

*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

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

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’.”

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.”