



The College of Physicians and Surgeons of British Columbia

RESOURCE MANUAL

Child Abuse and Neglect Guidelines

Summary

Physicians, like other health care professionals, are required by law to report situations which indicate that a child may need protection. These situations include physical, sexual or emotional abuse or neglect. Physicians should be aware of the requirements of the [Child, Family and Community Services Act](#). Sometimes an accurate assessment of child abuse or neglect can only be made on collective information from a variety of sources. Where possible, parents should be asked for consent to share the child's medical information with other professionals so that any concerns can be carefully evaluated.

The physician must report to the representative of the Ministry for Children and Family Development, at the local district office, or after-hours, if a local member is not available, to the helpline for children (310-1234 - no area code needed: a 24 hour Helpline always answered by a social worker). Such reporting will initiate an investigation which will serve to protect the child.

Physicians cannot be held liable for reporting such concerns in good faith.

Failure to report a child who is believed to need protection is an offence under the Act.

Preamble

Physicians may play a significant role, along with many other professionals, in the identification of situations of child abuse or neglect, and likewise, physicians have a responsibility to report such concerns. Furthermore, physicians may remain involved, where such situations lead to the child being removed from current care with subsequent court actions and court decisions regarding the child's continuing and future care. Such situations will involve interactions with the Ministry for Children and Family Development. Physicians are expected to cooperate with the Ministry professionals where possible, while maintaining their ethical responsibility to their patient, the child, and to the child's parents or legal guardian. Where appropriate in the circumstances, physicians should try to obtain consent from parents or guardians to share a child's relevant information and medical records, allowing for a cooperative "team" approach involving other professionals so that identified concerns can be resolved. Consent should not be sought if such could jeopardize a situation where a child requires protection.

This document is a reference guide for physicians. A more detailed discussion of factors pertinent to child abuse may be found in the *Inter-ministry Handbook on Child Abuse and Neglect* published by the Ministry for Children and Family Development.

To access the *Inter-ministry Handbook on Child Abuse and Neglect* available on the Ministry for Children and Family Development website, go to:

www.mcf.gov.bc.ca/child_protection/pdf/handbook_action_child_abuse.pdf

Pertinent Legislation and Ethical Statements

1. CMA Code of Ethics

1. Consider first the well being of the patient.
30. Be considerate of the patient's family and significant others and cooperate with them in the patient's interest.
35. Disclose your patients' personal health information to third parties only with their consent, or as provided for by law, such as when the maintenance of confidentiality would result in a significant risk of substantial harm to others or, in the case of incompetent patients, to the patients themselves. In such cases take all reasonable steps to inform the patients that the usual requirements for confidentiality will be breached.

2. Child, Family, and Community Services Act

Provincial authorities may intervene when a child is in need of protection. The legal basis for such intervention is the *Child, Family and Community Services Act*, ("the Act") which came into force in January 1996. It replaces the *Family and Child Services Act*. The premise of the legislation is that the safety and well-being of children are the paramount considerations under the Act. The Act is administered by the Ministry for Children and Family Development. The following provisions of the Act should be noted:

When Protection is Needed

[Section 13](#) describes the circumstances where a child (person under age 19) needs or is likely to need protection. These circumstances include physical harm, sexual abuse, sexual exploitation, emotional harm, neglect, abandonment and inadequate provision for the child's care and deprivation of required health care.

Duty to Report and Need for Protection

[Section 14](#) describes the physicians' (and others') legal duty to report to the Ministry for Children and Family Development immediately if they have reason to believe that a child:

- (a) has been, or is likely to be, physically harmed, sexually abused, or sexually exploited by a parent, or other person; or,
- (b) needs protection under Section 13 (as outlined above)

The duty to report exists even if the information on which the belief is based is privileged (except as a result of a solicitor-client relationship) or is confidential and its disclosure is prohibited under another Act.

No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.

