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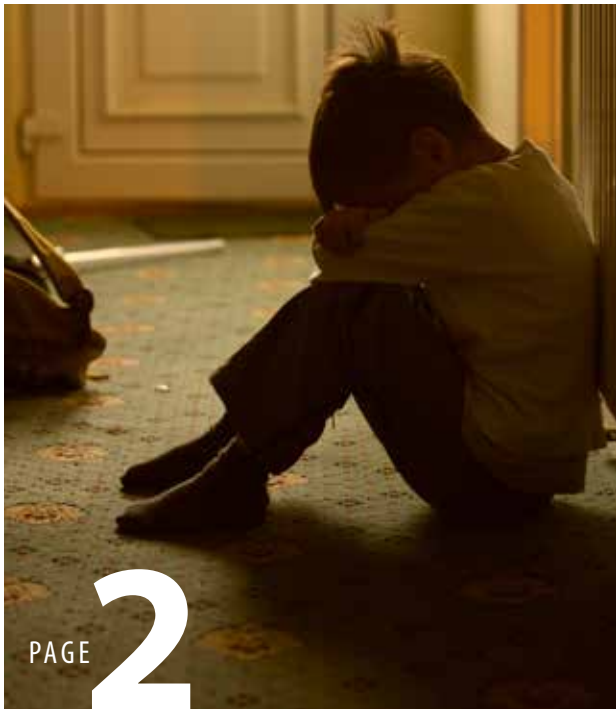


PENNSYLVANIA CHILD ABUSE RECOGNITION AND REPORTING[1]

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RACHEL BATURIN, MPH, JD

In 2013 and 2014 Pennsylvania enacted numerous changes to the Child Protective Services Law. The purpose of this home study is to review the signs leading to the recognition of child abuse and the reporting requirements for suspected child abuse in Pennsylvania. Those mandated reporters who complete this course will fulfill their mandatory requirements for licensing renewal and applicants for health care licenses in Pennsylvania will fulfill their requirement for education in child abuse reporting and recognition in Pennsylvania.[2] This home study describes the child welfare services in Pennsylvania, defines important terms related to the child abuse reporting law, and delineates the responsibilities of mandated reporters, ways to recognize child abuse, and other topics.

Learning Objectives

At the end of this workshop the participants should be able to:

1. Describe the child welfare system in Pennsylvania;
2. Define child, child abuse, perpetrators, and other relevant terms;
3. Paraphrase the responsibilities of mandated reporters;
4. Recognize the signs of child abuse and situations where child abuse must be reported; and
5. Understand how to fulfill their responsibilities as mandated reporters of child abuse.

****Continuing education questions appear at the end of this manuscript.**

CREDITS OFFERED: 2 Continuing Education Credits for psychologists and educators.

The Pennsylvania Psychological Association is approved by the American Psychological Association to offer continuing education for psychologists. PPA maintains responsibility for this program.

Please complete the Answer Sheet and Participant Satisfaction/Evaluation Form and return them to the Pennsylvania Psychological Association (5925 Stevenson Avenue, Suite H, Harrisburg, PA 17112). You must score a 75% or higher to correctly to pass the examination.

This home study program is approved by the Department of Human Services (formerly the Department of Public Welfare) and the Department of State to offer the 2 continuing education credits needed to fulfill the child abuse requirement. **PA CE Provider Number: CACE000007**

Description of Child Welfare Services in Pennsylvania

The purpose of the Child Protective Services Law is to "establish in each county protective services for the purpose of

1. This is an update of Child Abuse Recognition and Reporting 2017. The authors have updated statistics and responded to participant feedback to clarify or expand upon certain sections.
2. Act 31 of 2014 requires all mandated reporters who hold health care licenses to receive at least two hours of approved continuing education in the signs of child abuse and the reporting requirements for child abuse in Pennsylvania. In addition, Act 31 requires all new applicants for licensing in Pennsylvania to receive at least three hours of approved continuing education in the signs of child abuse and the reporting requirements for child abuse in Pennsylvania. This home study program can be used to fulfill the requirements for licensing renewal. A similar program is available from PPA that can be used to fulfill the requirement for licensing applicants.

investigating the reports [of abuse] swiftly and competently, providing protection for children from further abuse and providing rehabilitation services for children and parents involved" (23 Pa. C. S. A. §6302 (b)). To reach this goal, the law requires each county to establish "a program of protective services with procedures to assess risk of harm to a child" (23 Pa. C. S. A. §6302 (b)). Each county Children and Youth Agency is responsible for investigating reports of child abuse and to provide services to children when abuse has been substantiated. Whenever possible the Children and Youth Agency will help the children remain safely in their own homes and they will work to enhance the ability of the parents to care for their children.

According to the Pennsylvania Department of Human Services (2017), in 2016 there were 44,359 reports of suspected child abuse in Pennsylvania and 4,597 of those children were identified as abused.[3] Among all of the substantiated incidents of abuse, 30% involved reports of physical abuse, 48% involved reports of sexual abuse, 8% involved reports of neglect, 8% involved reports that abuse was imminently likely to occur, 1% involved emotional abuse, and the rest involved other less common types of abuse. The number of children identified as abused has increased across all categories of abuse since 2014 (Pennsylvania Department of Public Welfare, 2015). [4]

Many cases of substandard child care get referred to General Protective Services (GPS) which are found in every county. Unlike child protective services, which is designed to investigate cases of abuse, GPS is designed to provide services to children for "non-abuse cases requiring protective services" (23 Pa. C. S. A. §6303 (a)) including to "prevent abuse, neglect and exploitation" (23 Pa. C. S. A. §6373 (a) (2)). Whenever possible, GPS tries to keep children in their own homes. However, when necessary, they may need to arrange substitute care. To reach its goals, GPS may provide services to parents "in recognizing and remedying conditions harmful to their children" and in helping them to fulfil "their parental duties more adequately" (23 Pa. C. S. A. §6374 (b)).

According to the Pennsylvania Department of Human Services (2017), in 2016 there were 44,359 reports of suspected child abuse in Pennsylvania and 4,597 of those children were identified as abused.

Both CPS and GPS cases need to be called into ChildLine. ChildLine will then classify them as CPS and/or GPS if the call is accepted as a case. CPS and GPS cases both require follow-up from the county Children and Youth Agency, although CPS cases require formal investigations, whereas GPS cases have assessments. In 2016, the most common reasons for referral to GPS were for parental substance abuse, homelessness, truancy or child behavior problems, and parental health concerns (Pennsylvania Department of Human Services, 2017). However, the classification of GPS or child abuse cases may change depending on the findings of the county Children and Youth Agency.

Important Definitions

A child is defined as "an individual under 18 years of age" (23 Pa. C. S. A. §6303 (a)).

A perpetrator is "a person who has committed child abuse" (23 Pa. C. S. A. §6303 (a)). The term refers to: parents of the child,

3. Despite the large number of children who are identified as abused within Pennsylvania and other states, nationwide only a minority of children who are abused become identified and placed under the protection of child welfare agencies, (Sedlak et al., 2010).
4. Substantiated cases of child abuse are classified as having been either founded ("a judicial adjudication that the child was abused") (Pennsylvania Department of Human Services, 2017, p. 7) or indicated (county agency or regional staff "find substantial evidence that abuse has occurred based on medical evidence, the child protective services investigation, or an admission by the perpetrator") (Pennsylvania Department of Human Services, 2017, p. 7).
5. "Person responsible for the child's welfare" is defined as "a person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or services sponsored by a school, for-profit organization or religious or other not-for-profit organization." (23 Pa. C. S. A. §6303 (a))
6. Consanguinity or affinity refers to the closeness of relationships between people. First degree consanguinity refers to the relationships between parents and children. Second degree of consanguinity refers to the relationships between grandparents, aunts/uncles, nephews/nieces, and cousins. Third degree of consanguinity refers to the relationships between great grandparents; great aunts/great uncles; great nephews/great nieces; and children of first cousins.

spouse or former spouse of the child's parents; a paramour or former paramour of the child's parent; a person 14 years of age or older and responsible for the child's welfare;[5] an individual 14 years of age or older who resides in the same home as the child; and an individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.[6] Finally, perpetrators also include individuals 18 years of age or older who engage a child in a severe form of human trafficking or sex tracking, as those terms are defined in Section 103 of the Trafficking Victims Protection Act of 2000 (See discussion on Human Trafficking on page 18).

Individuals may become perpetrators through actions (doing something to harm or cause potential harm to child) or in some cases for failing to act (not doing something to prevent harm or potential harm to a child). Those who might commit abuse for failing to act include parents of the child, a spouse or former spouse of the child's parents, a paramour or former paramour of the child's parent, household members who are 18 years of age or older, or a person 18 years of age or older and responsible for the child's welfare. These are described in Table One which is presented below.

Thus, according to the table below, 14-17-year-olds who reside in the same house as the child are responsible for their own acts of abuse, but are not considered perpetrators of child abuse for their failure to act.

