



Mandated Reporting of Child Abuse: Answers for Dentists

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ABSTRACT

As mandated reporters, dentists play an important role in recognizing child abuse. This article covers many of the key issues involved in making a suspected child abuse report and what happens after a report is made.

The prevention of dental pain and suffering is the ultimate goal of dentists and dentistry. Related, yet perhaps not immediately thought of in relation to dentists, is their role in preventing child abuse. As mandated reporters, dentists are in a key position to notice signs of child abuse in their clients and report it.

This article is a comprehensive review of issues and answers in relation to mandated reporting and suspected child abuse. This will aid dentists in making informed decisions on behalf of themselves and their clients. The topics covered include liability, the limits of confidentiality, reasonable suspicion, who takes the report, the investigation process, "What happens if the child is removed?" "Are children taken away forever?" the court's role, where information about the suspected abuser is

kept, and prevention efforts.

Since Congress enacted the Child Abuse Prevention & Treatment Act in 1974, there has been a significant increase in awareness regarding child abuse and neglect.¹ One outcome is that mandated reporting has been implemented throughout the nation. In California alone, the child welfare services case management system (CWS/CMS) received more than 257,560 calls in 2001 reporting suspected child abuse. Of that, 74,217 became substantiated cases.² While approximately 54 percent of all reports of abuse and neglect are either unfounded or not substantiated, it is known that most abused children never come to the attention of authorities.³

Dentists have important skills in detecting child abuse. Their role cannot be understated. The American Academy of Pediatrics and the American Academy of Pediatric Dentistry stated that "craniofacial, head, face, and neck injuries occur in more than half of the cases of child abuse." The academies also cited the need for collaboration: "Physicians receive minimal training in oral health and dental injury and disease and thus may not detect dental aspects of abuse or neglect as readily as they do child abuse and neglect involving other areas of the body. Therefore, physicians and dentists should collaborate to increase the prevention, detection, and treatment of these conditions."^{4,5}

Still, in their own practices, some dentists may feel reluctance about reporting suspected abuse. Reasons may stem from uncertainty that abuse has occurred or professional concerns about maintaining a good relationship with the patient. Or there may be concerns about anonymity and consequences to the patient or oneself.⁶ Most of these concerns relate to what happens after a child abuse report is made. This article explores key issues involved in making a report of suspected child abuse.

Liability

The law protects anyone who reports known or suspected child abuse from civil or criminal liability, unless it can be proven the report was false and the person who made the report knew it was false. However, immunity does not apply to liability arising from willful misconduct or gross negligence for either making a false report or failing to report.⁷

One should also keep in mind that there are criminal penalties for failure to report suspected child abuse. In California, a dentist (or any mandated reporter) who fails to report a known or reasonably suspected instance of child



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abuse can be found guilty of a misdemeanor punishable by up to six months in jail or by a fine of \$1,000 or both. (Penal Code 11166(b).) Additionally, under PC11166.01, "any supervisor or administrator who impedes or inhibits a report of child abuse and neglect is guilty of an infraction punishable by a fine not to exceed \$5,000." Because failure to report can be a crime, "subsequent injuries resulting from failure to report" might open a dental professional to exposure to uninsured professional liability.⁸

The Limits of Confidentiality

The confidentiality of the doctor-patient relationship is given high regard by health care professionals, as it should be. However in relation to child abuse, privileged communication provisions do not apply and there is a statutory duty to report.

Prior to starting any dental work, dentists may wish to have clients sign confidentiality statements. Mental health professionals prior to beginning treatment routinely use confidentiality statements that relate to child abuse and neglect. An example of a statement used in this context is: "I will need, and am compelled by law; to report to an appropriate other person(s) if I believe there is reasonable suspicion that a child has been abused or neglected."

This makes it clear to the patient that "reasonable suspicion" of child abuse or neglect is to be reported, as required by law. Having a signed confidentiality statement, as well as restating the information verbally to a patient may help alleviate feelings of betrayal or guilt in the event it is necessary to make a report.

What is Reasonable Suspicion?

