

## **Questions and Answers from the 2009 Training on Mandated Reporting: Working with Minors in Family Planning Settings**

On January 7<sup>th</sup> and again on January 27<sup>th</sup>, 2009, the Family Planning Council provided a training called Mandatory Reporting: Working with Minors in a Family Planning Setting. This Question and Answer (Q&A) document has been prepared by the Council with assistance from the Juvenile Law and catalogues most of the questions and answers provided at the trainings.

*Note: This document is not intended as legal advice from either the Juvenile Law Center or the Family Planning Council. The information in this document is not a replacement or substitution for the comprehensive information presented at the training.*

### **Child Abuse and Mandated Reporting**

1. What if you report child abuse and you find out later that the report was false? Are you required to give ChildLine this information?
  - A. No. There is nothing required if you find out this information. Your duty is limited only to making a report based upon reasonable suspicion. You have no further duty to investigate.
2. Are employees liable if unsubstantiated reports violate confidentiality?
  - A. No, so long as the report was made in good faith and without any malicious intent.
3. Are providers mandated to report third party information? For example, if you receive information that your client abused someone.
  - A. No. Only if the child being abused happens to be a client of the clinic as well. The child need not be your personal client, but if s/he is served by your agency then you must report the abuse.
4. Do I need to report child abuse when I am volunteering at another organization?
  - A. No. Volunteers are not mandated reporters. Employees and professionals who come into contact with minors as a part of their jobs must report abuse.
5. If the volunteer reports the suspected abuse to an employee are they mandated then to report it?

- A. Yes. A mandated reporter must report abuse when s/he has reasonable cause to suspect that it has occurred.
6. What if you witness a child being spanked in the waiting room? Is that child being abused?
- A. Spanking is not abuse per se and would likely not rise to the level of serious injury that triggers a mandated report.
7. At what point can spanking rise to the level of suspected abuse that must be reported?
- A. Child abuse that must be reported encompasses the most serious categories of abuse. If spanking leads to serious physical injury, where the child suffered an injury that caused severe pain or significantly impaired the child's physical functioning, then it would rise to the level of abuse that must be reported.
8. What kind of documentation is necessary when you report child abuse? Is it good practice to keep a log of reports you sent to ChildLine?
- A. Within 48 hours of making a report, you must complete the CY-47 form and mail it to your county children and youth agency. Also, under Council policy, you must document a report in the client medical record and include a copy of the CY-47 report that is sent to Children and Youth Agency. Some agencies keep a log of reports so the information is accessible.
9. If a person under 16 is raped do they have the right not to report it?
- A. The victim is not required to report a rape; however, the mandated reporter is required to report it because rape is an offense that falls under sexual abuse or exploitation, which is child abuse that must be reported.
10. What if the abuser is a child's classmate who is a minor of the same age? Is that reportable?
- A. Yes. You must report abuse committed by any person, regardless of his/her age.
11. Must you report mental abuse if the child tells you that they are being verbally abused?

A. No, unless the child has a professional diagnosis of a psychological condition.

13. Where do you report if a child was raped when visiting someone in another state?

A. Pennsylvania ChildLine.

14. If ChildLine states that they will not take a report, are you still required to submit a written report?

A. We recommend that the agency still file the report, and document that DPW has refused to accept it.

15. Am I required or permitted to share information about an abuse report with anyone outside of my agency?

A. No, except where law enforcement (discussed below) or another agency with appropriate legal authority requests the information. The disclosure to any other party would violate HIPAA because it is protected health information. The client must sign a release of information in order for this or any information to be released to a third party.

16. Do you report any child abuse to the police?

A. In general, under Council policy, you report only to ChildLine and follow with a written report to the County Children and Youth Agency. CYA is required to coordinate investigation of reports with law enforcement. There are several exceptions discussed below.

17. When are we mandated to call the police in addition to Childline?

A. There is only one call and that is to Childline. You do not need to then call the police. If law enforcement must be notified of the report, ChildLine will make the call. However, there may be exceptions where the law mandates separate reporting, such as under the Injury Reporting Law in the Criminal Code which is applicable to hospitals. Under that law, you must call both ChildLine and Law Enforcement when an individual appears in the hospital with an injury that is the result of the violation of the law and that act is also abuse that must be reported as defined in the CPSL.

18. Do some laws mandate that we call only the police?

A. The Injury Reporting Law requires that any physician, intern, resident or any person in charge of a hospital or pharmacy, or part thereof (such as a unit or clinic), must report a wound or injury that is life-ending or threatening or that is in violation of a penal law - eg. commission of a crime. (There is an exception for domestic violence where the report can only be made with the consent of the victim.) Thus, only agencies that are parts of hospitals must report under the Injury Reporting Law. However, this law does not reference the CPSL, so you would need to report an incident covered by both the Injury Reporting Law and the CPSL to both the police and ChildLine

19. Are we mandated to report injuries that occur to 18-year-olds and older who we see in the office?

A. Under the Injury Reporting Law, only agencies that are parts of hospitals are required to report life threatening injuries that occur to anyone, not just minors. The Child Abuse Reporting Law, however, only requires reports of abuse against children under the age of 18.

20. What if the suspected abuse happened in the past? Do you still report it?

A. Maybe. It is best to review specific cases with your agency's legal counsel to determine the appropriate course of action.

22. If information about the abuse is obtained over the phone, must it still be reported (a three-part question)?

Example 1. A minor calls for a clinic appointment to get a pregnancy test and states her age as 12

A. Because sex with an individual under the age of 13 is rape, a 12-year-old who calls and says she is pregnant would trigger a mandatory report of child abuse. In order to make the report, however, you would need the caller's name and contact information.

Example 2. A minor calls a telephone information hotline looking for a referral for a reproductive health service, doesn't give her name but other information that she is 12 and needs an abortion.

A. Technically, yes, this would require a report, but in order to make a report you would need the name and contact information for the person.

Example 3. Does it matter if the minor is calling from out-of-state (eg. New Jersey)?

A. You would still call Pennsylvania's ChildLine and then ChildLine can make the determination of whether they will notify the other state's child protective services hotline.