Before the Child Protective Services Law was amended in 2014, reports on teachers and other school employees suspected of child abuse were processed differently under the law. Currently, teachers and other school employees can be identified as perpetrators under the Child Protective Services Law and reports on teachers and other school employees are processed the same as other reports of suspected abuse.

Table One: Perpetrators

Relationship of Perpetrator to child	May abuse occur for acts?	May abuse occur for failing to act?[7]
Parent of the child	YES	YES
Spouse or former spouse of child's parents	YES	YES
Paramour or former paramour of the child's parent	YES	YES
Person 14 years of age or older and responsible for the child's welfare	YES	YES, for those 18 or older
An individual 14 years of age or older who resides in the same home as the child	YES	YES, for those 18 or older
An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child	YES	NO
An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000"	YES	NO

The Child Protective Services Law identifies 10 forms of child abuse. Child abuse is defined as "intentionally, knowingly, or recklessly" doing any of the following:

(1) Causing bodily injury to a child through any recent act or failure to act.
(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent acts
(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
(4) Causing sexual abuse or exploitation of a child through any act or failure to act.
(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
(6) Creating a reasonable likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
(7) Causing serious physical neglect of a child.
(8) Engaging in any of the following recent acts:
    (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
    (ii) Forcefully shaking a child under one year of age.
    (iii) Forcefully slapping or otherwise striking a child under one year of age.
    (iv) Interfering with the breathing of a child.
    (v) Causing a child to be present at a location [where meth is being produced illegally].
    (vi) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known [was a sex offender].
(9) Causing the death of the child through any act or failure to act. (23 Pa. C. S. A. §6303 (b.1)).
(10) Engaging a child in a form of trafficking in persons or sex trafficking as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000.

7. Failure to act is defined as "failure to act committed within two years of the date of the report" (23 P. C. S. A. §6101).

Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.

Some of the reporting requirements include the word recent which means that the act (or failure to act) must have occurred against a child within the past two years. Reports of suspected serious mental injury, serious physical neglect, or sexual abuse, however, have no time limit, and such suspected abuse must be reported if the child in question is less than 18 years of age.

Some of the situations of child abuse (found in paragraph #8 above) do not require injury to a child. The mere activity of forcefully shaking a child under the age of one, for example, constitutes child abuse in and of itself.

For purposes of organizing information alone, we are presenting more detail on the types of abuse below according to the four common categories found in many national reports of abuse.

Serious Physical Neglect

Neglect (or failure to supervise) could include three situations: (a) neglect as found in the definitions; (b) allowing a child to be in the presence of a meth lab; (c) allowing a child to be supervised by a sexual predator; (d) Munchausen by proxy which is defined as fabricating or intentionally exaggerating a child's symptoms to induce a harmful medical procedure. Munchausen by proxy is also known as *caregiver fabricated treatment* or *pediatric illness falsification*. These last two terms are less frequently used, but are designed to focus attention on the child instead of the mental state of the caregiver.

Serious physical neglect is defined as "any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causing bodily injury or impairs a child's health, development, or functioning:

(1) A repeated, prolonged or unconscionable egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care." (23 Pa. C. S. A. §6303 (a)).

This could mean that the child is routinely given dirty or inadequate clothing, such as clothing in the winter that does not insure adequate warmth. Wearing clothing that is too large or too small may be an indicator of child abuse, however, such clothes may be worn for factors unrelated to abuse such as if the family has limited financial resources or the clothing reflects the child's preferred style of dress.

Health care professionals should consider the possibility of child abuse if they encounter children who frequently go for long periods of time being hungry, habitually steal food, who are significantly underweight for their ages, or who look emaciated (DePanfilis, 2006). They may commonly smell of urine or feces or have untreated conditions such as head lice. The failure to provide medical care that jeopardizes the long-term health of the child could be considered abuse.

In addition, abuse could occur through inadequate supervision, such as repeatedly leaving a young child at home without supervision by an adult or an older child. No fixed age limits can be established to determine when lack of supervision occurs in all situations. Instead the mandated reporter needs to consider the context in which the lack of supervision occurs such as the degree of danger to the child, the child's level of comfort in being left alone, the developmental age and abilities of the child, the child's understanding of safety protocols, and other factors (Hymel et al., 2007).

Consider this scenario:

A young and immature child reported to a school psychologist that she was routinely left alone at home. She was afraid to be alone, couldn't identify an adult to contact in the event of an emergency, could not provide a safety plan, and neither parent checked in with her to determine the status of her welfare.

The totality of these circumstances suggests that a report of suspected abuse should be made.

Bodily Injury

Bodily injury could include: (a) an action qualifying under the definitions of bodily injury or serious bodily injury as found in 23 Pa. C. S. A. §6303; (b) any of the explicit acts identified in 23 Pa. C. S. A. §6303 (b.1) dealing with slapping small children, etc.; (c) "creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act;" and (d) causing the death of a child.

Bodily injury is defined as "impairment of physical condition or substantial pain" (23 Pa. C. S. A. §6303 (a)), Substantial pain lasts for some time and/or is intense at some point. Potential reporters should consider what a reasonable person would recognize as painful. Serious bodily injury is defined as a "bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ" (23 Pa. C. S. A. §6303 (a)). Although serious bodily injury is defined differently than bodily injury, child abuse occurs when there is any bodily injury (not only serious bodily injury) to a child.

Although the risk of physical abuse increases as children age, the risk of death from physical abuse is highest for children under the age of two. Head injuries (called abusive head traumas or AHTs) are the most common cause of child fatality. Shaken baby syndrome is one form of AHT (Kellogg et al., 2009).

Mandated reporters often encounter situations where they must determine if the corporal punishment received by the child reaches the level of child abuse. Corporal punishment could involve severe pain indicated by trouble sleeping, standing, or sitting or other manifestations of severe pain. Some of the conditions that could result in a finding of physical abuse include burning, scalding, fractures, welts, bite marks, sprains, dislocations, or internal hemorrhaging. Bruises can also lead to a substantiation of child abuse, although not all bruises meet the definition of child abuse by involving loss of functioning of a bodily member or organ or severe pain.

Other activities such as kicking, biting, throwing, burning, stabbing or cutting a

child "in a manner that endangers the child" (23 Pa. C. S. A. §6303 b.1 (8) (i), constitutes child abuse, as does "interfering with the breathing of a child" (23 Pa. C. S. A. §6303 b.1 (8) (v)), or "unreasonably restraining or confining a child based on consideration of the method, location or the duration of the restraint or confinement" (23 Pa. C. S. A. §6303 b.1 (8) (ii)). Certain activities always trigger a report of suspected abuse. These include "forcefully slapping or otherwise striking" or "forcefully shaking" a child under one year of age." (23 Pa. C. S. A. §6303 b.1 (8) (iii) - (iv)). Again, actual physical harm does not have to occur for a report of child abuse to be made when the events described in this paragraph occur.

Certain activities that are explicitly excluded from the definition of physical abuse are described in the section below entitled "Exceptions to Child Abuse." Accidents do not constitute child abuse, unless they were due to *recklessness*. Recklessness occurs when an individual consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstance known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation (18 Pa. C. S. A. §302 (b) (3)).

In addition, it is not always necessary for caregivers to injure a child if they "created a reasonable likelihood of bodily injury to a child through any recent or failure to act" (23 Pa. C. S. A. §6303 b.1 (5)).

Reporters can identify physical abuse by directly observing the physical injuries to a child, and considering the reasonableness of the explanation for the injury, the emotional reaction of the child, and other factors. For example, a child who shows a strong fear of a caregiver may be reacting from fear of serious physical injury or pain.

Physical abuse is also more likely to occur in households where unrelated adults live (such as adult boyfriends or paramours), when the child has behavioral problems or a disability, or when the family income is low. However, these broad statistical trends are not useful in determining abuse in any given situation. For example, 19.3% of respondents to a survey who were living in poverty reported that they were the victims of at least one incidence of emotional abuse in their lives compared to 18.4% of respondents who were not living in poverty (Chu et al., 2013). Although this difference may be statistically significant, it is of little value in determining if emotional abuse is occurring in any one family.[8] Racial and cultural factors need to be considered carefully as well. Although reports of child abuse may be higher among certain ethnic or racial groups, mandated reporters will be less prone to over or under interpret the signs of abuse if they are culturally competent and aware of biases involving race, ethnicity, gender, sexual orientation, or socioeconomic status.

Consider this scenario:

A child made a credible report to a health care professional that her mother felt overwhelmed with the responsibility of caring for her newborn baby and sometimes slapped him to keep him quiet.

Mandated reporters should report anytime they learn that a child under the age of one was forcefully slapped.

But, consider this second scenario:

A young man aged 19 made a credible report to a health care professional that his mother often struck him severely when he was a young child, resulting in substantial bruising and serious pain that made it difficult for him to walk or sit down.

The type of injury described likely would meet the statutory definition of bodily injury because it involved substantial pain. However, a report is not required on this situation because (1) the events were not recent, meaning that they occurred more than two years ago and (2) the reporter is no longer under the age of 18 and is therefore no longer a child. Although there is no mandate to report, the reporter *may* make a permissive report of abuse or may guide the patient in making such a report, especially if the alleged perpetrator still has access to children.