As defined in the law, reasonable suspicion means that "it is objectively

reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect" (California Penal Code 11166). Therefore, if a dentist has a reasonable suspicion that child abuse has occurred, a suspected child abuse report is to be completed.

Anonymity

Many people wish to remain anonymous when making a suspected child abuse report. However, as mandated reporters, dentists are required by law to give identifying information⁹ including name, business address, and telephone number, and the capacity of what makes that person a mandated reporter, i.e. dentist. In addition, any known information about the child, what has led the dentist to reasonably suspect child abuse, and relevant information about the suspected abusers will be asked for in both the verbal and written reports. Even if only some of the information is known, the dentist should still make a report.

Except under certain conditions specified in the law, such as waiver of confidentiality or court-ordered disclosure, the identity of the dentist, or others making the report, is kept confidential and disclosed only among agencies receiving or investigating the report (California Penal Code 11167).

Who Takes The Report?

In California, a report of suspected child abuse is made to local law enforcement (police or sheriff's departments) or child protective services (CPS, or county welfare department). In some counties, the probation department can receive mandated reports. A school district's police or security department is not included in those who take reports.

When Do You Report?

You must make a report immediately (or as soon as practically possible) by phone. A written report must be forwarded within 36 hours of receiving the information regarding the incident (California Penal Code 11166(a)). Written reports must be submitted on a Department of Justice form (Suspected Child Abuse Report SS 8572, revised December 2002. *See Page 312.*) They can be requested from the local law enforcement or child protective services agency.¹⁰

The Investigation Process

Once a report is filed, the investigation process begins. No two reports are handled in exactly the same way. Decisions are based on each child's situation. Even reports on two children in the same family may be handled differently. The agency receiving the report will determine how to proceed, based on the information available. What the response will be and how quickly it will be made depends on the seriousness of the events reported, and the situation facing the child. Where it appears the child is in danger, the response will be immediate. Where there is less risk involved, it may be three to 10 days before action is taken.

The investigations by a child welfare services agency and law enforcement are conducted separately. The child welfare agency will concern itself with the welfare of the child and family. Law enforcement efforts will focus on obtaining evidence to determine whether a crime has been committed and by whom. The safety of the child is given the greatest weight in the investigation process.

Not all reports are serious enough to require the assistance of the law enforcement agency. In these cases, only the local social service department

may contact the family. An in-person response may not be made when the county social services department, based upon an assessment, determines that one is not appropriate.¹¹

When the welfare department is investigating a report of suspected abuse, it will interview the child. The law allows the interview to take place during school hours and at the school. The child is interviewed in private and can have an adult from the school staff present if they choose.

Investigations in the home include assessing the allegations and the level of risk to the child. The environment is considered in relation to safety and whether or not basic needs are being provided, i.e. food, shelter. Other factors that can affect the investigation include the extreme anger or cooperation by the suspected abuser(s).¹¹

What Happens if the Child is Removed?

Most reports of child abuse do not result in children being removed from their families. The first goal is to enable the child to remain safely in his or her own home. If this is not possible, the social worker must protect the child's safety by placing him or her in foster care. Sometimes the child welfare services agency is able to place the child with a relative.

Are Children Taken Away Forever?

California has strict rules about removal of children from their families. However, because children are vulnerable, the law also affords them significant protection. Peace officers are authorized to take an endangered child into protective custody and place the child in the care of the social service department. This initial emergency removal is allowed by law, without a warrant, for up to 48 hours.

Should the child protection agency decide the child cannot safely return home, the agency must formally request the juvenile court hold a hearing to determine if continued removal is necessary. This is accomplished by submitting a dependency petition outlining the allegations that brought the child to the attention of the child protection agency.¹¹

The Court's Role

More than one type of court may be involved as a result of a child abuse report: juvenile court, criminal court, or an administrative hearing.

The juvenile court determines whether the child should be removed from the home and whether services should be ordered in the interest of the child and family. This court becomes involved when it is a parent or guardian or other person in the child's home who appears to bear the responsibility for the abuse or neglect.