[Section 17](#) allows the court to make various orders in situations where there are reasonable grounds to believe a child needs protection and the director of the Ministry for Children and Family Development is denied access to the child. The court may order that the director be able to remove the child for the purpose of a medical examination and may authorize a physician to examine the child. If physicians are involved in such situations they should ensure that they are provided with a copy of the court order.

A Child Who Needs Essential Health Care

[Section 29](#) addresses situations where a child needs essential health care and the child or parent refuses consent. This section provides that if a child or a parent of a child refuses to give consent to health care that, in the opinion of two medical practitioners, is necessary to preserve the child's life or to prevent serious or permanent impairment of the child's health, a director of the Ministry for Children and Family Development may apply for a court order. If the court finds that the health care is necessary to preserve the child's life or to prevent serious or permanent impairment of health, the court may make an order authorizing the health care. If physicians are involved in such situations, they should note their reporting requirements under Section 14. If they are involved in the provision of the health care ordered by the court, it is prudent to ensure that a copy of the court order is provided.

[Section 65](#) provides that a director may apply to the court for an order for production of records. If such an order is granted the physician should ensure that a copy of the order is provided and that a copy of the records covered by the order is provided. A record should be made in the chart of the details of the order and a copy of the order retained in the chart.

It is an offence to contravene a court order issued under this section.

Access to the records is different if the records are hospital records or the records of a public body. Such records are covered by under the *Freedom of Information and Protection of Privacy* legislation.

A director has the right to any information, in the custody or control of a public body under FOI legislation, which is necessary for the director to perform the duties under the Act. Public bodies who have such information must disclose it to the director. FOI legislation does not apply to private offices and office records.

If a Child is in the Legal Care of the Director

If a director is made the legal guardian of the child under the Act then, subject to the provisions of [Section 16](#) of the *Infants Act*, the director has all the rights of a "parent" with respect to access to the records of the "child", and regarding decisions about the child's care. The director delegates this responsibility to child protection social workers.

Physicians involved in situations of child abuse or neglect may wish to refer to the [Inter-ministry Handbook on Child Abuse and Neglect](#) available from the Ministry for Children and Family Development.

To access the *Inter-ministry Handbook on Child Abuse and Neglect* available on the Ministry for Children and Family Development website, go to:

www.mcf.gov.bc.ca/child_protection/pdf/handbook_action_child_abuse.pdf

Criminal Law

Child physical or sexual abuse are also crimes under the Criminal Code and such situations should be reported to the Ministry for Children and Family Development. Physicians must report to the Ministry directly, who in turn may involve the police.

The Criminal Code of Canada contains various offences pertaining to child abuse. These include physical and sexual assault, sexual interference and sexual exploitation. The police are responsible for investigation of these offences. Upon receipt of a report, they will decide whether it warrants a criminal investigation and, if so, will conduct that investigation.

Confidentiality Issues

Physicians and other health care providers are therefore required by law to report their concern about a child if they believe the child is in need of protection. The investigation of those concerns and the decisions to intervene are the responsibility of the Ministry for Children and Family Development. Once the concern has been reported, the documentation of the concern and other information in the physician's chart are subject to physician/patient confidentiality requirements. Therefore, that documentation may only be provided with the patient's consent, or in accordance with specific court orders, or legislation. The current legislation does not provide for an exception to the physician's confidentiality requirement, with respect to patient records. Therefore, office records and information obtained through the physician/patient relationship can only be released with the patient's consent, or by court order. Hospital records may be obtained by the director under [Section 96](#) of the *Child, Family and Community Services Act*. Physicians should encourage parents to give consent to release information. This is certainly in the child's best interest and allows a collective professional approach and a more accurate and complete evaluation when information is shared.

The above applies to the **investigation** of an allegation or concern of child abuse or neglect. If a child is subsequently apprehended, the Ministry becomes the legal guardian and the Ministry, or designated social worker, has the authority to request copies of the child's medical record. The records of the child's parents, guardians or others who may be involved, remain subject to their individual consent to release or alternatively, a specific court order.