Serious Mental Injury

Public surveys have reported rates of emotional abuse as high as almost 19% among children (Chu et al., 2013). However, the actual rate of substantiated emotional child abuse is far lower than that. This probably reflects the broader definition of abuse used in these surveys compared to the statutory definition of abuse.

The Child Protective Services Law defines serious mental injury as a "psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment that:

(1) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in a reasonable fear that the child's life or safety is threatened; or

(2) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks" (23 Pa. C. S. A. §6303 (a))

Despite this very broad definition, emotional abuse or mental injury is seldom founded in Pennsylvania. In 2013, only 31 cases or well less than 1% of all founded incidents involved emotional abuse (Pennsylvania Department of Human Services, 2014), although the number increased to 99 (or 1.5% of all founded incidents) in 2016, reflecting the broader definition of emotional abuse found in the more recent law (Department of Human Services, 2017).

Consider this scenario:

A child arrived at the emergency room of a hospital after a serious suicide attempt. He reported continual verbal abuse from his parents, who

8. Similarly, mothers with higher education levels were more likely to report that their children engaged in sexual play than mothers with lower education levels (Kellogg et al., 2009). However, the education level of the mother should not be used as a factor in determining whether the child was a victim of childhood sexual abuse.

also ignored his threats that he may attempt suicide. The emergency room staff learned that the parents withheld affection from and often disparaged the child.

The facts suggest that the child is suffering from emotional abuse. The condition is serious, appears to be chronic, and appears to be caused or exacerbated by the behavior of the parents. As we note below, it is not the obligation of the psychologist to prove that the behavior of the parents is substantially contributing to the serious and chronic emotional harm. Children and Youth will investigate the case; the responsibility of the mandated reporter is only to report suspicions of abuse, although the final decision will require a more thorough evaluation by a physician or licensed psychologist.

It is also possible that the failure of the parents to seek medical help for their child after his suicidal threat could be considered neglect (failure to obtain needed medical care). In any event, a report of suspected abuse should be made. Some situations, such as the one above, may involve the possibility that more than one type of abuse is occurring in a family.

Sexual Abuse

The descriptions of sexual abuse and exploitation come from: (a) the definitions section of the Child Protective Services Law; (b) the criminal statutes referenced in the definition section; and (c) the list of 9 types of abuse found in section 6303 (b.1) of the Child Protective Services Law. According to the definitions section, sexual abuse or exploitation consists of:

(1) the employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes but is not limited to:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in an individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation for gratification of any individual.

(iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming (23 Pa. C. S. A. §6303 (a)).

The definition section specifically states that it is not sexual abuse for a child "who is 14 years of age or older" to engage in consensual sexual activity with "another person who is 14 years of age or older and whose age is within four years of the child's age" (§6303).[9]

In addition, the definitions section enumerates the sexual offenses that trigger a report of suspected child sexual abuse: rape, statutory sexual assault, involuntary deviant sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, indecent exposure, incest, prostitution, sexual abuse, unlawful contact with a minor, and sexual exploitation. A report of suspected abuse is required regardless of who committed the offense. The individual who committed the crime against the child need not meet the definition of a "perpetrator" according to the Child Protective Services Law. A report of suspected abuse is required any time the mandated reporters have reason to suspect that the crime occurred, regardless of whether the mandated reporters saw the abused child in their professional capacity.

It is not the obligation of the mandated reporter to determine if one of these crimes has occurred. Instead if the mandated reporters suspect that these crimes occurred, then they should report their suspicions. Furthermore, because the definition of sexual abuse and exploitation in the Child Protective Services Law is broader than this list of specific offenses, a child may be a victim of child abuse even if the crimes alleged did not actually occur. A finding of abuse may occur without a criminal conviction. When in doubt, the mandated reporter should err on the side of reporting suspected abuse.

The sexual offenses included in the statutory definition of sexual abuse are derived from the Pennsylvania Crimes Code referenced in this material. For example, rape is defined as sexual intercourse by force or threat of force; when the person is unconscious; when the person's ability to control their conduct has been compromised after unknowingly ingesting drugs or intoxicants designed to prevent resistance; when the person suffers from a mental incapacity; or when the person is less than 13 years old. Rape is a felony of the first degree. Depending upon the facts of the case, a criminal conviction for rape involving a child can carry a prison term up to 40 years or life.

It is sexual abuse for children who are 14 or 15 years old to have sexual relationships with a partner who is four or more years older than they are, or for any child who is 14 to 17 years of age to have sexual relationships with any partner, regardless of age, if the relationship involves coercion, exploitation, persuasion, or inducement (see footnote 8).

It is considered institutional sexual abuse for school employees to have sexual relationships with a student in their school.

Finally, creating a likelihood of sexual abuse qualifies as sexual abuse.

The definitions of sexual criminal offenses overlap considerably. An understanding of the elements of these offenses requires knowledge of the Pennsylvania Crimes

9 Please consider the following when determining whether to report: If children 14 or 15 years of age have sexual relationships with a partner who is four or more years older than they are, this should be reported. Any sexual relationship with a child from 14 to 17 years of age is considered sexual abuse and should be reported, no matter the difference in age between the individuals if the relationship involves coercion, exploitation, persuasion, or inducement. Any sexual contact with a child who is 13 years old would trigger a report of sexual abuse.

Table Two: Descriptions of Sexual Offenses Involving Children

Activity	Age of Child	Found in Criminal Code[10]	Report
Non-consensual sexual intercourse[11]	Anyone under 18	Rape (§3121);[12] involuntary deviate sexual intercourse (§3123); sexual assault (§3124.1)	YES
"Consensual" sexual intercourse[13]	One of the participants is less than 13 years old	Rape; statutory sexual assault (§3122.1); involuntary deviate sexual intercourse; aggravated indecent assault (§3125)	YES
"Consensual" sexual intercourse	One of the participants is 14 or older and the other is 4 or more years older and they are not married	Involuntary deviate sexual intercourse; statutory sexual assault	YES
"Consensual" sexual intercourse with resident of juvenile justice or MH/MR facility by employee or agent	Anyone under 18	Institutional sexual assault (§3124.2)	YES
"Consensual" touching of sexual parts for the purpose of sexual gratification	Anyone less than the age of 13 is incapable of giving consent; anyone who is 13, 14, or 15 and the other party is four or more years older than they are and they are not married	Indecent assault (§3126)	YES
"Consensual" sexual intercourse between relative and child[14]	Anyone under 18	Incest (§4302)	YES
Victim of indecent exposure[15]	Anyone under 18	Indecent Exposure (§3127)	YES
Engaging in or being solicited to engage in prostitution[16]	Anyone under 18	Prostitution (§5902)	YES
Any unlawful contact with a minor[17] associated with open lewdness, prostitution, obscenity, sexual abuse, or sexual exploitation	Anyone under 18	Unlawful contact with minor (§6318); Open lewdness (§5901); prostitution (§5902), obscenity (§5903); sexual abuse (§6312), and sexual exploitation (§6320)	YES
Being procured for pornography or disseminating or knowingly possessing child pornography[18]	Anyone under 18 being used for pornographic purposes	Sexual exploitation; sexual abuse	YES
Deliberately exposed to alarming sexual activities[19]	Anyone under 18	Open lewdness (§5901)	YES
Deliberately sold pornography or admitted to pornographic event	Anyone under 18	Obscenity (§5903)	YES

10 Many of the activities qualify for prosecution under more than one definition. For example, certain behaviors could be prosecuted as rape, aggravated sexual assault, or sexual abuse of children. The determination of the level of prosecution depends on many factors including the context of the crime or mitigating circumstances.
11 Rape occurs when there is sexual intercourse by force or threat of force; when the person is unconscious; when the person's ability to control their conduct has been compromised after unknowingly ingesting drugs or intoxicants designed to prevent resistance; when the person suffers from a mental incapacity; or when the person is less than 13 years of age. The same standard applies if the genitals or anus are penetrated with a foreign object.
12 Refers to the section found in Chapter 18 (Crimes Code) of Pennsylvania statutes.
13 An activity may be consensual to the extent that the participant engages in it without coercion. However, the law defines certain activities as non-consensual based only on the age (and presumed capacity to consent) of the participant.
14 Incest occurs when a person knowingly engages in sexual intercourse with an ancestor or descendant, brother or sister (including half-brother or half-sister), or blood relations who are uncle, aunt, nephew or niece. It can occur even if the relationship is by adoption.
15 Person exposes his or her genitals in public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm (18 Pa. C. S. A. §3127 (a)).
16 Prostitution involves procuring prostitutes, encouraging prostitution, procuring a patron for a prostitute, transporting a person for prostitution, leasing a premise to be used for prostitution, or living off the earnings of prostitutes (18 Pa. C. S. A. §5902).
17 These activities overlap with other child abuse reporting requirements.
18 Procuring a child for "actual or simulated activity or nudity arranged for the purpose of sexual stimulation or gratification of any person" (18 Pa. C. S. A. §6320); dealing with intentionally possessing or viewing child pornography (18 Pa. C. S. A. 6312 (d)).
19 Open lewdness means "any lewd act which he knows is likely to be observed by others who would be affronted or alarmed" (18 Pa. C. S. A. §5901).

