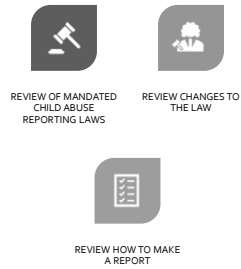


Mandated Child Abuse Reporting Requirements

Rachael L. Baturin, MPH, JD
Director of Government, Legal and Regulatory Affairs

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Overview of Workshop



2

Child Protective Services Law

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

3

Statistics from the Annual Child Abuse Report 2017

- There were 44,359 reports of suspected child abuse in Pennsylvania in 2016 and 4,597 of those children were identified as abused.
- 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
 - 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.

4

Substantiated Cases of Child Abuse

Substantiated cases of child abuse are cases which have either been:

- **Founded:** a judicial adjudication that the child was abused; 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."

5

General Protective Services

- 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, children should be kept in their own homes. However, when necessary, substitute care may be arranged. To reach these 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)).

6

Reasons for Referrals to GPS

Although reports for GPS services can be made through ChildLine, referrals to GPS are not child abuse investigations. Rather investigators will determine if the children are safe and whether the family needs services.

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).

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Important Definitions: Child and Perpetrator

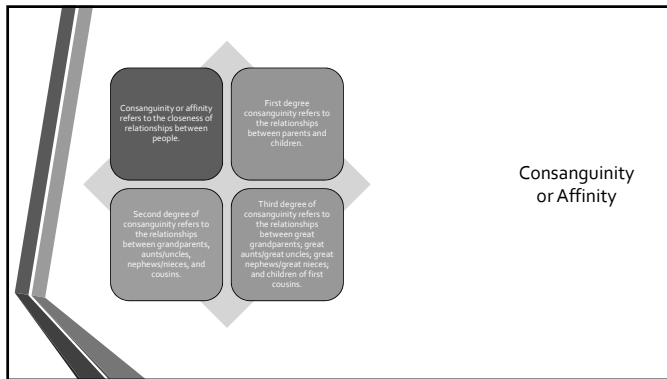
- A **child** is defined as "an individual under 18 years of age" (23 Pa. C. S. A. §6303 (a)).
- A **perpetrator** is "a person who has committed child abuse" (23 Pa. C. S. A. §6303 (a)). The term refers to: parents of the child, spouse or former spouse of the child's parent; a paramour or former paramour of the child's parent; a person 14 years of age or older and responsible for the child's welfare; 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.

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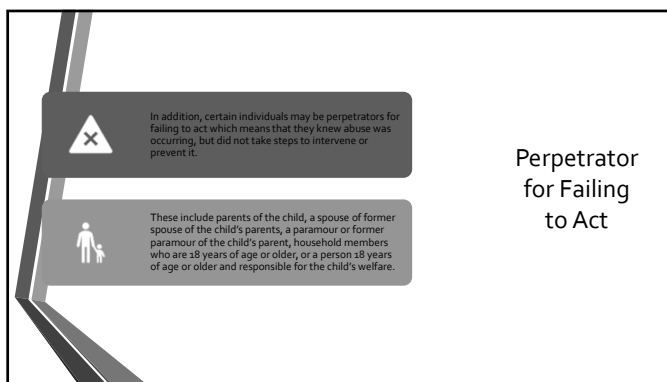
Person responsible for the child's welfare

- "**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)).

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10



11

Perpetrators

RELATIONSHIP	MAY COMMIT ABUSE BY ACTING	MAY COMMIT ABUSE BY FAILING TO ACT
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 18 years of age or older and responsible for the child's welfare	YES	YES, for those 18 or older
An individual 18 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

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Definition of Child Abuse

Child abuse is defined as "intentionally, knowingly, or recklessly" doing any of the following acts:

- Causing bodily injury to a child through any recent act or failure to act.
- 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
- 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.

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Definition of Child Abuse continued...

Causing	Causing sexual abuse or exploitation of a child through any act or failure to act.
Creating	Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
Creating	Creating a reasonable likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
Causing	Causing serious physical neglect of a child.

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Definition of Child Abuse Continued...

Engaging in any of the following recent acts:

- Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
- Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
- Forcefully shaking a child under one year of age.

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Definition of Child Abuse Continued...

- Forcefully slapping or otherwise striking a child under one year of age.
- Interfering with the breathing of a child.
- Causing a child to be present at a location [where meth is being produced illegally].
- 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].
- Causing the death of the child through any act or failure to act. (23 Pa. C. S. A. §592a (b.3))

16

Understanding the use of the term "recent"

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 as long as the child in question is less than 18 years of age.

17

Four Major Categories

- | | |
|--|---------------------------------|
| Physical abuse (previously called non-accidental injury) | Emotional abuse or Mental abuse |
| Neglect | Sexual abuse |
| These categories are further broken down by definitions included in the Child Protective Services law. | |

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Serious Physical Neglect

- Neglect (or failure to supervise) could include four 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.

19

Serious Physical Neglect Defined



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:



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.



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

20

Serious Physical Neglect continued...

- 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.

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Serious Physical Neglect continued...

- 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 age of the child, the child's understanding of safety protocols, and other factors (Hymel et al., 2007).

