

DOMESTIC/CHILD/ELDER ABUSE REPORTING GUIDE

Under California Law, Health Care Practitioners **must report** any suspected Domestic Violence injuries to Law Enforcement **immediately**.

DEFINITION:

Domestic Violence is a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks that adults or adolescents, use against their intimate partners. Without intervention the violence usually escalates in both frequency and severity resulting in repeat visits to the healthcare system **or death**

IMMUNITY:

A health care practitioner who makes a report, shall not incur civil or criminal liability as a result of any report required or authorized by law.

LIABILITY:

Civil - A physician who treats a victim and does not inquire about domestic abuse or accepts an unlikely explanation for the injury could be held liable if the victim returns to the abuser and is injured again.

Criminal - A violation of this reporting law is a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or both.

DUTY TO REPORT:

A health care practitioner who, in his/her professional capacity, or within the scope of his/her employment, provides medical services for a physical condition to a patient whom he/she knows or **reasonably suspects*** is suffering from any wound or other physical injury inflicted as a result of assaultive or abusive conduct, including abuse of a spouse or cohabitant, must report the incident to law enforcement.

"Reasonably suspects" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position drawing, when appropriate, on his/her training and, experience, to suspect domestic violence.

HISTORY SUGGESTING DOMESTIC VIOLENCE:

- Traumatic injury or sexual assault
- Suicide attempt(s)
- Physical symptoms related to stress
- Injuries during pregnancy
- History inconsistent with injury
- Delay in seeking aid
- Repeat visits to health care providers for treatment of injuries
- Evasive, reluctant to speak in front of partner
- Unexplained, multiple or old physical injuries

VERBALLY REPORT:

Contact the appropriate law enforcement agency immediately by phone.

WRITTEN REPORT:

Complete a *Suspected Violent Injury Report* form (provided by law enforcement) and submit it to that agency within two working days of receiving the information.

It is *recommended* you include in patient's medical records the following:

- Comments by patient regarding past domestic violence and/or name of person suspected of inflicting injury
- Map of body showing and identifying injuries
- Copy of law enforcement reporting form

ASK ABOUT DOMESTIC VIOLENCE:

- Talk to the patient alone in a safe, private environment
- Use direct, simple questions such as:
 - "Did someone cause these injuries? Who?"
 - "Are you in a relationship with a person who physically hurts or threatens you?"

MAKE APPROPRIATE REFERRALS:

It is highly recommended you refer the patient to local domestic violence services.

DEPENDENT ADULT ABUSE REPORTING REQUIREMENTS

California Welfare & Institutions Code §15632 requires all Community Clinics to provide this form to all clinic employees. Additionally, the law requires all employees to sign this form as a condition of employment. Once signed, the forms must be retained by the clinic.

California Welfare & Institutions Code § 15632 requires any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who has knowledge of, or observes, a dependent adult in his or her professional capacity, or within the scope of his or her employment, who he or she knows has been the victim of physical abuse, or who has injuries under circumstances which are consistent with abuse, where the dependent adult's statements indicate, or in the case of a person with developmental disabilities, where his or her statements or other corroborating evidence indicates that abuse has occurred, to report the known or suspected instance of physical abuse to an adult protective services agency or a local law enforcement agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Care custodian" means an administrator or an employee of any of the following public or private facilities: 1) Health facility; 2) Clinic; 3) Home health agency; 4) Educational institution; 5) Sheltered workshop; 6) Camp; 7) Respite care facility; 8) Residential care institution, including foster homes and group homes; 9) Community care facility; 10) Adult day care facility, including adult day health care facilities; 11) Regional center for persons with developmental disabilities; 12) Licensing worker or evaluator; 13) Public assistance worker; 14) Adult protective services agency; 15) Patient's rights advocate; 16) Nursing home ombudsmen; 17) Legal guardian or conservator; 18) Skilled nursing facility; 19) Intermediate care facility; 20) Local law enforcement agency; and 21) Any other person who provides goods and services necessary to avoid physical harm or mental suffering and who performs such duties.

"Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any certified emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1979) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2193 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision © of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats dependent adults.

I certify that I have read and understand this statement and will comply with my obligations under the dependent adult abuse reporting law.

Dated: _____

Signature

Print Name

CHILD ABUSE REPORTING REQUIREMENTS

California Penal Code §11166.5 requires Community Clinics to provide this form to all clinic employees who are medical practitioners and non-medical practitioners. Additionally, the law requires that these employees sign this form as a condition of employment. Once signed, the forms must be retained by the clinic.

California Penal Code §11166.5 requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment who he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of public or private day camp; licensees, administrators, and employees of community care facilities licensed to care for children; head start teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parent, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1979) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2193 of the Business and Professions Code.

"Non-medical practitioner" includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage; family or child counselors; and religious practitioners who diagnose, examine, or treat children.

I certify that I have read and understand this statement and will comply with my obligations under the child abuse report law.

Dated: _____

Signature

Print Name