Code. Table Two gives more information on the sexual behaviors that can trigger a report of suspected sexual abuse. An adult who knowingly or intentionally views child pornography is committing sexual abuse. "Intentionally views" is defined as "the deliberate, purposeful, voluntary viewing of materials (18 P.C. S. A. 6312 (g)), so that accidentally stumbling across child pornography while web surfing, for example, would not trigger a report of suspected child abuse.

Psychotherapists who work with adolescents sometimes encounter "sexting," or the act of sending nude pictures of oneself or receiving nude pictures of a partner usually through a smart phone. Pennsylvania law excludes sexting as a reportable offense under the child protective services law. The exclusion only applies to nudity and not to depictions of sexual activity or where the nude image was acquired for commercial purposes. Although it does not fall under the Child Protective Law, sexting is illegal and the punishments are especially severe if the depiction was taken to coerce or harass a person or taken without their consent.

Because of the different laws involved and their complexity, many mandated reporters are confused about the ability of children to consent to sexual activity. This requires looking at both criminal law in Pennsylvania and the Child Protective Services Law. In combination, these laws state that reports of suspected abuse must be made when a child under the age of 14 engages in sex, or when a child 14 or 15 engages in sex with an individual who is more than four years older. In addition, reports must be made anytime the sexual activity involves coercion, exploitation, inducement, or persuasion. An example may illustrate the application of these laws.

Consider this scenario:

A 17-year-old reported that she had sexual intercourse with her boyfriend who was 20.

However, she stated that she only agreed to have sex with him after he promised to secure alcohol for her and some of her friends.

Although she is 17 and there was no physical coercion involved, a report of abuse should be made because the sexual relationship occurred because of inducement involving the exchange of alcohol for sex.

Sample Questions to Test Your Understanding[20]

Would you be a mandated reporter if, in your professional capacity, you learned that:

1. A 13-year-old child reported having sexual intercourse with a person who was 18?
2. An adult took pictures of a child under the age of 18 for the purposes of distributing it to gratify the sexual impulses of another adult?
3. A 9-year-old girl opened the bedroom door of her parents without knocking and walked in on her father who was naked at the time?
4. A 24-year-old man reported that he transported a 17-year-old girl for purposes of having sexual relationships for pay with a friend of his?
5. A 19-year-old boy reported that he was making out with his 13-year-old girlfriend and inserted his finger into her vagina?
6. A 15-year-old girl had consensual sexual relations with a 14-year -old boy?
7. A 16-year-old boy reported that he had sexual relations with a 21-year-old woman who works in the school?
8. A 12-year-old girl reported making out with her boyfriend who accidentally brushed up against her breasts?
9. A 16-year-old girl reported having sexual relations with a 21-year-old man who was the brother of her stepfather?
10. A 35-year-old man reports that he watches child pornography?
11. A 28-year-old man deliberately revealed his genitals to a 16-year-old girl with the intention of creating surprise or shock.
12. A 16-year-old girl reported having sexual relationships with her 19-year-old half-brother.

ANSWERS: Yes for questions 1, 2, 4, 5, 7, 9, 10, 11, 12

Among adolescents, mandated reporters often identify suspected sexual abuse based on the self-report of the children or adults. However, it can be harder to identify sexual abuse of younger children. Certainly, sexual abuse is suspected whenever a very young child has a sexually transmitted infection. Also, sexual abuse needs to be considered and a medical evaluation scheduled if a young child has unexplained genital or anal pain or bleeding. Often sexual abuse with younger children is considered if the child shows highly sexualized behavior (such as a five-year-old simulating intercourse) or if the child repeatedly attempts inappropriate touching of other children or adults. In the absence of an obvious or plausible alternative explanation for these behaviors, a report of suspected child abuse should be considered.

Does sexual play by very young children always trigger a report of suspected child abuse? Kellogg (2009) notes that more than 50% of children under the age of 13 will engage in some sexual behavior, even if it is only exhibiting genitals to other children or masturbating. However, at times the sexual play may include rubbing genitals together, inserting one's tongue into the mouth of another child while kissing, simulated intercourse, mouth to genital contact, or insertion of objects in the anus or vagina. Because these sexualized behaviors can occur along a continuum, it is not always clear when ordinary sexual play crosses the line into sexual abuse.

At times, the sexual activity such as kissing other children, showing one's genitals to others, or masturbating, may appear spontaneous and the result of natural curiosity. At other times, it may be precipitated by incidental or accidental exposure to adult nudity in the household, or accidental exposure to pornography.

20 These sample questions are only to test the reader's understanding of the material in this article. Answering these questions correctly is not necessary to receive credit for this continuing education program.

Families differ in the extent to which adults feel comfortable in varying degrees of undress in front of their children. For example, some mothers feel comfortable breast feeding in front of their other children or shower with them; others do not. Normal curious sexual behaviors tend to be transient and will stop when the child is told that the behavior is inappropriate (Kellogg, 2009).

It can be hard to determine when the activity crosses the line from typical childhood exploration to a possible indicator of abuse. Some factors to consider are the nature of the activity, its frequency, and the relationship between the children. Did the activity occur because of force or the threat of force? Was there a large difference in the age (or a large difference in maturity or cognitive ability) between the children? Although it is not abuse for a child to have accidental access to pornography, it is substandard parenting and possibly neglect to give children easy access to pornography, and it is abuse for a parent to intentionally expose a child to pornography.

Newborns

Any hospital or licensed health care professional must report suspected child abuse when they encounter an infant under the age of one (1) who is affected by the drug abuse of the mother, shows withdrawal symptoms resulting from prenatal drug exposure, or has fetal alcohol spectrum disorder (FASD). However, reports of abuse do not have to be made when a reporter learns of a pregnant woman who is using drugs.

Human Trafficking

Engaging in severe forms of human trafficking as defined by the Trafficking Victims Protection Act of 2000, qualifies as child abuse The Trafficking Victims Protection Act of 2000 defines sex trafficking as "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act." It defines "severe forms of trafficking" as "(A) sex trafficking in which commercial sex is obtained by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

Commercial sex could include prostitution, pornography, or exotic dancing, or any sex act of value with victims under the age of 18 even if there is no force, coercion, or fraud. Labor trafficking is the use of labor through the threat of serious harm, physical restraints, or the abuse of the legal process. Examples could include making children work for little or no pay frequently in factories or farms. It could also include domestic service for jobs such as cleaning, gardening, or child care under abusive conditions such as working 10 to 16 hours a day with little or no pay.

Children who are especially at risk for human trafficking include youth in foster care or welfare system; homeless or runaway youth; youth with disabilities, mental health or substance abuse disorders; or youth who come from dysfunctional families, have substance abuse problems, or youth who identify as native or aboriginal, or who have a history of sexual abuse.

Warning signs suggesting that a child is involved in trafficking include, but are not limited, to youth who have been involved in commercial sex or have a prior arrest for prostitution or related charges, who have sexually transmitted infections or pregnancies, who have an explicitly sexual on-line profile, or who frequent internet chat rooms or classified sites. They may express interests in relationships with adults much older than them, lack control over their finances, or exhibit paranoid or hyper-vigilant behavior. Often, they have no knowledge of personal data such as age, name or date of birth, or have no identification, or lie about their age.

Other warning signs could include a tattoo that they are reluctant to explain, wearing sexually provocative clothing, or wearing new clothes or receiving cosmetic services with no apparent financial means to afford them. In addition, they may depict elements of sexual exploitation in drawings, poetry, or other modes of creative expression. Finally, they may keep late hours or have secrecy about their whereabouts.

Exclusions to Child Abuse

The Child Protective Services Law also identifies several situations that do not constitute child abuse, including environmental factors; practice of religious beliefs; use of force for supervision; control and safety purposes; parental discipline; participation in sports events that include physical contact; child-on-child contact; and defensive force.

Environmental Factors. Except for child-care services or adoptive parents, no child will be considered abused based on injuries that occur only because of inadequate housing, furnishing, income, clothing, and medical care "that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides" (23 Pa. C. S. A. §6304 (a)). This exclusion does not apply to child-care services.

Practice of Religious Beliefs. No child will be considered abused because the parents or caregiving relative (defined as "relative within the third degree of consanguinity and with whom the child resides;" 23 Pa. C. S. A. §6304 (b)) has denied medical or surgical care based on beliefs "consistent with those of a bona fide religion" (23 Pa. C. S. A. §6304 (b)). However, in those situations the county agency will closely monitor the child and shall seek court-ordered medical intervention "when the lack of medical or surgical care threatens the child's life or long-term health" (23 Pa. C. S. A. §6304 (b) (1)). Even if court intervention is necessary, the child will not be considered abused, but the family may be referred for general protective services, if necessary. This section does not apply in the event of the death of a child.

