

California’s Domestic Violence & Mandatory Reporting Law: Requirements for Health Care Practitioners

TABLE OF CONTENTS

1) Most Common Questions and Answers on Mandatory Reporting Requirements for Health Practitioners in California	2
2) Suggested Reporting Procedure	5
3) Elements of Responsible Practice in Reporting Domestic Violence	6
4) California Mandatory Reporting Law: A Summary	7

Most Common Questions and Answers on Mandatory Reporting Requirements for Health Practitioners in California*

This information is intended to be a general reference guide for questions about mandatory reporting. Information presented herein should not be construed as legal advice. Specific questions regarding interpretation of the law(s) should be referred to your health facility counsel and or local district attorney.

1) When are health care providers required to report?

Health care providers are required to make a report if they provide medical services to a patient whom they suspect is suffering from a physical injury due to a firearm or assaultive or abusive conduct.

2) To whom?

Local law enforcement agency that has jurisdiction over the location in which the injury was sustained.

3) What is the time limit to report?

A telephone report must be made immediately or as soon as practically possible, and a written report must be sent within two working days.

4) Who should report?

All health care providers who fall under this law (See *California Mandatory Reporting Law Summary* on p.7) are equally responsible to see that a report is made. Any health practitioner, who provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects of suffering from injuries resulting from a firearm or assaultive or abusive conduct, is required to make a report. When two or more providers are present during the exam, only one needs to submit the report

5) If I provide counseling or social work services to a patient who has domestic violence injuries, but do not provide medical treatment, must I report?

No. Only health practitioners who provide medical services for a physical condition are required to report.

6) If I am treating a patient for injuries unrelated to the battering, but am aware that the patient has other physical injuries due to domestic violence, must I report?

The law on its face is unclear on this point. The legislator who wrote this law, Assembly Member Jackie Speier, has stated that her intent was that the provider does not have to be treating the domestic violence injury in order for the reporting requirements to apply; the provider must be providing medical services for a physical condition, and the patient must have a physical injury resulting from a firearm or assaultive or abusive conduct, but the former condition and latter injury do not have to be related.

*Prepared by Ariella Hyman of the Bay Area Legal Aid for the Family Violence Prevention Fund.

7) What must be included in the telephone and written report?

The report must include the following:

- A. The name of the injured person, if known;
- B. The injured person's whereabouts;
- C. The character and extent of the person's injuries;
- D. The identity of the person who allegedly inflicted the injury.

Please use the OCJP 920: Suspicious Injury Report Form to make the report:

Download Form:

[http://www.oes.ca.gov/Operational/OESHome.nsf/PDF/OES%20920%20-%20Suspicious%20Injury%20Report/\\$file/OES920.pdf](http://www.oes.ca.gov/Operational/OESHome.nsf/PDF/OES%20920%20-%20Suspicious%20Injury%20Report/$file/OES920.pdf)

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8) If I make a report, should I also document it in the medical record?

Reporting is NOT a substitute for thorough documentation in the medical record. In fact, the medical record is generally a more valuable source of documentation for legal cases and is critical to the patient's ongoing care. The reporting law emphasizes the need for documentation in the medical record, including:

- Any comments by the injured person regarding past domestic violence or regarding the name of any person suspected of inflicting the injury;
- A map of the injured person's body showing and identifying injuries and bruises;
- A copy of the reporting form.

8) What happens to a report once it is made to local law enforcement?

The response to reports may vary from county to county, and sometimes from officer to officer. Health care practitioners should find out the response that will likely occur where they practice so that they may inform the patient accordingly.

9) If my patient was injured in another county, do I report to the respective law enforcement agency in which the health facility jurisdiction lies, or to the law enforcement agency in the county in which the patient was injured?

The law states that a report must be made to "a local law enforcement agency." It is generally recommended that the report be made in the jurisdiction where the patient was injured. It would be helpful to discuss this issue with the local police or sheriff.

10) If the battered patient is a minor, under what law is the report made?

Whenever the Child Abuse and Neglect Reporting Act applies, that reporting act supersedes the reporting act discussed here. Reports should be made pursuant to the Child Abuse and Neglect Reporting Act, as appropriate. Health practitioners may wish to consult with Child Protective Services (CPS) to determine if a CPS report should be made. Health practitioners should also consult with the appropriate local law enforcement agency(ies) to determine how the agency(ies) enforce(s) such violations.

11) Am I required to tell patients, prior to screening for domestic violence, that I am mandated to make a report to local law enforcement if domestic violence is suspected?

There is no legal requirement to inform the patient of the report. However, ethically it would seem imperative to inform the patient of your obligation as a mandatory reporter. The patient should be aware of any actions that may be taken by the respective law enforcement agency and any documentation that is created. As with any disease or condition, providers must not let their personal opinions about reporting laws prevent them from routinely inquiring about domestic violence and providing appropriate care to patients. Each facility should have a discussion and develop its own protocols around this issue.

12) If the battered patient does not want a report to be made, must I make a report to local law enforcement?

Health practitioners are required to report if the terms of the law are met, whether or not the patient consents to a report. However, health practitioners should find out why the patient does not want a report made, and advocate on behalf of the patient's needs and concerns with the authorities.

13) Are there penalties for failure to report?

It is a misdemeanor crime.

14) What can I do to minimize some of the potential dangers to my patient from domestic violence?

