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Contact Hours: **2**

Child Abuse Mandated Reporter Training for New York State Identifying and Reporting Child Abuse and Maltreatment

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BY Sheree Goldman, DNP, RN, WHNP

LEARNING OUTCOME AND OBJECTIVES: Upon completion of this course, you will have gained the knowledge to identify and report child abuse, child neglect, and child maltreatment. Specific learning objectives to address potential knowledge gaps include:

- Define terminology related to child abuse according to New York State law.
- Recognize physical and behavioral indicators of physical abuse, neglect, and sexual abuse.
- Describe New York State requirements and processes for mandated reporters of suspected cases of child abuse and maltreatment.
- Explain the requirements for placing a child into protective custody.
- Discuss the legal protections afforded mandated reporters and the consequences for failing to report.

WHAT IS CHILD ABUSE?

The government has a responsibility to protect children when parents or other persons legally responsible for a child's care fail to provide proper care and to intervene in cases of child maltreatment. Likewise, healthcare professionals have a responsibility to recognize and report suspected child abuse and maltreatment. Therefore, it is important to know the definitions of abuse in the state(s) in which one lives and/or practices.

Different states and government entities may vary in their definitions of child abuse. The term *child abuse* generally describes the most serious harms committed against children by the

persons who are responsible for their care. The following definitions are specific to the state of New York and address various forms of abuse.

Person Legally Responsible

The New York State Family Court Act, section 1012(g), states:

“Person legally responsible” includes the child’s custodian, guardian, or any other person responsible for the child’s care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

Abuse

Child abuse may include serious physical harm or substantial risk of serious physical harm to the child. Acts of sexual abuse are also included in this definition. These acts are committed by the parents or caretakers of the child or allowed to occur by the parent or caretaker.

Child abuse in New York State is defined in Family Court Act, section 1012(e) (emphasis added).

“Abused child” means a child less than 18 years of age whose parent or other person legally responsible for the child’s care:

- i. Inflicts or allows to be inflicted upon such child **physical injury** by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ; or
- ii. Creates or allows to be created a substantial **risk of physical injury** to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health, or protracted loss or impairment of the function of any bodily organ; or
- iii. Commits or allows to be committed a **[sex] offense** against such child . . . [see “Sexual Abuse” below]

Neglect

Neglect can be physical, mental, or emotional. It includes the failure to provide a child with adequate food, shelter, clothing, education, hygiene, medical care, and/or supervision needed for normal growth and development when the caregiver is financially capable of doing so or offered assistance to do so.



Child neglect in New York State is defined in the Family Court Act, section 1012(f) (emphasis added):

“Neglected child” means a child less than 18 years of age:

- i. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to **exercise a minimum degree of care**:
 - a) In supplying the child with adequate food, clothing, shelter or education [...], or medical, dental, optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so [...]; or
 - b) In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court [...]; or
- ii. Who had been **abandoned** [...] by his parents or other person legally responsible for his care.

Maltreatment

Maltreatment refers to the quality of care that a child receives from the parent or person who is legally responsible for the child’s care. Maltreatment in New York State is defined in the Social Services Law, section 412:

A “maltreated child” includes a child under 18 years of age:

- a) Defined as a neglected child by the Family Court Act [see above], or
- b) Who has had serious physical injury inflicted upon him or her by other than accidental means.



| COMPARING ABUSE AND NEGLECT/MALTREATMENT | |
|---|--|
| Abuse | Neglect/Maltreatment |
| Parent or other persons legally responsible: <ul style="list-style-type: none"> ● Inflict or allow to be inflicted serious injury ● Create or allow to be created substantial risk of injury ● Commit or allow to be committed a sex offense | Parent or other persons legally responsible impair a child's physical, mental, or emotional condition by: <ul style="list-style-type: none"> ● Failing to provide basic needs of food, clothing, shelter, education, or medical care, or education when financially able ● Inflicting excessive corporal punishment ● Failing to provide adequate supervision ● Engaging in excessive use of drugs or alcohol that interferes in the ability to provide adequate supervision |

Sexual Abuse/Exploitation

Sexual abuse includes situations in which the parent or another person who is legally responsible for the child commits or allows sexual misconduct, rape or sexual abuse, commercial sexual exploitation, incest, production or possession of pornography, or sex trafficking. New York State Family Court Act, section 1012(e)(iii), and Social Services Law, section 371, list the following:

- Commits or allows to be committed any sex offense against the child, as defined in article 130 of the penal law, including sexual misconduct, rape, and sexual abuse
- Allows, permits, or encourages the child to engage in child prostitution, as described in §§ 230.25, 230.30, and 230.32 of the penal law
- Commits an act of incest, as described in §§ 255.25, 255.26, and 255.27 of the penal law
- Allows the child to engage in acts or conduct to produce, promote, or possess child pornography, as described in article 263 of the penal law
- Permits or encourages the child to engage in any act or commits or allows to be committed against the child any offense that would render the child either a victim of sex trafficking or a victim of severe forms of trafficking in persons pursuant to 22 U.S.C. § 7102
(CWIG, 2019)



Emotional Abuse

Emotional abuse is defined in New York State 's Family Court Act, section 1012(h):

“Impairment of emotional health” and “impairment of mental or emotional condition” including a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as failure to thrive, control of aggressive or self-destructive impulses, ability to think and reason, acting out, or misbehavior, including incorrigibility, ungovernability, or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child.