Children and Youth workers will consider environmental factors or religious practices when making their determination on a case. These factors, however, do not alter the obligation of mandated reporters to act (report) to protect the well-being of a child. Although Children and Youth workers will take exclusions into account when doing

their investigations, this is not an exclusion to report.

Use of Force for Supervision, Control and Safety Purposes. A parent or another person responsible for the welfare of a child may use physical force:

(i) to quell a disturbance or remove a child from the scene of a disturbance that threatens physical injury to persons or damage to property;

(ii) to prevent the child from self-inflicted physical harm;

(iii) for self-defense or the defense of another individual; or

(iii) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child. (23 Pa. C. S. A. §6304 (c)).

In addition, adults may use reasonable force to defend themselves or others.

Participation in Events that Involve Physical Contact with Child. It is not child abuse to engage in physical contact with a child as part of an interscholastic sport, physical education, or recreational activity, or an extracurricular activity.

Child to Child Scuffle. Mutually agreed upon fights, disputes, or scuffles between children are generally not considered child abuse. However, it is child abuse if it involved rape, sexual assault, involuntary sexual intercourse, aggravated sexual assault, indecent assault, or indecent exposure.

Reasonable Physical Force by a Parent. Parents may "use reasonable force on or against their children for the purposes of supervision, control and discipline of their children" (23 Pa. C. S. A. §6304 (d)).

Reporting Child Abuse

Any person may report child abuse. However, professionals who are mandated to report child abuse include all persons licensed as health care professionals, Christian Science practitioners, school administrators, teachers, school nurses, social service workers, day-care center workers, and any other child-care or foster-care worker, mental health professional, peace officer, or law enforcement official.

Attorneys and clergy are mandated reporters of child abuse, except when they obtain information through a confidential communication covered by the attorney-client, or clergy-communicant privileged communication law, respectively. So, for example, a religious professional who learns of child abuse while conducting a religious education class would be a mandated reporter. However, the same religious professional who learns of child abuse through the private confession of a parishioner would not be a mandated reporter.

Other privileged communication laws do not apply to other mandated reporters and do not "relieve the mandated reporter of the duty to make a report of suspected child abuse" (23 Pa. C. S. A. §6311.1 (a) (2)).

All licensed psychologists, certified school psychologists, licensed professional counselors, marriage and family therapists, nurses, physicians and other licensed health care professionals are mandated reporters of child abuse. In addition, all students, interns, trainees, or employees of licensed health care professionals who have direct professional contact with children are mandated reporters as well. So, for example, a billing clerk who works for a psychologist but has no contact with children would not be a mandated reporter. However, a psychology intern who works with patients would be a mandated reporter.

The Child Protective Services Law requires health care professionals to report when they "have reason to suspect that a child is a victim of child abuse" (23 Pa. C. S. A. §6311 (b)). Reasonable suspicion is more than a hunch or a passing thought. Instead, reasonable suspicion arises from the totality of circumstances, direct observations, or background information that the mandated reporter has about a family.

Health care professionals must report suspected child abuse when

(1) They come into contact with the child in the course of employment, occupation, and practice of a profession (23 Pa. C. S. A. §6311 ((b) (1) (i));

(2) They are directly responsible for the care of the child or are affiliated with "an agency, institution, organization, school, regularly established church or religious organization, or other entity that is directly responsible for the care, supervision, guidance, or training of the child, (23 Pa. C. S. A. §6311 ((b) (1) (ii); or

(3) Receive a specific disclosure from any individual that an identifiable child is the victim of child abuse (23 Pa. C. S. A. §6311 ((b) (1) (iii)); or

(4) An individual 14 years of age or older

makes a specific disclosure to the mandated reporter that the individual has committed child abuse (23 Pa. C. S. A. §6311 ((b) (1) (iv)).

Section (3) above requires mandated reporters to report if they suspect abuse based on the report of a third party. Although the health care professionals may be skilled at identifying suspicious behavior indicative of abuse upon seeing a child in their professional capacity, it can be more difficult to evaluate the possibility of abuse without having seen the child. Sometimes the informants of the abuse may be credible, sincere, and have detailed information that would give any reasonable psychologist a suspicion that abuse was occurring. For example, the health care professional may be seeing a child/patient and, through the course of treatment, acquire information that the sibling of that patient is a victim of abuse. The credibility of the report from the patient as well as the direct observations of the parents, and background knowledge will help inform the decision as to whether to file a report of suspected child abuse.

At other times, the informants may be using the term "child abuse" loosely, have secondary motives for wanting an investigation of abuse to be made, or can only give vague information that is itself based on second hand reports. Our recommendation is that health care professionals consider the credibility, motives, and detail in assessing the report. When in doubt, we recommend that health care professionals err on the side of reporting suspected abuse.

Before December 31, 2014, health care professionals and other mandated reporters only had to report children who they had encountered in their professional capacity (or who were in contact with the agency, organization, or institution that hired the psychologist). However, after December 31, 2014, health care professionals must report suspected child abuse even if the individual in front of them is the one who reports that they committed the abuse. So, if a parent or any party (over the age of 14) reports to a health care professional that he or she committed an act that would constitute abuse, the health care professional would be mandated to report that abuse even if the child is not currently endangered.[21]

Before December 31, 2014, if a grandmother reported that her daughter abused her child, there was no duty to report under the Child Protective Services Law unless the reporter also had contact with the child (or the child was seen in the same agency, institution, or organization as the mandated reporter). After December 31, 2014, a disclosure by any person to the mandated reporter that an identifiable child is the victim of child abuse will trigger a report of suspected abuse.

Standards 3 and 4 above also modified the traditional link between professional work and the status of a mandated reporter. So, mandated reporters who learn of the abuse outside of their work would be mandated to report if (1) "a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse" or (2) "an individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse." For example, a health care professional must report child abuse if a babysitter over the age of 14 informed the professional that she slapped an identifiable infant under the age of one to keep that infant quiet, even if the babysitter did not make this disclosure in the context of a professional relationship with the health care professional.

The amended statute states that "Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse [in order] to make a report of suspected child abuse" (23 Pa. C. S. A. §6311(b) (3)). The report should be made even if the psychologist does not know the identity of the perpetrator.

The mandated reporter who learns of the abuse should file the actual abuse report. This can no longer be delegated to another individual through a chain of command.

Supervisees or employees must immediately report child abuse and "thereafter notify the person in charge of the institution, school, facility or agency, or the designated agent of the person in charge" (23 Pa. C. S. A. §6311 (c)).

Although the mandated reporters must report any time that they have reasonable cause to suspect abuse, it is not their role to investigate the abuse. Local Children and Youth workers conduct the evaluation.

Making a Report of Abuse

Reporting can be done through the Child Welfare Information Solutions (CWIS; www.compass.state.pa.us/cwis). CWIS is the preferred manner of making a report of abuse, but is only available to mandated reports. Reports of child abuse also can be made to the statewide phone number (800-932-0313). The reports must be made immediately by a notification to ChildLine followed by a detailed written report within 48 hours after the first report.

The written reports must include the following information, if available:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.
(2) Where the suspected abuse occurred.
(3) The age and sex of each subject of the report.
(4) The nature and extent of the suspected child abuse, including the evidence of prior abuse to the child or siblings of the child.
(5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by that individual.
(6) Family composition.
(7) The source of the report.

21 This is assuming that the victim is still a child (a person under the age of 18). Mandated reporters may report abuse reported by a person who is an adult; and the possibility of such a report needs to be considered if the perpetrator has access to vulnerable children. Nonetheless, the mandate to report abuse is only triggered if the victim is currently under the age of 18 (Personal communication, Ms. Cindy Horshaw to Rachael Baturin, February 5, 2015).

22 Sections 6314 through 6316 are unlikely to apply to non-medical mandated reporters as they deal with medical tests, unusual medical events, or coroner investigations of the deaths of children.

(8) The name, telephone number, and e-mail address of the person making the report;
(9) The actions taken by the reporting source, including those actions taken under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relationship to admission to private and public hospitals), 6317 (relating to mandatory reporting and postmortem investigation of deaths).[22]
(10) Any other information required by Federal law or regulations.
(11) Any other information that the department requires through regulation.

(23 Pa. C. S. A. §6313 (c)).

All the information contained in the report is confidential except for limited circumstances, including the right of the mandated reporters to receive follow-up information on the outcome of the report. The mandated reporter who made the report has the right to learn "whether the child abuse is indicated, founded or unfounded" and "any services provided, arranged for or to be provided by the county agency to protect the child" (23 Pa. C. S. A. §6340 (a) (12)).

After a Report Is Made

After a report of child abuse is made, Children and Youth workers will begin their investigation. Children and Youth will determine if the abuse is substantiated or not. Children and Youth will also provide needed services to the child and family if indicated.

Protections and Penalties for Mandated Reporters

Mandated reporters receive immunity for good faith in making reports of suspected abuse, cooperating with investigations, testifying in proceedings arising out of suspected abuse, or engaging in some other actions, such as taking X-rays of abused children or reporting deaths.