Where an individual discloses to a physician that he or she has been abusing a child, the individual should be advised of the physician's duty to report and consent should be obtained where possible. However, failure to obtain consent does not negate the duty to report.

It should be noted that amendments to the *Infants' Act* provide for validity of "infants'" (under 19) consent, providing he or she is capable of understanding the situation. This is a subjective judgment of the health care provider who may, on that basis, choose to accept, or not accept, an infant's consent. There is a potential contradiction of obligations when teenagers, capable for their own "consent", report abuse, but prohibit the physician from reporting this. The Ministry of the Attorney General advises that the duty to report, overrides the "infant's" lack of consent.

Court Actions

The physician may be asked to appear in family or criminal court proceedings as a witness, or expert witness. This may be on a voluntary basis, or subsequent to being subpoenaed. Consent to testify should be obtained when possible. To avoid potential accusations of breaches of confidentiality, where consent has not been obtained, a subpoena or court order will serve to protect the physician.

Clinical Presentation

The following is a summary of the various clinical presentations which may indicate abuse and thereby raise concern about a child's safety.

Abuse may be subdivided as physical, sexual, emotional, or due to neglect.

Physical Abuse

Physical abuse is physical injury inflicted by a parent or caretaker. It is sometimes called non-accidental trauma. The injury may stem from an angry attempt to punish or correct a child for misbehaviour, or may be an uncontrolled lashing out at a child because of an unrelated crisis in the adult's current situation. In a society where physical punishment and spanking may be present, physicians may have to make a judgment as to where such is excessive, and therefore, constitutes physical abuse. Corporal punishment leading to bruising or injury requiring medical attention is not acceptable punishment and should be considered abusive.

The following are the types of injuries which **may** indicate physical abuse of infants and children:

- Fractures in different states of healing.
- Fractures inconsistent with reported "accidents".
- Fractures of any long bone in infants.
- Epiphyseal and spiral fractures in infants and young children.
- Skull fractures especially non-linear fractures.
- Bruises in varying stages of healing.
- Bruises and lacerations of unusual configuration suggesting injury by an instrument.
- Burns by cigarettes or implements.
- Burns in unusual places or of unusual shape (stocking or glove distribution).
- Burns suggestive of electric burns or irons.
- Unreported trauma evident on physical examination.
- Recurrent injury - "the accident-prone child".
- Subdural hematoma.

The child's condition and behaviour in general may indicate significant abuse. Such children may exhibit any of the following:

- Hyperactive or unusual behaviour.
- Clinging to adult strangers.
- Apathy and withdrawn behaviour.
- Non-reaction to painful treatments.
- Failure to thrive.
- Signs of general neglect.
- Wariness of physical contact.
- Manipulative behaviour to get attention.

The history may reveal multiple emergency admissions, and multiple physician visits to different physicians. Also, undue delay in obtaining treatment for injury should raise concern.

Sexual Abuse

Disclosure is the most obvious indication of sexual abuse.

Age inappropriate sexual behaviour or excessively sexualized behaviour may be an indicator of abuse.

Indirect signs **may** include any of the following:

- Acting out (with aggression, anger).
- Withdrawal.
- Regression.
- Fears, phobias and anxiety.
- Sleep disturbance, nightmares.
- Change in eating habits.
- Altered school performance.
- Mood disturbance.
- Enuresis, encopresis.
- Running away.
- Self-destructive behaviour.
- Anti-social behaviour (lying, stealing, cruelty to animals, fire-setting).

Emotional Abuse and Deprivation

Emotional abuse is the continued scapegoating and rejection of a child by his or her caretakers.

The diagnosis of emotional abuse can be made where one of the following diagnostic criteria is present among other factors.

- Severe psycho pathology and disturbed behaviour in the child, documented by a psychiatrist.
- Situations where the only parent is floridly psychotic or severely depressed and hence inadequate to care for the children.

