



Child Abuse Reporting FAQs

Updated Dec. 21, 2015

This is general legal information and is not intended as legal advice. The law can change and is subject to differing interpretations. Physicians should consult their attorney if they need legal guidance on a specific situation. Nothing in this information should be construed as defining a standard of care.

1. What should I do if I think that a child may have been abused but I am not certain?

The trigger for the mandatory reporting requirement is *reasonable cause to suspect* that a child was abused.¹ This does not require you to be certain of the abuse or even to have concluded that abuse has occurred. Generally, in the interest of protecting children and avoiding liability for failure to make a mandated report, it is better to err on the side of making a report. Keep in mind that you are protected from liability for an errant report as long as you act in good faith and, as a mandated reporter, will be presumed to have acted in good faith.²

2. Am I required to make a child abuse report if I am caring for a fifteen year old child who is pregnant?

Possibly, depending upon the relative ages of the pregnant child and the father. The definition of sexual abuse or exploitation makes certain listed crimes *per se* child abuse. The revised law added statutory sexual assault to the list. This crime — often referred to as statutory rape — is defined as sexual intercourse with a child under 16 by an individual who is more than four years older than the child and is not married to the child. (Sexual intercourse with a child under 13 was included previously as this constitutes rape. The law negates any consent by a child under 13 regardless of the offender's age.) According to a 2007 letter to physicians from then Attorney General Tom Corbett, a report to law enforcement also is required if a child becomes pregnant as a result of crime.³

3. Do I need my employer's permission to make a mandated child abuse report?

No. Your employer may provide information or staff to assist you make a determination as to whether a child abuse report is warranted. However, if you believe in good faith that you have reasonable cause to suspect that a child was abused, you should make the report. You are not relieved of your mandatory reporting obligation because your employer disagrees that a report is warranted. Keep in mind that you are protected from retaliatory employment actions as long as you act in good faith.⁴

4. Does HIPAA allow me to make a child abuse report without the parent's consent?

Yes. The HIPAA privacy rule provides an exception to the patient authorization requirement for mandated child abuse reports.⁵ For more information on the HIPAA rules, go to www.pamedsoc.org/HIPAA.

5. Am I required to make a child abuse report if a child on a sports team that I am coaching has bruises and other indications of physical abuse?

The mandatory reporting obligation now extends beyond situations where you learn of child abuse through your work as a physician. It now also includes when you accept responsibility for a child, even as a volunteer, as an integral part of a regularly scheduled program, activity, or service⁶ and have reasonable cause to suspect, through your contact with a child in that program, activity, or

service, that the child is the victim of child abuse.⁷ In these situations, it may be more difficult to evaluate whether the injuries are the result of child abuse. However, if given the totality of the circumstances, including your expertise, you have reasonable cause to suspect child abuse, you are required to make a report.

6. Are staff in a physician office mandated reporters, even if they are not licensed health care professionals?

Mandated reporters in a physician office are not limited to licensed health care professionals. Physician office employees are mandated reporters if they are supervised or managed by a licensed professional and have direct contact with children in the course of their employment.⁸ Direct contact with children is defined to include routine interaction with children.⁹ For example, medical assistants as well as the front desk staff could qualify as a mandated reporter.

¹ *Id.* at § 6311.

² *Id.* at § 6318.

³ [Letter](#) from Honorable Tom Corbett to Pennsylvania health care providers re mandatory reporting requirements (Oct. 10, 2007).

⁴ 23 Pa.C.S. at § 6320.

⁵ 45 C.F.R. § 164.512(b)(1)(ii).

⁶ 23 Pa.C.S. at § 6311(a)(7).

⁷ *Id.* at § 6311(b)(1)(i).

⁸ *Id.* at § 6311(a)(12).

⁹ *Id.* at § 6303(a).