Mandated reporters who fail to report suspected child abuse may be charged with either a felony or a misdemeanor, depending on the circumstances. A felony (the more serious offense) may be charged if health care professionals (or other mandated reporters) willfully failed to report child abuse when they had direct contact with the abused child. A misdemeanor (the lesser offense) may be charged if health care professionals (or other mandated reporters) otherwise failed to report abuse. Depending upon the facts of the case, the grading of the potential criminal sanctions for the simple failure to report abuse may increase up to a felony of the second degree.

The best means of avoiding criminal scrutiny is to obtain a working understanding of the child abuse reporting statute, secure consultation or legal advice in difficult cases, exercise sound clinical judgment, and maintain good written records.

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WHEN DOES A PERSON BECOME YOUR PATIENT?[1]

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When psychologists enter a treatment relationship with a patient, they assume fiduciary obligations (or obligations of trust) and this includes the obligation to respond to and address their mental health needs. I have been unable to find any Pennsylvania statute or court case that explicitly states when a psychologist-patient relationship begins. However, case law with physicians affirms that, absent a contract otherwise, physicians may choose whom they treat (Blake, 2012, Buppert, 2021) and the precedent from the attorney-client relationship in Pennsylvania is that professional obligations begin "only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so" (Pennsylvania Supreme Court, 2021, Preamble, (16)). Using these as precedents, it appears that the fiduciary relationship (or the psychologist-patient relationship) begins when a person has requested psychological services and a reasonable person would believe that the psychologist has agreed to provide those services.

Psychologists could say many different things or take different actions that would lead a reasonable person to assume that such a relationship has begun. A psychologist might say, "I am in panel with your insurance and your problem seems something that I am comfortable with, so how about we set up an appointment for Tuesday?" or "Sure, I can take you as a patient." Obtaining informed consent from the patient solidifies the professional obligations. On the other hand, if a psychologist says to a prospective patient, "I don't have any openings and can't see you," or "I see that you want someone to treat your child, but I don't treat children," etc., then no reasonable person would assume that a psychologist-patient relationship has begun.

Receiving a voice mail from a prospective patient does not make that person a patient. Nevertheless, it is polite and good practice, to return such phone calls as soon as reasonably possible, even if only to inform the person that the psychologist is not currently accepting new patients. Failing to return such phone calls, while not uncommon, reflects badly on the profession and can frustrate already distressed individuals. The need to accept such phone calls can be reduced if psychologists have a voice mail that explains their limited availability or lack of availability.

Speaking on the phone with a prospective patient does not make that person a patient. A psychologist may talk to a prospective patient and determine that they are not appropriate as a patient, tell that to the person making the inquiry, and no relationship has been established. There is no legal obligation to document these encounters because the persons are not patients. Nor is there any obligation to keep copies of paperwork completed by persons who never became patients. Psychologists have no obligations to suggest referrals for these non-patients, but it is a courtesy to do so, if possible. Unfortunately, it is harder to make helpful referrals during this pandemic.

Sometimes a psychologist may make an initial appointment with a patient, conduct an initial interview, determine that they are not an appropriate person to treat the patient, and then terminate the relationship with a referral. This is an awkward situation, but even the best psychologists may sometimes learn that for clinical or ethical

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reasons they need to terminate a patient after the first session. Carefully screening potential patients through a phone call will reduce the likelihood that this scenario will occur. Also, to reduce the patient's feelings of rejection or disappointment, it may be prudent to phrase the initial session as a meeting to determine if "I have the skills and resources to provide you with the services you need," or some similar wording. Two caveats are in order, however. Once the psychologist has agreed to treat the patient, there is an affirmative obligation to provide referrals. Second, psychologists should not terminate patients if doing so would place the safety of the patient or others at imminent risk of harm. For example, a patient may reveal factors indicating extreme suicidal risk in the first session. The psychologist may terminate with the patient only if reasonable steps have been taken to ensure the safety of the patient. These measures might include things such as securing the admission of the patient to a psychiatric hospital or putting in place some other treatment or safety plan appropriate to that patient. If it takes the psychologist several days to secure a hospitalization or services from another more appropriate provider, then the patient is still the patient of the psychologist and the psychologist has a duty to that patient until the patient is in the hospital, or the other professional has assumed responsibility.

What about a situation in which the psychologist speaks to a prospective patient who is imminently suicidal and clearly not appropriate for the psychologists' practice based even on the initial phone contact? For example, one of my friends has a purely neuropsychological assessment practice but received an emergency call from an individual with substance abuse problems who expressed thoughts of suicide. Clearly the caller was inappropriate as a patient for the practice he had called. But the psychologist-patient relationship did not occur when the neuropsychologist simply spoke to the patient over the phone, offered referrals and phone numbers for appropriate facilities, and got assurance that the patient was safe and would follow through with the referrals. In that case, the psychologist fulfilled his ethical obligations, even though no psychologist-patient relationship existed.

Does putting a person on a "waiting list" make that person a patient? This depends on how the waiting list option was presented to the prospective patient. A psychologist might say, "I have no openings for new patients now and don't anticipate any openings for several more weeks, but after that if something opens up, then I can call you and we can discuss whether I would be able to help you. In the meantime, feel free to look for another psychologist." In that case, the person on the waiting list is not a patient. There is no promise that the person will be taken as a patient, only that the person would get a call at some unspecified later time to discuss the possibility of being a patient.

On the other hand, if the psychologist says, "I have no openings now, but I will screen you for your immediate needs and call you when something opens up and, in the meantime, if you develop a crisis, call me and I will squeeze you in." In that situation, the psychologist has promised care to the patient and a relationship has started. A reasonable patient could call the psychologist in a crisis and would assume that the psychologist will follow through with their promise to provide care.

Consider another situation where a psychologist had spoken to a prospective patient about treatment, explained the nature of services (initiated the informed consent process), and followed-up by sending their informed consent form for the prospective patient to sign. But the prospective patient failed to sign it. Upon follow-up over the phone, the prospective patient said, "I am still considering whether I want to receive treatment from you." Here the prospective patient has not consented to treatment and there is no psychologist-patient relationship. On the other hand, we could imagine a scenario where the psychologist asked the prospective patient to sign the form, the patient failed to do so, but the psychologist started treatment anyway. In this situation, a reasonable patient may conclude that signing the form was not really that important. Since I am getting treatment anyway, they might think, I must be a patient.

We can also consider the related question of when does a psychologist-patient relationship end. It ends when both parties agree it has ended or when a reasonable person would believe it has ended. Most of the time these endings are clear with no ambiguity. But consider this situation: a new patient missed the second

appointment and failed to respond to a follow-up outreach contact. After waiting a week or two for a response, a psychologist may infer that this patient is not interested in services, but it is probably best to avoid any ambiguity and follow up with a letter, voice mail, or other message noting politely that the treatment relationship has ended. It is possible that some extreme events had intervened in the life of the patient that could explain their non-response. In that scenario, the patient can always call back, explain, and express a desire to reschedule services.

In all these situations the standard would be whether a reasonable person believed that they were a patient. We can imagine all kinds of hypothesized permutations on this theme and can certainly create some scenarios where "reasonableness" could be debated. Although we cannot parse out every potentially ambiguous situation, these examples should give readers a general idea about how the standard might be applied.

Here are some options that psychologists can consider that may reduce uncertainty or ambiguity:

- If they are not taking new patients, then psychologists can make clear on their websites or answering machines that they are not accepting new patients or are only accepting returning patients. Of course, this does not preclude psychologists from taking referrals on a case-by-case basis from their preferred referral sources or for other reasons.
- Psychologists should carefully screen prospective patients over the phone to reduce the likelihood that they would need to be referred after the first session.
- In situations that are ambiguous or carry some clinical risk, psychologists should be clear with people as to whether they are a patient or not. When in doubt, psychologists should err on the side of being explicit.
- There is no legal requirement to document conversations with or retain paperwork of prospective patients because they are not patients and are not receiving services. However, I could foresee rare situations when prospective patients may seem unhappy or disgruntled with the decision and documenting the interactions may be helpful.

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Lessons Learned from Writing "WHEN DOES A PERSON BECOME YOUR PATIENT?"

SAMUEL KNAPP, ED.D., ABPP

The article "When Does a Person Become a Patient?" illustrated several points about the ethical lives of psychologists. Psychologists make the best professional decisions when they know the laws, appreciate the role of overarching ethical principles, and embed themselves in supportive professional communities.

First, the article illustrates the importance of knowing the laws that govern our profession. For example, as related in that article, the APA Ethics Code, which is binding on all licensed psychologists in Pennsylvania, sets minimal standards of conduct for psychologists when they are terminating patients (10.10), completing informed consent requirements (e.g., 3.10 and 10.01), or fulfilling other obligations.