Abandonment

The New York State Social Service Law, section 384B, defines abandonment as a situation in which:

A parent evinces an intent to forgo his or her parental rights and obligations as manifested by his or her failure to visit the child and communicate with the child or agency, although able to do so and not prevented or discouraged from doing so by the agency. In the absence of evidence to the contrary, such ability to visit and communicate shall be presumed.

ABANDONED INFANT PROTECTION ACT

In 2000, New York State became one of the first states to enact a “safe-haven” law by passing the Abandoned Infant Protection Act (AIPA). The law designates specific locations as safe places for parents to relinquish their unharmed newborns. It helps ensure that unwanted infants are surrendered to persons who can provide immediate care for their safety and well-being. It also protects parents who feel that they have no choice other than abandonment and want to protect their child from harm.

Abandonment (discarding) of newborn infants in unsafe places is an example of extreme neglect. Under New York State penal law, Title O, Article 260, Section 260, it is considered a Class E felony and a Class A misdemeanor and must be reported by mandated reporters. Under the AIPA, amended in 2010, a parent will not be charged if the following criteria are met:

1. The abandoned infant can be no more than 30 days old.
2. The person abandoning the infant must have intended that the infant will be safe from physical injury and cared for appropriately.



3. The person leaves the infant with an appropriate person or leaves the baby in a suitable location such as a hospital, police station, or fire department. The person immediately notifies an appropriate person of the infant's location.
4. The person must intend to wholly abandon the infant by relinquishing responsibility for and rights to the care and custody of the infant.

Any mandated reporter who learns of abandonment is obligated to fulfill mandated reporter responsibilities (see "Reporting Child Maltreatment/Abuse" later in this course). Even if the reporter is unsure of the name of the person abandoning the child, they must make a report, simply listing the unknown person as "Unknown" (NYS OCFS, 2021b).

(See also AIPA in "Resources" at the end of this course.)

Special Definitions Relating to Children in Residential Care

ABUSED CHILD IN RESIDENTIAL CARE

An abused child can include a child with disabilities or special needs who is residing in a group residential care facility, such as one under the jurisdiction of the Department of Social Services, Division for Youth, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, or State Education Department (Social Services Law, Article 6, Title 6, Section 412.8). The residential care law also applies to children residing in any of the following:

- New York State School for the Blind or New York State School for the Deaf
- A private residential school that has been approved by the Commissioner of Education for special education services or programs
- A special act school district
- State-supported institutions for the instruction of the deaf and blind that have a residential component

In these settings, the definition of "child" may be extended beyond the age of 18.

NEGLECTED CHILD IN RESIDENTIAL CARE

Article 6, Title 6, Section 412.9, of the Social Services Law provides a separate definition of a neglected child in residential care:

A neglected child in residential care means a child whose custodian* impairs, or places in imminent danger of becoming impaired, the child's physical, mental, or emotional condition:

- By intentionally administering to the child any prescription drug other



than in accordance with a physician's or physician's assistant's prescription

- By failing to adhere to standards for the provision of food, clothing, shelter, education, medical, dental, optometric, or surgical care, or for the use of isolation or restraint in accordance with the regulations of the state agency operating, certifying, or supervising such facility or program, which shall be consistent with the child's age, condition, service, and treatment needs
- By failing to adhere to standards for the supervision of children by inflicting or allowing to be inflicted physical harm, or a substantial risk thereof, in accordance with the regulations of the state agency operating, certifying, or supervising such facility or program, which shall be consistent with the child's age, condition, service, and treatment needs
- By failing to conform to applicable state regulations for appropriate custodial conduct

*A director, operator, employee, or volunteer of a residential care facility or program

This definition pertains to children residing in group residential facilities under the jurisdiction of the State Department of Social Services, Division for Youth, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, or State Education Department.

MALTREATED CHILD IN RESIDENTIAL CARE

Article 6, Title 6, Section 412.2(c), of the Social Services Act also specifies that a maltreated child can include a child with a disability who may be up to 21 years of age when he or she is defined as a neglected child in residential care (as defined above).

CHILD ABUSE VICTIM DEMOGRAPHICS

Nationally in 2019:

- 28.1% of victims were younger than three years.
- The victimization rate was highest for children younger than 1 year.
- The percentages of child victims were similar for both boys and girls.
- The majority of victims were of three races/ethnicities: White (43.5%), Hispanic (23.5%), and African American (20.9%).
- Native American or Alaska Native children had the highest rate at 14.8 per 1,000 children, and African American children had the second highest rate at 13.8 per 1,000 children.



- About 75% of victims were neglected, 17.5% were physically abused, and 9.3% were sexually abused. There were an additional 439 reports of sex trafficking.

In New York State in 2019:

- There were 70,754 documented victims of abuse or neglect, which represents a rate of 16.8 per 1,000 children and an increase of 1% from 2015.
- There were 4,282 recorded cases of medical neglect, 64,262 incidents of neglect, 6,112 cases of physical abuse, 2,262 cases of sexual abuse, and 509 cases of psychological maltreatment.

(U.S. DHHS, 2021; NYS Kids Wellbeing Indicators Clearinghouse, 2021)

RECOGNIZING PHYSICAL ABUSE

Physical Indicators of Physical Abuse

Healthcare professionals must be alert for physical injuries that are unexplained or inconsistent with the parent or other caretaker's explanation and/or the developmental state of the child.

BRUISING

Some bruises indicate likely child abuse. It is important to know both normal and suspicious bruising patterns when assessing children's injuries. Normal bruising usually occurs in the front of the body over bony areas such as the forehead, knees, shins, and elbows.