Emotional deprivation has been defined as "the deprivation suffered by children when their parents fail to provide the normal experiences producing feelings of being loved, wanted, secure and worthy".

Emotional deprivation **may** be suspected if there is:

- Failure to thrive.
- Refusal to eat.

- Anti-social behaviour (aggression/withdrawal).
- Anxiety/depression.
- Attention seeking behaviour.
- Delinquent behaviour.
- Behaviour suggestive of emotional turmoil such as compulsion, rigidity, non-communication.

Neglect

Child neglect **may** be indicated by any of the following:

- Failure to thrive and poor growth patterns.
- Wasting of subcutaneous tissue.
- Poor hygiene.
- Persistent rashes.
- Unattended needs (immunization, glasses, dental and medical care).
- Abdominal distension in infants.
- Inactive babies.
- Expressionless facial appearance.
- Under-achievers.
- Lack of energy and drive.
- Delinquency and substance abuse.
- Inconsistent attendance and performance at school.
- Stealing or begging for food.

What to do if Abuse or Neglect is Identified

The physician's primary responsibility is the clinical management of the patient's (child's) situation. In the course of such management and treatment, the need to report may be identified as part of the treatment plan. There should be no delay in reporting concerns of abuse. Concerns must be report immediately.

Reports of child abuse concerns are usually made to a social worker in the district office or to a child protection social worker receiving reports on the Helpline for children. Reports may be made by telephone, letter or in person and are usually made to the local district office of the Ministry for Children and Family Development. The local telephone number should be kept readily available.

After-hours and on weekends and statutory holidays, if local offices or officials are not available, **the toll-free 24 hours Helpline for children (Zenith 1234) will put the person reporting in touch with a child protection social worker** in the Emergency Services Unit in

Vancouver, who will assess the situation and take the necessary steps to respond to the report.

The duty to report overrides the confidential requirements of the physician-patient relationship to the extent required to provide the information necessary to fulfill the reporting obligation. However, any information not necessary to fulfill this obligation remains covered by physician-patient confidentiality.

The child protection social worker will likely require the following information:

- The physician's name, address and telephone number. (Physicians will likely be informed that their identity will not be disclosed during the child protection investigation, however, the physician may be called as a witness in any subsequent proceedings).
- The full name, age, birth date, sex and address of the child.
- The full names and addresses of the parents.
- If known, the full name and address of the alleged "offender" and any other information that may assist in locating or identifying that person.
- Full details of the incident or situation precipitating the report.
- Family history as it relates to the child's risk for abuse/neglect.

The physician should note in the file the date and time the report was made.

General concerns about child abuse may also be further investigated by referral to physician experts or hospital-based child abuse teams. This is not an alternative to the duty to report if such is identified.

Reasonable suspicion founded on appropriate grounds is the basis for reporting. Conclusive evidence is not a prerequisite. It is not necessary for physicians to be certain that child abuse has taken place. If physicians have reasonable grounds to believe or suspect a child is in need of protection, this is sufficient.

Pertinent history and physical findings should be documented accurately for future reference. It is important to identify opinions as such, hearsay as such, and facts as such and to identify the various sources of information obtained.

Summary

The physician's duty to his or her patient (the child), is to act in the child's best interests. The legislation and the above guidelines are designed to minimize the occurrence of abuse and to provide protection for the child, where such is indicated.

APPENDIX TO CHILD ABUSE GUIDELINES

PROTOCOL FOR COMMUNICATION BETWEEN STAFF OF MINISTRY FOR CHILDREN AND FAMILY DEVELOPMENT AND PHYSICIANS

The purpose of this Protocol is to clearly establish guidelines for information sharing between the Ministry for Children and Family Development and private physicians in order to ensure the safety and well-being of children.