Criminal prosecutions are initiated in municipal court. Misdemeanor cases will remain in this court, but felony cases will go to superior court. The primary issue is whether it can be proved beyond a reasonable doubt that a particular person abused or neglected the child.

If a child is abused or neglected in a child day-care facility, or a foster home or other residential placement, a proceeding may be brought to revoke the facility's license, and/or to exclude a perpetrator from employment in the facility. If the case goes to hearing, an administrative law judge presides.

Is Information About the Suspected Abuser Kept Somewhere?

Reports of suspected child abuse contain information about the known or suspected abuser. Once investigated, reports of suspected child abuse are cate-

gorized as substantiated, unfounded or inconclusive (insufficient evidence). The substantiated or inconclusive reports are then filed in the California Department of Justice Child Abuse Central Index (CACI) database. The submitting agencies are responsible for the accuracy of the reports. The public cannot access the CACI. Only agencies specified in the law can receive information indicating that a person has been reported as a child abuser on the CACI. Applicants or employees in a facility providing 24-hour care for children, or employment in positions having disciplinary power over a child, are examples of where verifying information may be released to the specified agency. A person may determine if he or she is listed in CACI by submitting a written request for information to the Department of Justice (Penal Code 11170(e)). Additionally, the agency making the report to the CACI also is responsible for notifying the "suspected abuser" that they have been reported to the index. Unfounded reports are never sent to the CACI, however, if substantiated or inconclusive reports are later determined to be unfounded, they then are purged from the index. Inconclusive reports are deleted from CACI after 10 years if no subsequent report concerning the same suspected child abuser is received (Penal Code 11170).

Prevention Efforts — What Can Be Done?

Factors that affect abuse vary.^{12,13} Child abuse affects all socioeconomic levels. While each individual is different, some risk factors, such as social isolation, poverty, past abuse and increased stress are known contributors to the potential for abuse.¹⁴ However, there are no perfect answers to always knowing who will and who won't abuse their children. What is known is that

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early intervention programs can have a positive impact (home visiting¹⁵ or family resource centers).

Most California communities have resources available locally to parents or caregivers in need of help. This includes local Child Abuse Prevention Councils or Family Resource Centers ([www.http://capcsac.org/crisisnumbers/councils.html](http://capcsac.org/crisisnumbers/councils.html)). California's Parent Outreach (www.parentoutreach.org) is available statewide to overburdened parents as well. It includes a 24-hour toll-free hotline, (800) 901-4565. For professionals who would like to get

involved in the effort, or post resource materials, contact can be made with the local resources previously cited or through the State of California Department of Social Services, Office of Child Abuse Prevention (www.dss.ca.gov/cdssweb/default.htm). For more information on child abuse and neglect, go to the state attorney general's Web site, www.safestate.org.

Summary

Dentists can make a difference for a child who is abused or neglected. Individually and collectively, dentists

play a key role in prevention because of their specialized knowledge in dentistry and their ability to recognize signs and symptoms of abuse that others might dismiss.

Preventing child abuse is also a legal responsibility of dentists in relation to mandated reporting. It is wise for anyone with a dental practice to be informed about the limits of liability insurance because of a failure to report, which can be a crime, can open a dentist to uninsured professional liability.

Knowing what "reasonable suspicion" is should be a basic part of every dentist's knowledge base in relation to child abuse. As stated earlier, reasonable suspicion means that "it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect" (California Penal Code 11166).

Knowledge of other factors that relate to the child protective system such as the investigation process and possible outcomes will help the dental professional to make informed choices. Resources, such as one's local child protective services or law enforcement office, can be called upon to clarify if a suspected child abuse report should be made or answer questions in relation to child abuse.

Lastly, every dentist can potentially make a difference by having preventative pamphlets and material geared to offer community resources available to clients. Often times there are local resources as well as hotline numbers that a "stressed out" family member can call upon for help. **CDA**

To request a printed copy of this article, please contact / Patty Lough, LCSW, PhD, Department of Social Services, Office of Child Abuse Prevention, 744 P St., MS 11-82, Sacramento, Calif., 95814, or e-mail, patty.lough@dss.ca.gov.