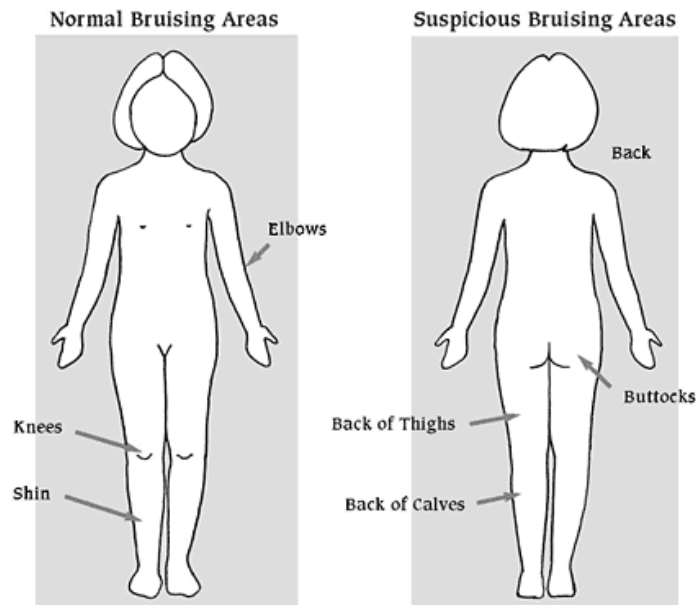
The "TEN-4 rule" (see below) is a mnemonic aid to remember when bruising requires immediate evaluation. Children who are under 4 years should not have any bruises in these areas, and infants under 4 months should have no bruises anywhere. The size of the bruise is not as important as the location.

| TEN-4 RULE | |
|------------|---------|
| T | Torso |
| E | Ears |
| N | Neck |
| 4 | Under 4 |



Suspicious bruises include the following;

- Bruises on babies who are not yet mobile (“cruising”)
- Bruises on the ears, neck, eyes, cheeks, buttocks, or torso (torso includes chest, back, abdomen, genitalia)
- Bruises that are clustered or patterned (e.g., handprints)
(Norton Children’s, 2020)



Normal and suspicious bruising areas.
(Source: Research Foundation of SUNY, 2011.)



This pattern signals the blow of a hand to the face of a child.
(Source: Research Foundation of SUNY, 2011.)





Regular patterns reveal that a looped cord was used to inflict injury on this child.
(Source: Research Foundation of SUNY, 2011.)

LACERATIONS OR ABRASIONS

Typical indications of unexplained lacerations and abrasions that are suspicious include:

- On the face, lips, or mouth
- To external genitalia

BURNS

Unexplained burns include:

- Cigar or cigarette burns, especially on soles, palms, back, or buttocks
- Immersion burns by scalding water (sock-like, glove-like, doughnut-shaped on buttocks or genitalia; “dunking syndrome”)
- Patterned like an electric burner, iron, curling iron, or other household appliance
- Rope burns on arms, legs, neck, or torso



A steam iron was used to inflict injury on this child.
(Source: Research Foundation of SUNY, 2011.)



FRACTURES

Unexplained fractures may include:

- Fractures to the skull, nose, or facial structure
- Multiple or spiral fractures
- Fractures in various stages of healing (SD DSS, 2020)

HEAD INJURIES

Typical indications of unexplained head injuries include:

- Absence of hair and/or hemorrhaging beneath the scalp due to vigorous hair pulling
- Subdural hematoma (a hemorrhage beneath the outer covering of the brain, due to severe hitting or shaking)
- Retinal hemorrhage or detachment, due to shaking
- Whiplash or pediatric abusive head trauma (see box below)
- Eye injury
- Jaw and nasal fractures
- Tooth or frenulum (of the tongue or lips) injury

PEDIATRIC ABUSIVE HEAD TRAUMA

Pediatric abusive head trauma (AHT) is an inflicted head injury in children that can be caused by various mechanisms, including rotational and contact forces to the head as well as shaking. The prevalence is between 32 and 38 cases per 100,000 children who are under the age of 1 year. AHT is fatal in nearly 25% of cases.

Secondary brain injury may occur as a result of hypoxia, ischemia, or inflammation, and up to 70% of survivors have sequelae. Impairments that result from AHT may include encephalopathy, intellectual disability, cerebral palsy, cortical blindness, seizure disorders, behavior problems, and learning disabilities. Endocrine dysfunction is commonly seen in survivors of AHT and may be observed years after the event.

The clinical presentation of infants or children with AHT can vary. Findings may be subtle and include:

- Bruising (see “TEN-4 Rule” above)



- Oral injuries such as frenulum tears
- Retinal hemorrhages that are numerous, found in all layers of the retina, extend to the periphery of the retina, or retinoschisis (blood in the macula)
- Skull fractures
- Cerebral edema
- Subdural hemorrhages
- Spinal subdural hemorrhages

AHT should be considered when infants or young children present with:

- Fussiness or altered mental status
- Vomiting
- Apnea

Short falls (less than 5 feet) are often the explanation given to the provider for the injury, however serious injury or death is unlikely to result from a short fall. In addition to conducting a thorough examination with imaging when AHT is suspected, clinicians should report to Child Protective Services and educate parents about the dangers of AHT from shaking or striking a child or impacting the child's head against a surface. It is also important to educate parents about alternatives to soothe a crying baby (Narang, 2020).