Second, the laws and rules governing our profession do not direct psychologists in every ethical situation that they might encounter. For example, the article noted the lack of any specific legal document identifying when a psychologist-patient relationship begins. Here psychologists can base their decisions on a presumed standard of care, which refers to what reasonable psychologists would do in similar circumstances. No one legally binding or definitive document lists or defines the standards of care for psychologists in all situations, although they are frequently described in ethics textbooks. For example, I have found no ethical standard or statute that tells psychologists explicitly that they must respond to the emergencies of their patients, but such a standard has been adopted by numerous courts in numerous decisions over the years.

No standard in the ethics code requires psychologists to have voice mail messages that tell prospective patients about their availability to take on new patients.

Third, the article presumes that psychologists have voluntarily assumed obligations beyond the minimum established by the laws and standards that govern our profession. For example, no standard in the ethics code requires psychologists to have voice mail messages that tell prospective patients about their availability to take on new patients. Nonetheless, psychologists who have such messages are adhering to the overarching ethical principles of Public Beneficence, or the obligations to benefit members of the public in general.

Fourth, the article includes some risk management recommendations. For example, the article accurately noted that psychologists have no obligation to document conversations or keep records on persons who inquired about being but did not become patients. Nonetheless, one could imagine an unusual situation when a prospective patient appeared especially distraught about not being accepted as a patient or inaccurately construed the actions of the psychologist as indicating that they were accepted as a patient. In those situations, it may be prudent for psychologists to document those interactions, even if they are not legally obligated to do so. Good risk management decisions are based on overarching ethical principles, even though they are not legally binding.

Finally, eight different psychologists reviewed this article carefully, identified practical implications for psychologists, considered nuances not addressed in the original article, and evaluated words and sentence structure scrupulously. In the opinion of the author, the reviewers turned a "just good enough article" into an excellent one. The cooperative exchanges that led to the creation of the article illustrated the benefits of working within a competent community, or a group of peers who help each other strive to do their best. Similarly, in other domains of professional life, psychologists who embed themselves in such networks will have resources that help them to improve the quality of their services.

CE QUESTIONS FOR THIS ISSUE

EARN **2 CE CREDITS** FOR THIS ISSUE!

The article selected for 2 CE credits in this issue of the Pennsylvania Psychologist is sponsored by the Pennsylvania Psychological Association. PPA is approved by the American Psychological Association to sponsor continuing education for psychologists. PPA maintains responsibility for this program and its content. During this renewal period only, the limit on the number of home study and distance learning continuing education hours has been lifted. For this renewal period, psychologists can receive all of the continuing education through home studies or distant learning programs. If you have more than 30 continuing education credits for this renewal period, you may carry over up to 10 credits of continuing education into the next renewal period.

You may complete the response form at the end of this exam, making certain to match your answers to the assigned question numbers. Each question has only one right answer. Be sure to fill in your name and address, sign your form, and return the answer sheet to the PPA office with your CE registration fee (made payable to PPA) of **$50 for members ($100 for nonmembers) and mail to:**

Continuing Education Programs
Pennsylvania Psychological Association
5925 Stevenson Avenue, Suite H
Harrisburg, PA 17112

To purchase and complete the test online, visit our online store at papsy.org. Passing the test requires a score of at least 70%. If you fail, you may complete the test again at no additional cost. We do not allow more than two attempts at the test.

Allow three to six weeks for notification of your results. If you successfully complete the test, we will mail a confirmation letter to you. The response form must be submitted to the PPA office on or before May 31, 2023.

Learning objectives: The article in this issue will enable readers to (a) describe the child welfare system in Pennsylvania; (b) define child, child abuse, perpetrators, and other relevant terms; (c) paraphrase the responsibilities of mandated reporters; (d) recognize the signs of child abuse and situations where child abuse must be reported; and (e) understand how to fulfill their responsibilities as mandated reporters of child abuse.

1. **According to the 2017 report from the Pennsylvania Department of Human Services, the most common cause for substantiated incidents of child abuse was for**
   a. Physical abuse
   b. Emotional abuse (serious mental injury)
   c. Neglect
   d. Sexual abuse
2. **According to the 2017 report from the Pennsylvania Department of Human Services, about one percent (1%) of all cases of abuse involved**
   a. Physical abuse
   b. Sexual abuse
   c. Emotional abuse
   d. Neglect
3. **The child protective services law defines a child as any individual who is**
   a. 18 years old or older
   b. Under the age of 18
   c. Under the age of 21
   d. Under the age of 18 who has not yet graduated from high school
4. **Child abuse could include**
   a. Interfering with the breathing of a child
   b. Forcefully slapping a child under one year of age
   c. Kicking, burning, or stabbing a child
   d. All the above
5. **A report of suspected child abuse could occur if**
   a. A child was allowed to be in the presence of a meth lab
   b. A child was allowed to be supervised by a sexual predator
   c. A newborn is showing signs of drug withdrawal
   d. All the above
6. **Feigning or intentionally exaggerating medical symptoms of a child resulting in harmful medical evaluations or treatment is called**
   a. Caregiver Fabricated Treatment
   b. Munchausen by proxy
   c. Pediatric illness falsification
   d. All the above
7. **Serious physical neglect could include the failure of a parent or caregiver to**
   a. Supervise a child adequately
   b. Secure needed medical care
   c. Give the child essential food or shelter
   d. All the above
8. **A substantiated report of suspected child abuse could occur if:**
   a. Medical care for a child was withheld by a parent because of a sincerely held religious belief
   b. A parent used mild and reasonable force to discipline their child
   c. A caregiver repeatedly failed to supervise a child thus exposing them to a substantial risk of serious physical injury
   d. A child lacked adequate clothing because of environment conditions beyond the control of his or her parents
9. **Determinations of adequate supervision require consideration of the**
   a. Developmental age and abilities of the child
   b. The child's understanding of any safety protocol
   c. The extent of danger in the child's environment
   d. All the above
10. **Which of the following would constitute bodily injury?**
    a. A parent uses ordinary physical punishment to discipline a child
    b. An adult uses force to protect himself against a child
    c. A parent punishes a child in a manner that creates substantial pain
    d. Two adolescent boys get into a scuffle with each other

11. **Which of the following is true?**
    a. Head injuries are the most common cause of child abuse fatalities
    b. Death from physical abuse is highest for children under the age of two
    c. Shaken baby syndrome is a form of abusive head trauma (AHT)
    d. All the above are true
12. **It could be considered abuse if a parent created a reasonable likelihood of bodily injury even if none occurred**
    TRUE FALSE
13. **The authors claim that**
    a. Physical abuse is more likely to occur in households where unrelated adults live
    b. The income level of a family should be considered as essential information in deciding whether to make a report of abuse
    c. Mothers with higher educational levels are very much more likely to sexually abuse their children
    d. All the above
14. **A young man, aged 19, reported to a health care professional that five years ago his mother struck him severely which caused him substantial pain and the loss of movement in his right arm. Although the action appears to constitute physical abuse, there would be no mandate to report this as child abuse because**
    a. The action occurred more than two years ago
    b. The patient is 18 or older (no longer a child)
    c. Both a and b
    d. None of the above
15. **Survey data reports that the frequency of emotional abuse reported in survey data is higher than the frequency of children identified as emotionally abused by child welfare programs.**
    TRUE FALSE
16. **Behaviors that would constitute suspected child abuse include all the following EXCEPT**
    a. An 18-year-old having consensual sex with a 15-year-old
    b. An 18-year-old paying for sexual favors with a 17-year-old
    c. An 18-year-old offers beer to a 16-year-old in exchange for sexual favors
    d. An employee of a juvenile justice facility having sexual relationships with a resident of that facility
17. **It could be considered child abuse to**
    a. Admit a child to a pornographic event
    b. Attempt to induce a child to participate in being filmed for a pornographic event
    c. Have an adult deliberately expose himself to a child
    d. All the above
18. **Behaviors that *may* lead to a suspicion of sexual abuse in a young child could include**
    a. Unexplained genital or anal bleeding or pain
    b. Highly sexualized behaviors (such as a five-year-old simulating intercourse)
    c. Children who repeatedly attempt inappropriate touching of other children
    d. All the above
19. **Behaviors that *almost always* lead to a suspicion of sexual abuse in a young child include**
    a. Masturbating
    b. Showing genitals to another child
    c. Kissing other children on the mouth
    d. None of the above
20. **Factors to consider when distinguishing ordinary sexual play from sexual abuse include**
    a. The difference in age and maturity between the children
    b. Any use of force or threat of force
    c. The nature of the sexual activity that occurred
    d. All the above
21. **According to the Child Protective Services Law, licensed health care professionals must report suspected child abuse if they encounter**
    a. A pregnant woman who is abusing illegal substances
    b. pregnant woman who they suspect to be drinking
    c. A child under the age of one who has a disorder on the fetal alcohol spectrum
    d. All the above
22. **According to the Child Protective Services Law, mandated reporters could include**
    a. Licensed health care professionals
    b. Trainees in health care professions
    c. Employees of health care professionals who have contact with children
    d. All the above
23. **A report of child abuse must be made if**
    a. The victim is under the age of 18
    b. The mandated reporter has a reasonable cause to suspect abuse
    c. A and B
    d. None of the above
24. **Mandated reporters must report child abuse if they suspect abuse based on**
    a. A child coming before them in their professional capacity
    b. A person who is 14 years or older tells them that they committed child abuse
    c. The receipt of a specific disclosure from any individual that an identifiable child is a victim of child abuse
    d. All the above
25. **Mandated reporters need NOT know the identity of the perpetrator to report suspected child abuse**
    TRUE FALSE

