

*Mandatory Reporting
Requirements for Health Care
Providers -- Domestic Violence*

Presentation to Kaiser Santa Theresa

OB/GYN Department

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The Ripple Effect

Who is required to report?

Any health practitioner employed in a:

- health facility,
- clinic,
- physician's office,
- local or state public health department, or a
- clinic or other type of facility operated by a local or state public health department

--PC 11160 (a)

How is 'health practitioner' defined?

For the domestic violence reporting law, the term "health practitioner" means:

- a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, any EMT or paramedic;
- a marriage, family and child counselor (MFCC), trainee or an unlicensed intern
- a state or county public health employee who treats a minor for venereal disease or any other condition;
- a coroner; a medical examiner or a person who performs autopsies

--PC 11162.8

Under what conditions is a report to be made?

When such a health practitioner is:

- “ acting in his or her professional capacity or
- within the scope of his or her employment,
and
- provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects [to have been abused].”

--PC 11160 (a)

What specific instances are reportable?

- “Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.
- Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of ‘assaultive or abusive conduct’.”

--PC 11160 (a) (1) and (2)

How is “assaultive or abusive conduct” defined?



- Murder, Manslaughter
- Torture
- Assault [or attempted assault] with intent to commit mayhem, rape, sodomy, or oral copulation
- Administering controlled substances to aid in commission of a felony [includes GHB, Rophynol]
- Battery [unwelcome physical contact]
- Sexual battery: [nonconsensual] sodomy, oral copulation, sexual penetration, incest

“assaultive or abusive conduct” defined (con’t.)

- Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure
- Assault with a stun gun or taser
- Assault with a deadly weapon, firearm, assault weapon, or machinegun, or [other object]...likely to produce great bodily injury
- Rape [including] Spousal rape
- Abuse of spouse or cohabitant
- Elder abuse

--PC 11160 (4) d

How is the report to be made?

“The health practitioner ...shall make a report regarding [these injuries] to a local law enforcement agency as follows:

- A report by telephone shall be made immediately...
- A written report shall be ...sent to a local law enforcement agency within 2 (two) working days...
- even if the person... has expired, and even if the evidence ...was discovered during an autopsy.”

--PC 11160 (b) (1-3)

What must be included in the report?

“The report shall include, but shall not be limited to, the following:

- The name of the injured person, if known.
- The injured person's whereabouts.
- The character and extent of the person's injuries.
- The identity of the [perpetrator].”

--PC 11160 (b) (4)

What medical records should be included with the report?

The law recommends including:

- “Any comments by the injured person regarding past domestic violence...or regarding the name of any person suspected of inflicting the wound
- A map of the injured person's body showing and identifying injuries and bruises at the time of the health care [exam].
- A copy of the law enforcement reporting form.”

--PC 11161 (b)

Confidentiality issues

- “neither the physician-patient privilege nor the psychotherapist privilege applies to the information required to be reported...”
- The reports required [under this law] shall be kept confidential ...and shall only be disclosed by local law enforcement agencies to those involved in the investigation.”

--PC 11163.2. (a) and (b)

Liability issues



- Mandated reporters **granted immunity from liability** when making required abuse reports (PC 11163)
- **Failure to report** is a misdemeanor punishable by **a fine of \$1,000** and or **six (6) months in jail**. (PC 11162)

*What the law recommends,
ethics requires*



“It is recommended that the physician or surgeon refer the person to local domestic violence services if the person is suffering or suspected of suffering from domestic violence.”

--PC 1161 (c)