Behavioral Indicators of Physical Abuse

Careful assessment of a child's behavior may also indicate physical abuse, even in the absence of obvious physical injury. Behavioral indicators of physical abuse include the following:

- Withdrawal from friends or usual activities
 - Changes in behavior (e.g., aggression, anger, hostility, or hyperactivity)
 - Changes in school performance
 - Depression, anxiety or unusual fears, or a sudden loss of self-confidence
 - An apparent lack of supervision
 - Frequent absences from school
 - Reluctance to leave school activities, as if not wanting to go home
 - Attempts at running away
 - Rebellious or defiant behavior
 - Self-harm or attempts at suicide
- (Mayo Clinic, 2018)



CAREGIVER RISK FACTORS

When health professionals observe indicators of possible abuse, they should consider whether the presence of risk factors in a caregiver may signal a need to examine the situation more carefully.

The National Child Abuse and Neglect Data System (NCANDS) cites the following caregiver risk factors:

- Alcohol abuse that is chronic
- Domestic violence in which the caregiver is the perpetrator or the victim
- Drug abuse that is chronic
- Financial problems that do not allow the family to meet basic needs
- Inadequate housing or homelessness
- Public assistance participation
- Any caregiver disability
(U.S. DHHS, 2021)

FACTITIOUS DISORDER IMPOSED ON ANOTHER

Factitious disorder imposed on another (FDIA), formerly known as *Munchausen syndrome by proxy*, is a mental illness as well as a form of child abuse. In FDIA, an adult with the disorder falsifies an illness in the child under their care. Warning signs include:

- Unexplainable persistent problems
- Discrepancies of the history, findings, and clinical presentation
- A working diagnosis of a very rare condition, leading the clinician to believe that maltreatment is more likely
- Signs and symptoms only occur when the adult with the disorder is alone with the child
- The caregiver insists on hand-carrying medical records or states they are missing
- Other family members have had similar problems without explanation
- The caregiver routinely relates histories in a dramatic or exaggerated manner
- The caregiver is or has been a healthcare provider or has a history of a factitious disorder or extensive healthcare problems
- Members of the healthcare team are suspicious
(Feldman, 2020)

It is important to note that the perpetrator, not the child, receives the diagnosis of FDIA, and the child's safety is of utmost importance.



RECOGNIZING PHYSICAL AND EMOTIONAL NEGLECT

Physical Neglect

Indicators of physical neglect include:

- Consistent hunger
- Poor hygiene (skin, teeth, ears, etc.)
- Inappropriate attire for the season
- Failure to thrive (physically or emotionally)
- Positive indication of toxic exposure, especially in newborns, such as drug withdrawal symptoms, tremors, etc.
- Delayed physical development
- Speech disorders
- Consistent lack of supervision, especially in dangerous activities or for long periods of time
- Unattended physical problems or medical or dental needs
- Chronic truancy
- Abandonment
(Clermont County CPS, 2021)

Emotional Neglect

A child may demonstrate behavioral indicators of neglect such as:

- Begging or stealing food
- Extended stays at school (early arrival or late departure)
- Constant fatigue, listlessness, or falling asleep in class
- Alcohol or other substance abuse
- Delinquency, such as shoplifting
- Reports there is no caretaker at home
- Runaway behavior
- Habit disorders (sucking, nail biting, rocking, etc.)
- Conduct disorders (antisocial or destructive behaviors)



- Neurotic traits (sleep disorders, inhibition of play)
- Psychoneurotic reactions (hysteria, obsessive-compulsive behaviors, phobias, hypochondria)
- Extreme behavior (compliant or passive, aggressive or demanding)
- Overly adaptive behavior (inappropriately adult, inappropriately infantile)
- Delays in mental and/or emotional development
- Suicide attempt
(Clermont County CPS, 2021)

RECOGNIZING SEXUAL ABUSE

Child sexual abuse involves the coercion of a dependent, developmentally immature person to commit a sexual act with someone older. For example, an adult may sexually abuse a child or adolescent, or an older child or adolescent may abuse a younger child. A perpetrator does not have to be an adult in order to sexually abuse a child (RAINN, 2021).

The fact that sexual abuse may be carried out by a family member or friend further increases the child's reluctance to disclose the abuse, as does shame and guilt plus the fear of not being believed. The child may fear being hurt or even killed for telling the truth and may keep the abuse secret rather than risk the consequences of disclosure. Very young children may not have sufficient language skills or vocabulary to describe what happened (Clermont County CPS, 2021; RAINN, 2021).

Child sexual abuse is found in every race, culture, and class throughout society. Girls are sexually abused more often than boys; however, this may be due to boys'—and later, men's—tendency not to report their victimization.

Most perpetrators of child sexual abuse are people who are known to the victim. As many as 93% of children who are sexually abused under the age of 18 know the abuser. There is no particular profile of a child molester or of the typical victim. Even someone highly respected in the community—the parish priest, a teacher, or coach—may be guilty of child sexual abuse. Anyone, including parents, can be a perpetrator, and most are male.

Negative effects of sexual abuse vary from person to person and range from mild to severe in both the short and long term. Victims may exhibit anxiety, difficulty concentrating, and depression. They may develop eating disorders, self-injury behaviors, substance abuse, or suicide. The effects of childhood sexual abuse often persist into adulthood (Clermont County CPS, 2021; RAINN, 2021).



Physical Indicators of Sexual Abuse

Physical evidence of sexual abuse may not be present or may be overlooked. Victims of child sexual abuse are seldom injured due to the nature of the acts. Most perpetrators of child sexual abuse go to great lengths to “groom” the children by rewarding them with gifts and attention and try to avoid causing them pain in order to ensure that the relationship will continue.

