.
- May support and provide comfort or reassurance to a patient/resident.
- A chaperone may not serve as an interpreter – keep the two roles separate.

**5. What should be documented?**

**Response:**

- Record both the presence of a chaperone and their identity (name and full job title) in the records.
- If an accusation of improper behavior is made several years later and there is no record of who acted as chaperone, it would be difficult to recall who witnessed the examination.
- For patient/residents who refuse a chaperone, you should record that you offered a chaperone, but the patient/resident declined.
- The provider may prefer to conduct the exam only in the presence of a chaperone – if the patient/resident refuses the chaperone a different appointment time can be offered with a different provider.

**A chaperone is an employee who serves as an impartial observer and is present during an intimate examination of a patient/resident or anytime a patient/resident requests a chaperone be present**

**6. For those organizations who have not ever had a chaperone policy what is recommended?**

**Response:**

- Develop a written policy for how and when chaperones are to be utilized
- Create a job description for this role and develop a training curriculum that can be consistently delivered to all members of the care team who will serve as chaperones.
- Train to set standards, observe the chaperone in action and build competencies for the role.
- Consider publishing your chaperone policy on your practices or organizations website.

**7. How should the patient/resident be approached about the chaperone?**

**Response:**

- Ensure for enough time to discuss the plan of care, the plan for the day and typical exams that may be needed
- Check in with the patient/resident periodically during the care encounter
- Advise the patient/resident early in the caregiving experience that chaperones are standard practice
- The consent from the patient/resident to accept or decline the chaperone should also be obtained and noted in the medical record
- The chaperone should be a member of the care team and not the patient/resident's family member or friend

**The chaperone should be a member of the care team and not the patient/resident's family member or friend**

# Section 6 — Caring for the Caregiver

**1. What is the first step in caring for the impacted caregiver (employee or employed provider)?**

**Response:**

**The direct caregiver (impacted party):**

- Partner with your human resource representative promptly upon notification that an allegation of abuse has been made against an individual (affected party).
- First and foremost, remove the caregiver or provider from the care setting.
- Do not reassign to affected party to another clinical unit or non-caregiver setting.
- Utilize administrative leave, paid or unpaid depending on your organizations policy.
- It is recommended that access to the electronic medical record be temporarily restricted until the conclusion of the investigation and final disposition of the case.
- If in a union environment, the affected party can reach out to their union representative as they typically like to be present during interviews.
- Ensure the affected party is aware of the time frame for when the investigation ideally should be completed – for example – 72 hours from time of leadership notification of the allegation.
- Identify who will be the primary contact with the affected party. Only one leader should be updating the affected party to reduce rumors and miscommunications.
- The manager and/or human resources will advise the affected party to not meet with or discuss the allegation with the patient/family or caregiver making the allegation.
- When such an allegation is made, the affected party can be at risk for post-traumatic stress disorder. Advise the affected party that Employee Assistance Programs or counseling is available (specific to your organization)
- Advise the affected party to not communicate on social media platforms about the event or discuss the event with friends.
- If the allegation is made against a non-employed, community provider ensure that medical leadership is involved, and that the provider notifies their own insurance carrier.

**The health care team:**

- The care team that works closest to the affected party of affected unit may also be struggling. Include those team members in updates, when possible.
- Make emotional support services available to the team as well, as needed.

Advise the affected party to not communicate on social media platforms about the event or discuss the event with friends

**2. Who will decide how and when follow-up with the caregiver will take place?**

**Response:**

- The manager/designee, in consultation with the Human Resource partner will determine the type of follow-up required with the affected party.
- The follow-up will depend upon the outcome of the investigation and can include return to work, disciplinary action including termination and/or revoking of medical staff privileges.
- The decision to report the incident to appropriate licensing authorities' rests with the department director/VP/designee, human resources and/or legal.

**3. What are the lessons learned from an allegation of abuse - whether substantiated or not?**

**Response:**

Unit leadership, risk management, and human resources should conduct a post event assessment:

- Work to identify learning opportunities for the care team and providers.
- Evaluate the effectiveness of the investigative process.
- Review the documented evidence that a credible and thorough investigation was conducted.
- Evaluate, through trending the timeframe for closing the investigation.