22

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.

23

Bodily Injury

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

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Bodily Injury Continued...

- **Bodily injury** is defined as "impairment of physical condition or substantial pain" (23 Pa. C. S. A. §6303 (a)), Substantial pain refers to pain that 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.

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Bodily Injury Continued...

- 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 2.
- 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).

26

Corporal Punishment

- 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, per se, is not child abuse (see section below on "Exceptions to Child Abuse").
- The use of a belt or other object for corporal punishment does not automatically trigger a report of child abuse, although it represents substandard parenting. A belt may even leave a small mark which would not always trigger a report of abuse unless the child experienced severe pain indicated by trouble sleeping, standing, or sitting or other manifestations of severe pain.

27

Bodily Injury Continued...

- 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.

28

Bodily Injury Continued...

- 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) (vi)), 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.

29

Activities Excluded from Physical Abuse

- 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)).

30

Bodily Injury Continued...

- In addition, it is not always necessary for caregivers to injure a child as long as 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)).

31

How to Identify Bodily Injury

- Reporters can identify physical abuse by directly observing of 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 care giver may be reacting from fear of serious physical injury or pain.

32

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.

33

Consider this 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 2 years ago and (2) the reporter is no longer under the age of 18 and is therefore no longer a child.

34

Serious Mental Injury

- According to the Child Protective Services Law, serious mental injury is defined as a "psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment that 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 seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks" (23 Pa. C. S. A. §6303 (a))

35

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 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.

36

Analysis

- 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.

37

Sexual Abuse

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

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Sexual Abuse Continued...

- (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)).

39

Please Note:

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).

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.

40

Sexual Offenses that Trigger a Report of Suspected Child Sexual Abuse

rape	indecent exposure
sexual assault	incest
statutory sexual assault	prostitution
involuntary deviant sexual intercourse	sexual abuse
institutional sexual assault	unlawful contact with a minor
aggravated indecent assault	sexual exploitation
indecent assault	

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Sexual Offenses that Trigger a Report of Suspected Child Sexual Abuse Continued...

- A report of suspected abuse is required regardless of who committed the offense. That is to say, the individual who committed the crime against the child need not be a perpetrator according to the definition in 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.

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Sexual Offenses that Trigger a Report of Suspected Child Sexual Abuse Continued...

- 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.

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Sexual Abuse Continued...

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.

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

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Sexual Abuse Continued...

- 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.

45

Viewing Child Pornography

- 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.

46

Sexting

- 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.

47

Sexual Abuse Continued...

- 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.

48

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 16 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.

49

Sexual Abuse
in Young
Children

- 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.

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Sexual Abuse
in Young
Children
Continued...

- 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.

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Sexual Abuse in Young Children Continued...

- At times, the sexual activity 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.
- 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 learns that they are inappropriate (Kellogg, 2009).

52

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 illegal 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 illegal drugs.

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Sexual Abuse in Young Children Continued...

- 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, or the age differences between the children?
- 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.

54

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.

55

Consideration of Environmental Factors or Religious Practices

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.

56

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.

57

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.

58

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: to quell a disturbance or remove a child from the scene of a disturbance that threatens physical injury to persons or damage to property; to prevent the child from self-inflicted physical harm; for self-defense or the defense of another individual; or 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.

59

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.

60

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.

61

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)).

62

Reporting Child Abuse

- 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 as a result of the totality of circumstances, direct observations, or background information that the mandated reporter has about a family.

63

Permissive Reporting

- Any person may report child abuse.

64

Reporting Requirements for Attorneys, Clergy Privileged Communications

- 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-communication privileged communication law.
- 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)).

65

Reporting Child Abuse Continued...

Health care professionals must report suspected child abuse when:

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))

They are directly responsible for the care of the child or are affiliated with "an agency, institution, organization, school, regularly establish 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 when

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

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)).

66

Reporting Continued...

- 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.

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Reporting Continued...

- 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.

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Reporting Continued...

- 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. 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).

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Reporting
Continued...

- 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.

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Reporting
Continued...

- 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.

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Reporting
Continued...

- 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.

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Reporting Continued...

- Supervisors 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.

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Major Changes to Law that Affect Mandated Reporters

- Definitions
- Who Reports
- What a health care provider needs to report

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Making a Report

- Reports of child abuse need to be made to the statewide phone number (800-932-0313).
- The reports must be made immediately by a telephone call to ChildLine followed by a written report within 48 hours after the oral report.
- Reporting can also be done through the Child Welfare Information Solutions (CWIS; www.compass.state.pa.us/cwis) which will become operative on December 31, 2014. CWIS is the preferred manner of making a report of abuse.

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Written Report

- The written reports must include the following information, if available:
- The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.
- Where the suspected abuse occurred.
- The age and sex of each subject of the report.
- The nature and extent of the suspected child abuse, including the evidence of prior abuse to the child or siblings of the child.
- The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by that individual.

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Written Report
Continued...

- Family composition.
- The source of the report.
- The name, telephone number, and e-mail address of the person making the report;
- 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).

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Written Report
Continued...

- Any other information required by Federal law or regulations.
- 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)).

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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.

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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.

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