If physical indicators occur, they may include:

- Symptoms of sexually transmitted diseases, including oral infections, especially in preteens
- Difficulty in walking or sitting
- Torn, stained, or bloody underwear
- Pain, itching, bruising, or bleeding in the genital or anal area
- Bruises to the hard or soft palate
- Pregnancy, especially in early adolescence
- Painful discharge of urine and/or repeated urinary infections
- Foreign bodies in the vagina or rectum
- Painful bowel movements
(Clermont County CPS, 2021; RAINN, 2021)

Behavioral Indicators of Sexual Abuse

Children’s behavioral indicators of child sexual abuse include:

- Unwillingness to change clothes for or participate in physical education activities
- Withdrawal, fantasy, or regressive behavior, such as returning to bedwetting or thumb-sucking
- Inappropriate, bizarre, suggestive, or promiscuous sexual behavior
- Inappropriate sexual knowledge for age
- Verbal disclosure of sexual assault
- Involvement in commercial sexual exploitation
- Forcing sexual acts on other children
- Extreme fear of closeness or physical examination
- Suicide attempts or other self-injurious behaviors



- Layered or inappropriate clothing
- Hiding clothing
- Lack of interest or involvement in activities
(Clermont County CPS, 2021; RAINN, 2021)

Sex Trafficking / Commercial Sexual Exploitation of Children

The crime of sex trafficking of children is a type of child abuse increasingly encountered in the healthcare setting. It is defined in the Trafficking Victims Protection Act (18 USC §1591) as “to recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person, or to benefit financially from such action, knowing or in reckless disregard that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.”

The term *child prostitution* is misleading when used in the context of commercial sexual exploitation of children (CSEC). The children who are involved in commercial sex are victims. Traffickers may beat, rape, torture, and use drugs, alcohol, and emotional tactics to gain control over their child victims.

Commercially sexually exploited youth frequently suffer from injuries and other health issues.

Physical issues may include:

- Tuberculosis
- Infections
- Substance use, chemical dependency and withdrawal
- Malnutrition
- Physical injuries from violence
- Sexually transmitted infections, including HIV
- Pregnancy and pregnancy-related health issues
- Urinary tract infections

Mental health issues may include:

- Posttraumatic stress disorder (PTSD)
- Depression
- Suicidal ideation
- Suicide attempts
- Self-harm
- Depression



- Poor self-esteem
 - Feelings of hopelessness
- (US DOJ, 2020; Hornor & Sherfield, 2018)

SCREENING FOR CSEC

Victims of sex trafficking seldom self-disclose, and many will resist disclosure because they have been threatened or feel shame, guilt, or loyalty to the trafficker. Some youth do not self-identify as victims. It is important for healthcare providers to ask about exploitation because 88% of adolescent victims of trafficking reported an encounter with a healthcare provider during the time that they were being exploited.

There are several validated screening tools for CSEC and a variety of known risk factors for victimization. Greenbaum and colleagues (2018) developed a short, six-question screening tool for CSEC that can be used effectively for youth in the healthcare setting. This short questionnaire also differentiates between victims of sex trafficking and youth who may have experienced sexual assault or abuse without sex trafficking. Each positive response is given a 1-point score. A cut-off score of 2 indicates a patient suspected for CSEC and indicates further questioning by someone trained in a trauma-informed approach.

1. Is there a previous history of drug and/or alcohol use?
2. Has the youth ever run away from home?
3. Has the youth ever been involved with law enforcement?
4. Has the youth ever broken a bone, had a traumatic loss of consciousness, or sustained a significant wound?
5. Has the youth ever had a sexually transmitted infection?
6. Does the youth have a history of sexual activity with more than five partners?

RESPONDING TO VICTIMS' DISCLOSURES

It is difficult for young children to describe abuse. They may only disclose part of what happened, or they may make an indirect disclosure such as, "My stepdad keeps me up at night." It is important not to rush the child and to listen to their concerns so that the child feels safe and supported. If a child discloses abuse, the following actions by the healthcare professional will help the child:

- Avoid denying what the child discloses
- Provide safety and reassurance
- Listen without making assumptions



- Do not interrogate
- Limit questioning to only four queries:
 1. What happened?
 2. When did it happen?
 3. Where did it happen?
 4. Who did it? (How do you know them?)
- Do not make promises
- Document the child's statements using exact quotes
- Remain nonjudgmental and supportive
- Understand the dynamics of abuse and neglect
- Report suspicions to the authorities
(Childhelp, 2021)

If a child or adolescent discloses sexual abuse to a trusted adult, or there is cause for the adult to suspect sexual abuse, the adult should **not** question the child further. They should instead contact Child Protective Services or, if the child is in imminent danger, the police. These professionals have protocols in place to interview the child by a child interview specialist while police, prosecutors, and caseworkers observe.

Such **forensic interviewers** are trained to communicate in an age- and developmentally appropriate manner. Coordination of services with a child forensic interviewer is essential, with the expectation that one interview rather than several by different concerned parties reduces the chances of traumatizing the child further (US DOJ, 2015).

REPORTING CHILD ABUSE, MALTREATMENT, AND NEGLECT

[Information in this section is taken from New York City Administration for Children's Services (2021) and New York State Office of Children and Family Services (2021).]

Anyone may report suspected child abuse at any time and is encouraged to do so. All reports are confidential and may be made anonymously by members of the public.

Who Must Report Abuse?

Physicians, nurses, teachers, police officers, dentists, therapists, and many others are legally required to report suspected cases of child abuse, maltreatment, and neglect. New York State law specifies these and other professionals and persons who are classified as **mandated reporters** (see list below).