**The decision to report the incident to appropriate licensing authorities' rests with the department director/VP/ designee, human resources and/or legal.**

# Section 7 — WTW Resources

- General Guidance
- Activation Checklist
- Sample Guide for Interviewing the Impacted Person
- Sample Witness Interview Guide
- Use of Chaperones
- Sample Debrief Template
- Sample Incident and Event Reporting – Acute Care
- Sample Incident and Event Reporting – Senior Living

# Section 8 — Sample Training Plan

| **Learning Objectives**<br><br>**Examples:** | **Training/Delivery Mode**<br>• Instructor-led<br>• Recorded webinars<br>• One-on-one training<br>• Online resources<br>• Job aids and Guides | **Audience**<br>• Clinical Staff<br>• Providers<br>• Non-clinical staff<br>• Security |
|---|---|---|
| Describe what behaviors may constituent as abuse. | | |
| Outline examples of risk factors that may make a patient more vulnerable to elder abuse? | | |
| Describe the reasons why a patient or resident may not report the event immediately. | | |
| Identify clear steps that ensure for a thorough and credible investigation if an allegation of abuse is made against staff or providers by a patient or a family member. | | |
| Describe the legal reasons to report inappropriate physical interaction, abuse, and neglect by staff members. | | |
| Break down insurance implications and policy language and coverage considerations. | | |
| **Workplace violence prevention**<br>• Recognize potential workplace violence indicators<br>• Know who to report concerns to in the community | | |

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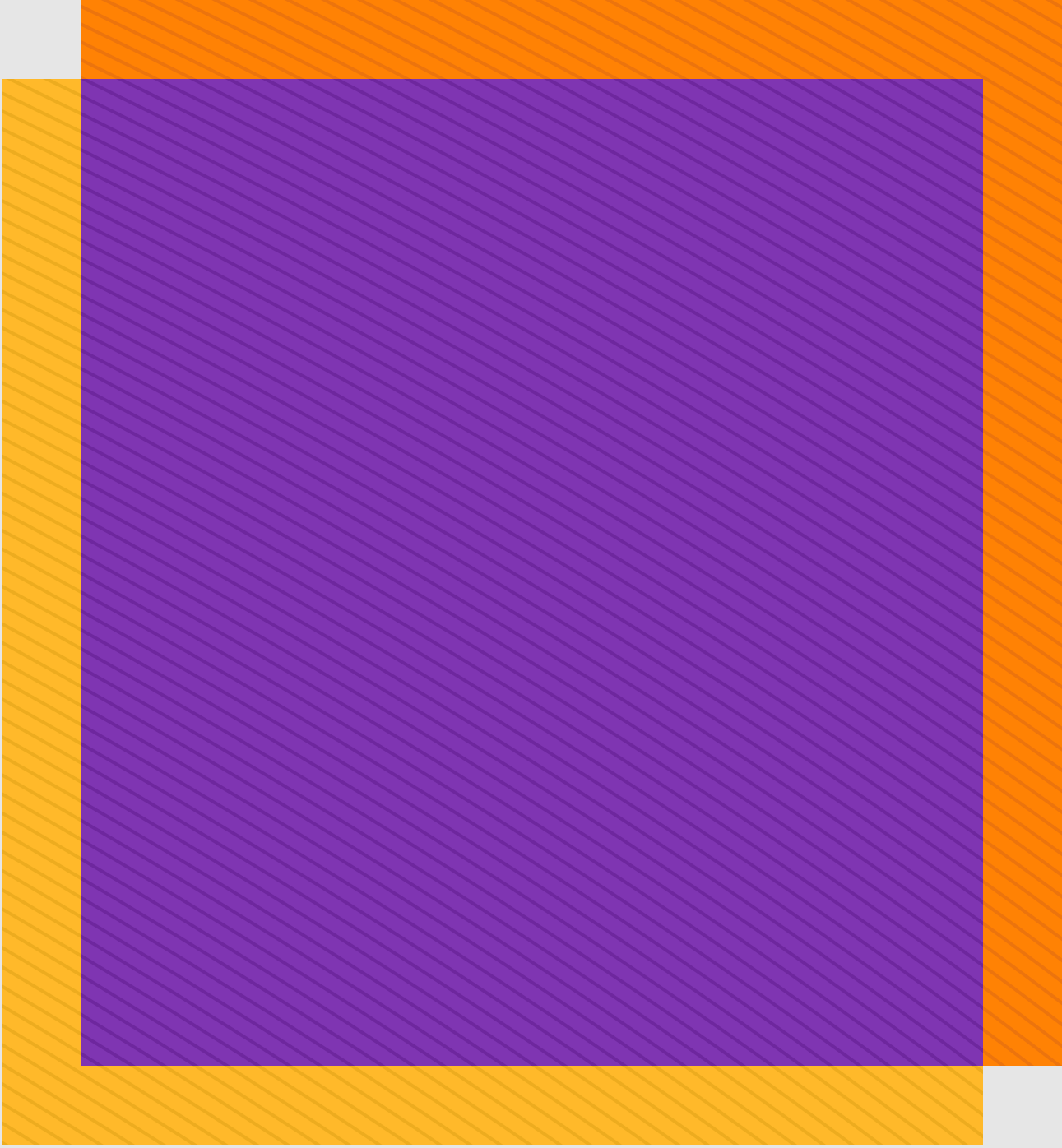

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