When a physician has reason to believe that a child needs protection

OBLIGATIONS OF PHYSICIAN

Physicians are required by law to report situations which indicate that a child may need protection to the Ministry for Children and Family Development (for more detail see College of Physicians and Surgeons Child Abuse and Neglect Guidelines). The duty to report overrides the confidential requirements of the physician-patient relationship to the extent required to provide the information necessary to fulfill the reporting obligation. This information is likely to include:

- The physician's name, address and telephone number.
- The full name, age, birth date, sex and address of the child.
- The full names and addresses of the parents if known.
- If known, the full name and address of the alleged "offender" and any other information that may assist in locating or identifying that person.
- Full details of the incident or situation precipitating the report.
- Family history as it relates to the child's risk for abuse/neglect.

When a physician refers a patient to the Ministry for Children and Family Development for voluntary support services (i.e. homemaker, child care) the information required for a report, as outlined above, is not required.

OBLIGATIONS OF MINISTRY FOR CHILDREN AND FAMILY DEVELOPMENT

On receiving a report from a physician the Ministry for Children and Family Development assesses the information in the report and may:

- Offer support services to the child and family.
- Refer the child and family to a community agency.
- Investigate the child's need for protection.
- Take the necessary action to ensure child's protection.

Child, Family and Community Service Act, Section 16

The child protection social worker must not disclose information to others that will identify who made the initial report, unless that person consents. After the investigation is complete the Ministry for Children and Family Development will report the findings to the person who made the initial report.

ONGOING SHARING OF INFORMATION

RESPONSIBILITIES OF PHYSICIANS

New incidents indicators

Following an initial report to the Ministry for Children and Family Development, physicians must report any new incidents, indicating that abuse or neglect has occurred or that the original situation is not resolved or indicates the child is in need of protection.

Information required by Ministry for Children and Family Development for the purposes of a child protection investigation after a report has been received.

During the investigation, staff of the Ministry for Children and Family Development may request from a physician, full details or a written report related to the report of a child in need of protection. Physicians may release that information:

- With the patient's written consent, or
- Pursuant to a court order under Section 65 of the *Child, Family and Community Service Act*, or
- In situations in which "maintenance of confidentiality would result in a significant risk of substantial harm to others or to the patient if the patient is incompetent" (CMA Code of Ethics, Section 35).

Information required for the purposes of providing health services

For the purposes of providing ongoing health services or in the course of developing or implementing a health treatment plan, the physician will provide any information necessary for the child's health and well-being (e.g. required medication and treatment for a child with diabetes if that child is in a temporary care situation). This includes all children in care, children remanded with consent and children under a supervision order if this is a condition of the order.

RESPONSIBILITIES OF MINISTRY FOR CHILDREN AND FAMILY DEVELOPMENT

Information required by Ministry for Children and Family Development for the purposes of a child protection investigation

Ministry for Children and Family Development social workers may request full details or a written report from physicians related to the report of a child in need of protection. Physicians will only release that information with the patient's consent, by court order or in circumstances which fall under Section 35 of the CMA Code of Ethics (see c above). Unlike hospitals, private physicians are not public bodies, and therefore are not covered by the *Freedom of Information and Protection of Privacy Act*. Section 96 of the *Child, Family and Community Service Act* does not apply to records of private physicians.

If the physician refuses the request (i.e. the patients will not consent to the release of the information), the social worker may apply to the court to obtain the information under Section 65 of the *Child, Family and Community Service Act*.

RESPONSIBILITIES OF BOTH MINISTRY FOR CHILDREN AND FAMILY DEVELOPMENT SOCIAL WORKERS AND PHYSICIANS

It is recognized that comprehensive, adequate records are kept by both Ministry for Children and Family Development staff and physicians.

If either social workers or physicians discover that information disclosed to or obtained from the other is inaccurate, they must inform the other about the inaccuracy.

This document has been reviewed and approved by:

- Director, Child Family and Community Services Executive Committee
- Ministry for Children and Family Development
- College of Physicians and Surgeons of British Columbia

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