MANDATED REPORTERS IN NEW YORK

Persons and officials required to report cases of suspected child abuse or maltreatment are as follows:

- Physician
- Registered physician assistant
- Surgeon
- Medical examiner
- Coroner
- Dentist
- Dental hygienist
- Osteopath
- Optometrist
- Chiropractor
- Podiatrist
- Resident
- Intern
- Psychologist
- Registered nurse
- Social worker
- Emergency medical technician
- Licensed creative arts therapist
- Licensed marriage and family therapist
- Licensed mental health counselor
- Licensed psychoanalyst
- Hospital personnel engaged in the admission, examination, care, or treatment of persons
- Christian Science practitioner
- School official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator, or other school personnel required to hold a teaching or administrative license or certificate



- Social services worker
- Director of a children's overnight camp, summer day camp, or traveling summer day camp
- Day care center worker
- School-age child care worker
- Provider of family or group family day care
- Employee or volunteer in a residential care facility for children
- Any other child care or foster care worker
- Mental health professional
- Substance abuse counselor
- Alcoholism counselor
- All persons credentialed by the Office of Alcoholism and Substance Abuse Services
- Peace officer
- Police officer
- District attorney, assistant district attorney, or investigator employed in the office of a district attorney
- Other law enforcement official

What Situations Require That a Report Be Made?

New York State law requires mandated reporters to report suspected child abuse or maltreatment in the following three situations:

1. When a mandated reporter has reasonable cause to suspect that a child whom the reporter sees in his or her professional or official capacity is abused or maltreated
2. When a mandated reporter has reasonable cause to suspect that a child is abused or maltreated where the parent or person legally responsible for such child comes before them in his or her professional or official capacity and states from personal knowledge facts, conditions, or circumstances which, if correct, would render the child abused or maltreated
3. Whenever a mandated reporter suspects child abuse or maltreatment while acting in his or her professional capacity as a staff member of a medical or other public or private institution, school, facility, or agency, he or she shall immediately notify the person in charge of that school, facility, institution, or their designated agent that a report has been made. The person in charge of the institution will then (also) become responsible for reporting or causing a child abuse report to be made to the county Child Protective Services (CPS) agency.



Mandated reporters can be held liable by both the civil and criminal legal systems for intentionally failing to make a report of suspected abuse that was encountered while acting in their professional capacity. (See also “Consequences for Failing to Report” below.)

REASONABLE CAUSE

There can be “reasonable cause” to suspect that a child is abused or maltreated if, considering the physical evidence observed or told about, and based on the reporter’s own training and experience, it is possible that the injury or condition was caused by neglect or by nonaccidental means.

Certainty is not required. The reporter need not be certain that the injury or condition was caused by neglect or by nonaccidental means. The reporter need only be able to entertain the possibility that it could have been neglect or nonaccidental in order to possess the necessary “reasonable cause.” It is enough for the mandated reporter to distrust or doubt what is personally observed or told about the injury or condition.

In child abuse cases, many factors can and should be considered in the formation of that doubt or distrust. Physical and behavioral indicators may also help form a reasonable basis of suspicion. Although these indicators are not diagnostic criteria of child abuse, neglect, or maltreatment, they illustrate important patterns that may be recorded in the written report when relevant.

When Must a Report Be Made?

The law requires that mandated reporters must “personally make a report to the Statewide Central Register of Child Abuse and Maltreatment (SCR)” and “immediately notify the person in charge of the institution, school, facility, or agency where they work or the designated agent of the person in charge that a report has been made.”

In the case of suspected child abuse, maltreatment, or neglect, mandated reporters are required to make an oral **telephone report immediately** at any time of day, seven days a week. In addition, a **written report must be filed within 48 hours** of the oral report.

- Mandated reporters should make an oral telephone report to the Statewide Central Register of Child Abuse and Maltreatment (SCR) by calling the statewide, toll-free mandated reporter hotline at 800-635-1522 or 311 in New York City. (The general public can call 311 in New York City or call the SCR directly at 800-342-3720.)
- A written report on Form LDSS-221A, signed by the reporter, must be filed within 48 hours of the oral report with the local Department of Social Services (LDSS) assigned the investigation. Mandated reporters can request the mailing address of the local agency when making the oral report to the hotline. (A written report involving a child cared for away from the home [e.g., foster care, residential care] should be submitted to the New York State Child Abuse and Maltreatment Register, P.O. Box 4480, Albany, NY 12204-0480.) Written reports are admissible as evidence in any judicial proceedings; accurate completion is vital.



(See also “Resources” at the end of this course.)

What Is Included in the Report?

At the time of an oral telephone report, the Child Protective Services (CPS) specialist will request the following information:

- How the child has been affected
- Names and addresses of the child and parents or other person responsible for care
- Location of the child at the time of the report
- Child’s age, gender, and race
- Nature and extent of the child’s injuries, abuse, or maltreatment, including any evidence of prior injuries, abuse, or maltreatment to the child or their siblings
- Name of the person or persons suspected to be responsible for causing the injury, abuse, or maltreatment (“subject of the report”)
- Family composition
- Any special needs or medications
- Whether an interpreter is needed
- Source of the report
- Person making the report and where reachable
- Actions taken by the reporting party, including taking of photographs or X-rays, removal or keeping of the child, or notifying the medical examiner or coroner
- Any personal safety issues that may impact CPS worker investigations (e.g., weapons, dogs)
- Any additional information that may be helpful

A reporter is not required to know all of the above information in making a report; therefore, lack of complete information does not prohibit a person from reporting. However, information necessary to locate a child is crucial.