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SUSPECTED CHILD ABUSE REPORT

To Be Completed by **Mandated Child Abuse Reporters**
Pursuant to Penal Code Section 11166

CASE NAME: _____

PLEASE PRINT OR TYPE

CASE NUMBER: _____

A. REPORTING PARTY	NAME OF MANDATED REPORTER		TITLE		MANDATED REPORTER CATEGORY					
	REPORTER'S BUSINESS/AGENCY NAME AND ADDRESS			Street	City	Zip	DID MANDATED REPORTER WITNESS THE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO			
	REPORTER'S TELEPHONE (DAYTIME) ()		SIGNATURE		TODAY'S DATE					
B. REPORT NOTIFICATION	<input type="checkbox"/> LAW ENFORCEMENT <input type="checkbox"/> COUNTY PROBATION		AGENCY							
	<input type="checkbox"/> COUNTY WELFARE / CPS (Child Protective Services)									
	ADDRESS		Street	City	Zip	DATE/TIME OF PHONE CALL				
OFFICIAL CONTACTED - TITLE					TELEPHONE ()					
C. VICTIM <small>One report per victim</small>	NAME (LAST, FIRST, MIDDLE)			BIRTHDATE OR APPROX. AGE	SEX	ETHNICITY				
	ADDRESS		Street	City	Zip	TELEPHONE ()				
	PRESENT LOCATION OF VICTIM			SCHOOL	CLASS	GRADE				
	PHYSICALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DEVELOPMENTALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	OTHER DISABILITY (SPECIFY)		PRIMARY LANGUAGE SPOKEN IN HOME					
	IN FOSTER CARE? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF VICTIM WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: <input type="checkbox"/> DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> FAMILY FRIEND <input type="checkbox"/> GROUP HOME OR INSTITUTION <input type="checkbox"/> RELATIVE'S HOME			TYPE OF ABUSE (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER (SPECIFY)					
	RELATIONSHIP TO SUSPECT			PHOTOS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID THE INCIDENT RESULT IN THIS VICTIM'S DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK					
D. INVOLVED PARTIES	VICTIM'S SIBLINGS									
	NAME		BIRTHDATE	SEX	ETHNICITY	NAME		BIRTHDATE	SEX	ETHNICITY
	1. _____		_____		3. _____		_____		_____	
	2. _____		_____		4. _____		_____		_____	
	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX	ETHNICITY				
	ADDRESS		Street	City	Zip	HOME PHONE ()	BUSINESS PHONE ()			
	NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX	ETHNICITY				
	ADDRESS		Street	City	Zip	HOME PHONE ()	BUSINESS PHONE ()			
	SUSPECT'S NAME (LAST, FIRST, MIDDLE)		BIRTHDATE OR APPROX. AGE		SEX	ETHNICITY				
	ADDRESS		Street	City	Zip	TELEPHONE ()				
OTHER RELEVANT INFORMATION										
E. INCIDENT INFORMATION	IF NECESSARY, ATTACH EXTRA SHEET(S) OR OTHER FORM(S) AND CHECK THIS BOX <input type="checkbox"/> IF MULTIPLE VICTIMS, INDICATE NUMBER: _____									
	DATE / TIME OF INCIDENT				PLACE OF INCIDENT					
	NARRATIVE DESCRIPTION (What victim(s) said/what the mandated reporter observed/what person accompanying the victim(s) said/similar or past incidents involving the victim(s) or suspect)									

SS 8572 (Rev. 12/02)

DEFINITIONS AND INSTRUCTIONS ON REVERSE

DO NOT submit a copy of this form to the Department of Justice (DOJ). The investigating agency is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS 8583 if (1) an active investigation was conducted and (2) the incident was determined not to be unfounded.

WHITE COPY-Police or Sheriff's Department; BLUE COPY-County Welfare or Probation Department; GREEN COPY-District Attorney's Office; YELLOW COPY-Reporting Party

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