Most importantly, health practitioners should provide ongoing, supportive care, address patient safety and guide the patient through available options. Institutions must support providers in meeting the needs of battered patients. Collaboration with domestic violence programs in developing policies, practices, and trainings is essential to this process. Health practitioners should learn how authorities respond to reports and discuss this with the patient. Practitioners should address the risk of potential retaliation by the batterer and need for safety precautions. Health practitioners should work with the patient and law enforcement authorities to meet patient needs when handling the report and strive to make the patient's input into any future plan of action.

Suggested Reporting Procedure

After assessing and interviewing a patient, if a health care provider determines that she or he must report according to the reporting law, she or he may report according to the following procedure:

- Inform the patient of clinician's duty to report.
- Inform patient of likely response(s) by law enforcement and what will happen to report.
- Make a telephone report to the appropriate law enforcement agency immediately, or as soon as is practically possible.
- Complete the **OCJP 920: Suspicious Injury Report Form** and send within two working days to the law enforcement agency that has been notified by telephone.
- Provide all the information **required by law** in reporting domestic violence.
- Include any special instructions for safely contacting the patient, and address special needs, i.e. language needs, in the report.
- All** health care providers involved are equally responsible to see that the report is made according to State requirements. When two or more health care providers have knowledge of a known or suspected instance of violence required to be reported, only one person is required to submit the report.
- Depending on internal clinic policy, file a copy of the report in the patient's medical record.
- Maximize role of patient's input; advocate for the patient's needs with authorities.
- Keep the report **confidential**; it cannot be accessed by friends, family or other third parties without the patient's consent.

Adapted from "Report of Injuries by a Firearm or Assaultive or Abusive Conduct" developed by the Bay Area Legal Aid, California Alliance Against Domestic Violence, Family Violence Prevention Fund, San Francisco Domestic Violence Consortium, and California Medical Association and reporting procedures by M. Campbell Bliss, RN, MS, and N. Clark, RN, BHA, Sutter Community Hospitals, Sutter Center for Women's Health, Sacramento, CA.

Elements of Responsible Practice in Reporting Domestic Violence[†]

- ✓ Inform the patient of your responsibility to make a report to law enforcement.
- ✓ Learn how authorities respond to these reports in the local jurisdictions. Inform the patient of the likely response(s) of law enforcement.
- ✓ Inform the patient about what may happen to the report (check with your local law enforcement agency).
- ✓ Inform the patient that this report is to be kept confidential by the clinic and cannot be accessed by friends, family, or other third parties without the patient's consent. Police may have to turn over a copy of the report to the abuser or his attorney but are required to delete information regarding the patient's whereabouts.
- ✓ Given possibility of infringement on patient autonomy, maximize the role of the patient's input in future action; advocate for the patient's needs in communications with authorities/police.
- ✓ Address the risk of retaliation and need for precautions.
- ✓ Work with the patient and authorities to meet the patient's needs when handling the report (i.e., discuss address where they can be safely contacted).
- ✓ Work with advocates and authorities to implement a process for responding to reports that enhance safety and autonomy.

[†] Prepared by Ariella Hyman of Bay Area Legal Aid for the Family Violence Prevention Fund

California Mandatory Reporting Law: A Summary[‡]

WHEN REQUIRED TO REPORT:

Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or clinic or other facility operated by a local or state public health department, is required to make a report if he or she "provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is":

(1) "suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm", and/or

(2) "suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct."

"Assaultive or abusive conduct" is defined to include a list of 24 criminal offenses, among which are murder, manslaughter, torture, battery, sexual battery, incest, assault with a deadly weapon, rape, spousal rape, abuse of spouse or cohabitant, and an attempt to commit any of these crimes.

THE REPORT:

The health practitioner is required to make a report by telephone as soon as practically possible, and send a written report to a local law enforcement agency within two working days. When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make the report.

The report shall include, but not be limited to:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.[§]

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the injury.

A report must be made even if the person has died, regardless of whether or not the injury contributed to the death, and even if evidence of the conduct of the perpetrator was discovered during an autopsy.

[‡] **PLEASE NOTE:** This document is just a summary and does not include all provisions of the law. Information presented herein should not be construed as legal advice. Specific questions regarding interpretation of the law should be referred to your health care facility counsel or local district attorney. Please see Cal. Penal code §§ 11160-11163.2.

[§] See confidentiality provision on page.8.

MEDICAL RECORDS:

It is recommended that any medical records of a person about whom a physician or surgeon is required to report include:

- (1) Any comments by the injured person regarding past domestic violence or the name of any person suspected of inflicting the assaultive or abusive conduct;
- (2) A map of the injured person's body identifying the injuries and bruises; and
- (3) A copy of the law enforcement reporting form.

REFERRALS:

It is also recommended that health practitioners refer people suffering or suspected of suffering from domestic violence to local domestic violence services and other appropriate services.

CONFIDENTIALITY OF REPORT:

Health facilities, clinics, physician's offices and law enforcement must keep the reports made pursuant to this law confidential, except that law enforcement may disclose a report to those involved in the investigation of the report or the enforcement of a criminal law implicated by the report. In no case shall the person suspected or accused of inflicting the injury, or his or her attorney, be allowed access to the injured person's whereabouts.

DOCTOR-PATIENT PRIVILEGE:

In any court proceeding or administrative hearing, the physician-patient and psychotherapist privileges do not apply to the information required to be reported.

LIABILITY:

Civil and criminal immunity is provided to health practitioners who make required or authorized reports pursuant to these provisions.

PENALTY:

Violation of this law is a misdemeanor.