SUBJECT OF THE REPORT

For purposes of reporting suspected cases of child abuse and maltreatment to the Statewide Central Register of Child Abuse and Maltreatment and Child Protective Services, it is important to understand the definition of who can be the “subject of the report” as defined by Section 412.4 of the Social Services Law.



- “Subject of the report” means any parent, guardian, custodian, or other person 18 years of age or older who is legally responsible for a child and who is allegedly responsible for causing—or allowing the infliction of—injury, abuse, or maltreatment to such child.
- “Subject of the report” also means an operator of or employee or volunteer in a home operated or supervised by an authorized agency, the Division for Youth, or an office of the Department of Mental Hygiene, or a family daycare home, daycare center, group family daycare home, or a day-services program who is allegedly responsible for causing—or allowing the infliction of—injury, abuse, or maltreatment to a child.

What Happens Once a Report Is Made?

The CPS unit of the local Department of Social Services is required to begin an investigation of each report within 24 hours. The investigation includes an evaluation of the safety of the child named in the report and any other children in the home and a determination of risk to the children if they continue to remain in the home.

If the Department records indicate a previous report concerning a “subject of the report,” other persons named in the report, or other pertinent information, the appropriate agency or local CPS must be immediately notified of this fact.

What Follow-Up Can Be Made by the Reporter?

Section 422.4 of the Social Services Law provides that a mandated reporter can receive, upon request, the findings of an investigation made pursuant to their report. This request can be made to the SCR at the time of making the report or to the appropriate local CPS at any time thereafter. However, no information can be released unless the reporter’s identity is confirmed.

If the request for information is made prior to the completion of an investigation of a report, the released information shall be limited to whether the report is “indicated” (i.e., substantiated), “unfounded,” or “under investigation,” whichever the case may be.

If the request for information is made after the completion of an investigation of a report, the released information shall be limited to whether a report is “indicated” or, if the report has been expunged, that there is “no record of such report,” whichever the case may be.

REPORTING AND HIPAA PROVISIONS

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains privacy provisions that have caused confusion regarding the obligation of a mandated reporter to provide copies of written records that underlie the report. However, these **HIPAA provisions do not affect the responsibilities of mandated reporters** as they are defined in New York Social Services Law.



PLACING A CHILD IN PROTECTIVE CUSTODY

Mandated reporters may place an alleged abused or neglected child in protective custody under certain circumstances. A child may be taken into protective custody without court order or parental consent:

1. If the child is in such circumstances or condition that continuing to stay in his or her residence or in the care and custody of the parent or other legally authorized caretaker presents an **imminent danger** to the child's life or health, and
2. If there is **not enough time** to apply to the Family Court for an order of temporary removal

However, protective custody should not be confused with the status of the child admitted voluntarily to the hospital by parent(s).

Other persons legally authorized to place the child into physical protective custody include:

- A peace officer (acting pursuant to his or her special duties)
- A police officer
- A law enforcement official
- An agent of a duly incorporated society for the prevention of cruelty to children
- A designated employee of a city or county Department of Social Services
- A person in charge of a hospital or similar institution

When a child is placed in protective custody, the authorized person **must** take the following actions:

- Bring the child immediately to a place designated by the rules of the Family Court for this purpose, unless the person is a physician treating the child and the child is or soon will be admitted to a hospital
- Make every reasonable effort to inform the parent or other person legally responsible for the child's care about which facility the child is in
- Provide the parent or other person legally responsible for the child's care with written notice, coincident with removal of the child from their care (Family Court Act, 1024(b)(iii))
- Inform the court and make a report of suspected child abuse or maltreatment pursuant to Title 6 of the Social Services Law, as soon as possible (Family Court Act, 1024(b))



- Immediately notify the appropriate local Child Protective Services, which shall begin a child protective proceeding in the Family Court at the next regular weekday session of the appropriate Family Court or recommend that the child be returned to his or her parents or guardian. In neglect cases, pursuant to Section 1026 of the Family Court Act, the authorized person or entity (usually CPS) may return a child prior to a child protective proceeding if it concludes there is no imminent risk to the child's health. (NYS OCFS, n.d.)

GATHERING FORENSIC EVIDENCE

Social Service Law Article 6, Title 6, Section 416, states:

Any person or official required to report cases of suspected child abuse and maltreatment may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child who is subject to report, and if medically indicated, cause to be performed a radiological examination on the child. Any photographs or X-rays taken shall be sent to Child Protective Services at the time the report is sent, or as soon thereafter as possible. Whenever such person is required to report under this title in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency or his designated agent, who shall then take or cause to be taken, at public expense, color photographs of visible trauma and shall, if medically indicated, cause to be performed a radiological examination of the child.

In New York State, parents or guardians must give permission for a minor child to be photographed **unless** suspected child abuse has been reported to the Statewide Central Register. If photographs will be needed, it is a good idea to inform the child or adolescent and encourage them to participate in the process.

Photographs are another form of medical documentation that can provide objective, visual documentation of abuse. There should be a protocol for releasing the photos after a formal request, and a chain of custody may be necessary as well.

LEGAL ISSUES FOR MANDATED REPORTERS

Consequences for Failing to Report

Any person, official, or institution required to report a case of suspected child abuse or maltreatment that willfully fails to do so:

- Can be charged with a **Class A misdemeanor** and subject to criminal penalties
- Can be **sued in a civil court** for monetary damages for any harm caused by such failure to report to the SCR



Failure to report also leads to broader repercussions. CPS cannot act until child abuse is identified and reported—that is, services cannot be offered to the family nor can the child be protected from further suffering (NYS OCFS, 2021a).

