

Legal Requirements for Reporting Domestic Violence

Legal Requirements for Reporting Domestic Violence (PC 11160)

Any health practitioner employed in a health facility, clinic, physician's office, local or state health department or clinic, or other facility operated by a local or state public health department is required to make a report if he or she "*provides medical services for a physical condition to a patient whom he or she know or reasonably suspects is*":

1. "suffering from any wound or other injury inflicted by his or her own act inflicted by another where the injury is by means of a firearm, " and/or
2. "suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct."

"Assaultive or abusive conduct" includes a long list of criminal offenses: murder, manslaughter, torture, battery, sexual battery, incest, assault with a deadly weapon, rape, spousal rape and abuse of spouse or cohabitant."

The law requires reporting even if the patient is seeking medical attention for another reason.

It is the ethical responsibility of the health care provider to inform the patient about their legal responsibility to report to local law enforcement agencies any physical injuries they know or reasonably suspect were caused by domestic violence.

Who is a Mandated Reporter:

Health practitioners employed in a local or state public health department, health facility, licensed clinic or physician's office are mandated reporters. *Only physical injuries caused by domestic violence which are observed during the provision of medical services for a physical condition must be reported.* If a provider is not treating a patient for a physical condition, the provider is not required to report domestic violence injuries (e.g., advice nurses).

Public health nurses are specifically included if they are providing medical treatment for any physical condition.



How to Make a Report:

A report must be made to local law enforcement agency that has jurisdiction over the location in which the injury took place.

- ◆ A telephone report must be made immediately or as soon as is practically possible.
- ◆ A written report must be prepared and sent within two working days.
- ◆ The report shall include, but is not limited to, the following:
 - Name of the injured person;
 - Injured person's whereabouts;
 - Character and extent of the injuries; and,
 - Identity and whereabouts of the person who allegedly inflicted the injuries.

Although it is not a legal requirement, some law enforcement agencies will also want to know if the victim wants to make a report, and wants follow-up.

A report must be made even if the patient has died, regardless of whether or not the injury contributed to the death or evidence of the conduct of the perpetrator was found during autopsy.

*Most importantly, it needs to be stressed that law enforcement reporting is **not** a substitute for complete documentation in the medical record.*

Documentation of Injuries in the Medical Record

The medical record has often served to be the most valuable source of documentation for victims. The following are general guidelines recommended for documenting injuries:

- ◆ Any comments made by the injured person regarding the injury, how it occurred, the name of the person who caused the injury and any past domestic violence (whenever possible, use direct quotations);
- ◆ A map of the injured person's body identifying the injuries and bruises, photographs of injuries, and clinical documentation to indicate whether injuries are consistent with trauma reported or suspected;
- ◆ A copy of the law enforcement reporting form.

Referral:

The law recommends that health care provider refer people suffering or suspected of suffering from domestic violence to local domestic violence services.



Confidentiality of Report:

Health facilities, clinics, physician's offices, and law enforcement agencies must keep the reports made pursuant to this law confidential. Law enforcement may release a report to those involved in investigating the report or enforcing a criminal law implicated by the report.

In no case shall the person suspected or accused of inflicting the injury, or his or her attorney, be allowed access to the injured person's whereabouts, their medical record or police report form.

Doctor-Patient Privilege:

In any court proceeding or administrative hearing, physician-patient privileges do not apply to the information required to be reported.

Liability:

Health facilities and health professionals who report a known or suspected instance of assault or battery cannot be held civilly or criminally liable under this law. In other words, there is absolute immunity in respect to the reporting requirement. Additionally, no person making such a report shall be subject to employer sanctions.

Penalty:

Violation of this law is a misdemeanor, punishable by a \$1,000 fine and/or six months in jail. Mandated reporters who fail to report may be subject to civil suits for damages for any subsequent injury to the patient.

Source: Adapted from Contra Costa County Health Services Department "Guidelines for Domestic Violence Screening and Reporting"

