

## 9-1-20 Mandatory Reporting of Child Abuse & Neglect 2020 – 2022 Webinar

### Questions & Answers and Information on Intimate Partner Violence (IPV)

1. **Question: Am I correct to extrapolate that Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives may see minors under 90-21.5?**

**Answer:** This statute has been interpreted for many years to extend to nurse practitioners, physicians' assistants, and others working under the supervision of a licensed physician. The North Carolina Attorney General has issued an advisory opinion supporting this interpretation that is specific to family planning programs. See Opinion of Attorney General to Margie Rose, Family Planning Branch Head, 47 N.C. Op. Atty. Gen. 80 (October 4, 1977), available at <https://ncdoj.gov/opinions/family-planning-services-rendered-to-minors/>.

2. **Question: Is there anything you can or should do if you feel that law enforcement or the Department of Social Services (DSS) did not respond properly to report?**

**Answer:** Within 5 days after receiving a report of abuse, neglect, or dependency, DSS must provide written notice to the person who made the report stating whether the report was accepted for protective services assessment and whether it was referred to an appropriate law enforcement agency. G.S. 7B-302(f). In addition, if DSS conducts a protective services assessment, it must provide another written notice within 5 days after completing the assessment, stating whether there was a finding of abuse, neglect, or dependency; whether DSS is taking action to protect the child; and what action it is taking to protect the child. G.S. 7B-302(g). These notifications are not required if the person who makes the report does not identify him/herself or if the person making the report waives notifications.

The second notice must include the information that, if the person who made the report is not satisfied with DSS's decision, the reporter may request review of the decision by the prosecutor (district attorney). A person who wants to request review of the decision by the prosecutor must do so within 5 working days of receipt of the notice from DSS. G.S. 7B-305. The prosecutor then has 20 days to review DSS's decision. At the end of the prosecutor's review, the prosecutor may affirm DSS's decision, or request law enforcement to investigate, or direct the DSS director to file a petition in court so that the child's situation may be adjudicated. G.S. 7B-306.

3. **Question: There have been reports of cyber abuse where children are being targeted via video games. Have you heard of this?**

**Answer:** If a case involving this comes up feel free to contact Jill Moore (at UNC School of Government at [moore@sog.unc.edu](mailto:moore@sog.unc.edu)), and she will put you in touch with specialists in criminal law or the Local Health Department (LHD) could consult their LHD/County Attorney. There is also a website that is managed by the US Dept. of Health & Human Services that contains information regarding this as well. Go to [www.stopbullying.gov](http://www.stopbullying.gov) look for Cyberbullying and then Social Media and Gaming.

4. **Question: If all adults are required to report to law enforcement, how does the general public know about this requirement so they can report?**

**Answer:** There is not a formal way to inform the public regarding these laws. Chances are if they have never encountered this type of situation, they have not explored the reporting laws. There is a great deal of information on-line that people can access if needed.

5. **Question: With Electronic Health Records (EHRs), where should the nurse/provider etc. document they reported abuse to DSS and/or police? Keeping in mind that often the parent and/or child can access records.**

**Answer:** Per the Local Technical Assistance & Training (LTAT) Branch, each EHR is different, based upon the package purchased, the configuration and what has been designated to be part of the member portal. While some may be similar, most are different. Therefore, it makes it difficult to make a blanket statement, even per EHR used, on where the information should specifically be documented as the EHR name may be the same but the configuration different. The important piece is that the agency has a policy as to where and how the information should be documented and how and when, if ever, it would be released.

The decision by the LTAT Branch was that this must be a decision of each agency after discussion with the appropriate parties such as Division of Public Health consultation, privacy officer, legal counsel, liability carrier, etc., to determine the policy of the agency as to where and how to document such information based upon the limitations or capabilities of the documentation platform they are using.

For more information about the 2019 North Carolina law that requires reports to law enforcement of juvenile victims of violent offenses, sexually violent offenses, and misdemeanor child abuse, go to <http://www.ncphlaw.unc.edu> and click on "Annual Legislative Updates."

## **Information on Intimate Partner Violence (IPV)**

### **What is required of a local health department in regard to IPV or domestic violence (DV) within the Family Planning Clinic?**

All female patients must be:

- screened for intimate partner violence using the screening questions included in the Family Planning and Reproductive Health Flow Sheet (Are you in a relationship with a person who threatens or physically hurts you? In the past year, have you been slapped, kicked or otherwise physically hurt by someone?)
- provided assistance or referred for services when screen positive; and
  - LHD must have referral in place for IPV or DV services within the local community
- If no referral agency exists, LHD must, at a minimum, assure the individual has a safety plan screening and referral (if necessary) or creation of a safety plan must be documented in the patient chart.

Policies/procedures/protocols must outline guidance for clinic staff with regard to the requirements above.

### **Resources on IPV/DV:**

- Additional screening questions:  
[https://rhntc.org/sites/default/files/resources/rhntc\\_preconcpn\\_counsel\\_chklst\\_2021-02.pdf](https://rhntc.org/sites/default/files/resources/rhntc_preconcpn_counsel_chklst_2021-02.pdf)
- Create a safety plan:  
<https://www.thehotline.org/create-a-safety-plan/>  
<https://ncadv.org/personalized-safety-plan>

There are no specific reporting requirements in North Carolina law pertaining to IPV. However, there are several mandatory reporting statutes that address other crimes, injuries, or abuse/neglect that could apply to some victims of IPV. The effect of those other statutes is that a victim of IPV must be reported if the victim is a:

- person of any age who suffers any of the following injuries or illnesses: gunshot wound or other firearm-related injury; intentionally inflicted poisoning; intentionally inflicted knife/sharps injury; or any other instance of grave bodily harm or grave illness that the treating physician believes was caused by a criminal act of violence. The physician or health care facility administrator must report these cases to law enforcement. G.S. 90-21.20(b).
- child under age 18 and suffers a serious physical injury or recurrent illness caused by nonaccidental trauma. The physician or health care provider must report these cases to law enforcement. G.S. 90-21.20(c1).
- juvenile victim of a violent offense, a sexual offense, or misdemeanor child abuse as defined in G.S. 14-318.6. Juvenile means under age 18 and not emancipated. Any adult who knows, or reasonably should know, that a juvenile has been a victim of one of these offenses must make a report to law enforcement. There are limited exceptions to the requirement to report for some persons—including some mental health professionals, and employees and volunteers for domestic violence and rape crisis programs who learn about the crime while working in that capacity—but there is no general exception for health care providers.
- juvenile whose parent, guardian, custodian, or caretaker has abused or neglected him or her as defined in G.S. 7B-101, or who is a dependent juvenile (has no adult responsible for his or her care). Juvenile means under age 18 and not emancipated. Any person or institution who has cause to suspect a juvenile is abused, neglected, or dependent must report to DSS. G.S. 7B-301.
- child under age 16 who has disappeared and may be in danger. A child has “disappeared” if the child’s parent does not know where the child is and has not been in contact with the child for 24 or more hours. Any person who reasonably suspects a child satisfies this definition *and* may be in danger must make a report to law enforcement. G.S. 14-318.5.

Please note that these reporting requirements apply generally, not just to IPV victims. However, it may be particularly important to consider whether a report is required when a person is a victim of IPV.