26. The initial report of child abuse may be made by telephone or through the CWIS

TRUE FALSE

27. Mandated reporters of child abuse

a. Must make reports of abuse immediately
b. Must make written reports of abuse within 96 hours of the first report of abuse
c. Can go to the police or the local District Justice instead of ChildLine
d. All the above

28. Mandated reporters of child abuse have good faith immunity for

a. Making reports of suspected child abuse
b. Cooperating with the investigators of child abuse
c. Testifying in proceedings arising out of reports of child abuse
d. All the above

29. The authors believe that mandated reporters can best fulfill their legal obligations by

a. Knowing the Child Protective Services Law
b. Securing consultation in difficult cases
c.. Exercising sound clinical judgment and keeping good records
d. All the above

CONTINUING EDUCATION ANSWER SHEET

The Pennsylvania Psychologist, May 2021

Please circle the letter corresponding to the correct answer for each question.

1.	a	b	c	d	9.	a	b	c	d	17.	a	b	c	d	25.	T	F		
2.	a	b	c	d	10.	a	b	c	d	18.	a	b	c	d	26.	T	F		
3.	a	b	c	d	11.	a	b	c	d	19.	a	b	c	d	27.	a	b	c	d
4.	a	b	c	d	12.	T	F			20.	a	b	c	d	28.	a	b	c	d
5.	a	b	c	d	13.	a	b	c	d	21.	a	b	c	d	29.	a	b	c	d
6.	a	b	c	d	14.	a	b	c	d	22.	a	b	c	d					
7.	a	b	c	d	15.	T	F			23.	a	b	c	d					
8.	a	b	c	d	16.	a	b	c	d	24.	a	b	c	d					

Satisfaction Rating

Overall, I found this issue of the *Pennsylvania Psychologist:*

Was relevant to my interests	5	4	3	2	1	Not relevant
Increased knowledge of topics	5	4	3	2	1	Not informative
Was excellent	5	4	3	2	1	Poor

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A check or money order for $50 for PPA members ($100 for nonmembers) must accompany this form. Mail to: Continuing Education Programs, PPA, 5925 Stevenson Avenue, Suite H, Harrisburg, PA 17112

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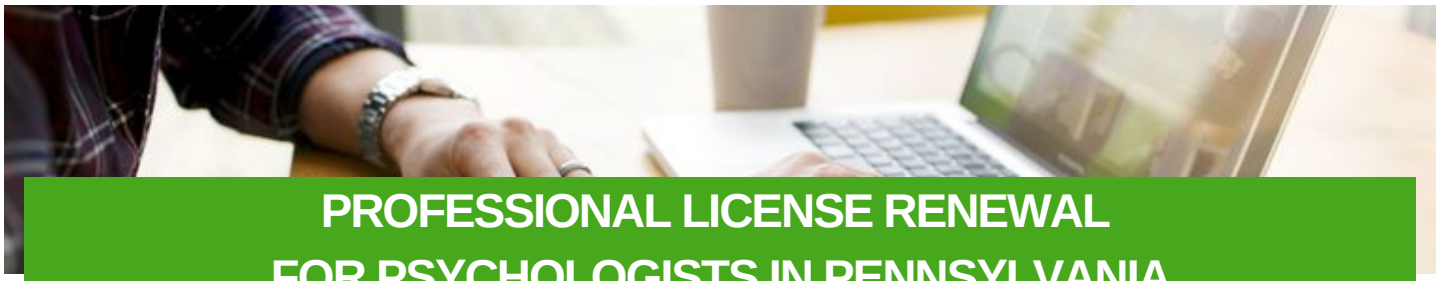

PROFESSIONAL LICENSE RENEWAL FOR PSYCHOLOGISTS IN PENNSYLVANIA

THE DEADLINE TO RENEW YOUR LICENSE IS NOVEMBER 30, 2021

Renewal notices from the *PA State Board of Psychology* **will be sent out to licensees via EMAIL about 60 days prior to the license renewal deadline for 2021.** This email will include the link to renew your license, your user ID, and your personal Registration Code. If you have changed your email address since the 2019 renewal, please contact the *State Board of Psychology* to make sure they have your most up to date email address on file.

All 2021 license renewals must be completed online. Paper renewal applications are not available.
Renewal notices are only being mailed to those licensees who do NOT have an email address on file with the State Board of Psychology

Specific licensing questions should be directed to the State Board of Psychology:
(717) 783-7155 or ST-PSYCHOLOGY@pa.gov

The PA State Board of Psychology is a government entity responsible for licensing and disciplining psychologists in the Commonwealth. PPA is a membership organization that is separate and apart from the State Board of Psychology.

PENNSYLVANIA PSYCHOLOGY LICENSE RENEWAL CHECKLIST

30 credits required

- 3 credits for Ethics - The word "ethics" must be part of the title, or the certificate must state that the programs specifically meets the requirements for ethics credits
- 2 credits for Child Abuse Recognition and Reporting (Act 31)
- 1 credit for Suicide Prevention (Act 74)

During the 2021 renewal period only, the limit on the number of home study and distance learning continuing education hours has been lifted. For this renewal period, psychologists can meet all of the continuing education requirements through home studies and/or distance learning programs.

If you have more than 30 continuing education credits, you may carry over up to 10 credits of CE into the next renewal period. Credits for the specific requirements listed above must be completed each renewal period.

Credits for psychologists must come from:

- An APA approved provider/course
- A provider approved by the State Board of Psychology
- An accredited college or university with semester hours, related to the practice of psychology
- AMA courses related to the practice of psychology that include an evaluation of learning objectives. It is commonly referred to Category I CE.

Visit *www.papsy.org/CE* for more information on PPA's continuing education, including Frequently Asked Questions

This resource is provided to you as a benefit of your PPA membership.

PENNSYLVANIA PSYCHOLOGICAL ASSOCIATION

The Pennsylvania
Psychologist

Calendar

JUNE 17 – 19, 2021
PPA2021
Virtual Convention

SEPTEMBER 23 – 25, 2021
PPA Fall Conference MAX
Lancaster Marriott at Penn Square
Lancaster, PA
Hybrid Event (In-Person and Virtual)

FRIDAY, OCTOBER 8, 2021
PPA Fall Conference MINI
Normandy Farm
Blue Bell, PA
Hybrid Event (In-Person and Virtual)

Home Study CE Courses

Act 74 CE programs

Essential Competencies when Working with Suicidal Patients—1 CE
Four Ways to Enhance Your Suicide Assessments (Webinar)—1 CE
Talking about Suicide: The Patient's Experience and the Therapist's Experience (Webinar)—1 CE
The Assessment, Management, and Treatment of Suicidal Patients: 2020—3 CE
The Essentials of Managing Suicidal Patients: 2020—1 CE
The Essentials of Screening and Assessing for Suicide among Adolescents—1 CE
The Essentials of Screening and Assessing for Suicide among Adults—1 CE
The Essentials of Screening and Assessing for Suicide among Older Adults—1 CE
The Essentials of Treating Suicidal Patients—1 CE

Act 31 CE Programs

Pennsylvania Child Abuse Recognition and Reporting—2 CE Version
Pennsylvania Child Abuse Recognition and Reporting—3 CE Version
Pennsylvania Child Abuse Recognition and Reporting (Webinar)—2 CE

General

Ethical Issues with COVID-19 (Webinar)—1 CE*
Ethical Responses when Dealing with Prejudiced Patients (Webinar)—1 CE*
Ethics and Self-Reflection—3 CE*
Foundations of Ethical Practice: Update 2019—3 CE*
Integrating Diversity in Training, Supervision, and Practice (Podcast)—1 CE
Interdisciplinary Collaboration in Assessing Capacity in the Elderly (Webinar)—1 CE
Introduction to Working with Chronic Health Conditions—3 CE
Legal and Ethical Issues with High Conflict Families—3 CE*
Mental Health Access in Pennsylvania: Examining Capacity (Webinar)—1 CE
Record Keeping for Psychologists in Pennsylvania—3 CE*
Telepsychology Q&A (Webinar)—1 CE
Why the World is on Fire: Historical and Ongoing Oppression of Black African American People in the United States (Webinar)—1.5 CE

This program qualifies for contact hours for the ethics requirement as mandated by the Pennsylvania State Board of Psychology.

Act 74 CE Programs qualify for the suicide requirement mandated by the Pennsylvania State Board of Psychology.

Act 31 CE Programs have been approved by the Department of Public Welfare and the Pennsylvania Department of State to meet the Act 31 requirements.

Visit PPA's online store for a full listing of our home studies.