Immunity from Legal Liability

To encourage prompt and complete reporting of suspected child abuse and maltreatment, Social Services Law, Section 419, affords the reporter certain legal protections from liability. Any persons, officials, or institutions that in good faith make a report, take photographs, and/or take protective custody of a child or children have immunity from any liability, civil or criminal, that might result from such actions.

All persons, officials, or institutions who are required to report suspected child abuse or maltreatment are presumed to have done so in good faith as long as they were active in the discharge of their official duties and within the scope of their employment and so long as their actions did not result from willful misconduct or gross negligence (NYS OCFS, 2021a).

Confidentiality

The Commissioner of Social Services and the local Department of Social Services are not permitted to release to the subject of a report any data that identify the person who made the report unless that person has given written permission for the SCR to do so. The person who made the report may also grant the local CPS permission to release their identity to the subject of the report. If a reporter needs reassurance, they should feel free to emphasize the need for confidentiality if the situation warrants (NYS OCFS, 2021a).

STATE CENTRAL REGISTRY REFORM

A reform bill introduced by former New York State Senator Montgomery, effective January 2022, serves to reform the State Central Registry (SCR), which maintains a list of parents accused of child maltreatment. The list has been viewed as racially and economically unjust because single mothers, low-income families, and families of color are affected disproportionately.

Before passage of this legislation, New York had one of the lowest standards of evidence to place an individual on the SCR while making it nearly impossible to be removed. Over 47,000 individuals are added to the registry every year, and over 70% of cases involve allegations not of abuse but of neglect, which are largely subjective and connected to poverty. Individuals have been added to the registry for living in shelters, school absences, marijuana use, and being victims of domestic violence. Because the standard is so low, even if the claims are unfounded or the individual wins their case in family court, they could still remain on the registry for up to 28 years.

Under the new legislation, records will automatically be sealed after eight years if the allegations are neglect only, and the records will only be available to CPS and law



enforcement if there are new allegations. The reform is also intended to relieve some of the concerns that mandated reporters contemplate when deciding whether or not to make a report of suspected maltreatment (Montgomery, 2021).

CONCLUSION

Child abuse, maltreatment, and neglect negatively impact the health and well-being of the people of New York. Child victimization is not only a social problem but also a serious public health issue. Child abuse and neglect affect not only the victims while they are children but also shape the adults these children will become. The fundamental goal is to prevent child abuse and neglect from occurring at all in order to create healthy children who will in turn become healthy adults.

Mandated reporters are obligated to report suspected child abuse, neglect, and maltreatment. Reporting suspected child abuse is their duty as professionals, but it is also an opportunity to help improve the health and well-being of children and take part in creating a healthier society.



RESOURCES

New York State

Abandoned Infant Protection Act (AIPA) Information Hotline
866-505-SAFE (7233)

Child Abuse Hotline
800-342-3720 (general public)
800-635-1522 (mandated reporters)
311 (in New York City)

Child Protective Services FAQ (Office of Children and Family Services)
<http://ocfs.ny.gov/main/cps/faqs.asp>

Prevent Child Abuse New York
<http://www.preventchildabuseny.org>
800-244-5373 (Helpline)

National

American Professional Society on the Abuse of Children
<http://www.apsac.org>

Child Welfare Information Gateway
<http://www.childwelfare.gov>

Council on Child Abuse and Neglect (American Academy of Pediatrics)
<https://services.aap.org/en/community/aap-councils/child-abuse-and-neglect/>



National Center for Missing and Exploited Children
<http://www.missingkids.com>
 800-THE-LOST (843-5678)

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TEST

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1. In New York, the definition of child neglect includes:
 - a. Committing a sex offense against a child.
 - b. Providing a minimum degree of care for a child.
 - c. Excessive use of drugs that interferes with the ability to adequately supervise the child.
 - d. Causing the death or disfigurement of a child by accidental means.

2. A single mother who lives in poverty with her three school-age children frequently needs to send the children to school in soiled clothing and without showering. The school nurse alerts the district social worker that the children all smell bad and have worn the same clothes to school every day for the past week. The social worker's investigation finds that the children are **not** neglected because:
 - a. The mother is financially unable to provide the children with showers and clean clothing.
 - b. The children are enrolled in school and have good school attendance records and performance.
 - c. The body odor of school-age children is often foul smelling.
 - d. The mother is a single parent.

3. The mother of a baby boy reports that the baby suffered a short fall off a low bed onto a carpeted floor the previous evening and that he has become lethargic over the past eight hours. The clinician suspects possible abusive head trauma when observing which other sign?
 - a. Equal pupil sizes
 - b. Wheezing
 - c. Vomiting
 - d. Sunken fontanel

4. Which is a **true** statement regarding recognizing child sexual abuse?
 - a. Most children readily report sexual abuse.
 - b. Negative effects of sexual abuse often persist into adulthood.
 - c. Boys are more likely than girls to report being sexually abused.
 - d. The negative effects of child sexual abuse are nearly identical for each person.



5. To meet the standard of “reasonable cause” to suspect child abuse or maltreatment, the professional **must**:
- Be certain that the injury was due to abuse or neglect.
 - Witness the abuse or be told by the child that they were abused.
 - Catch a parent or caregiver lying about what happened to an injured child.
 - Believe it possible that an injury occurred because of neglect or nonaccidental means.
6. Mandated reporters are required to make an oral report of suspected child abuse, maltreatment, or neglect to the New York State Central Registry by telephone:
- Within 24 hours.
 - Within 7 days.
 - Immediately.
 - After completing Form LDSS-221A.
7. A mandated reporter may take a child into protective custody **without** court order or parental consent under which circumstance?
- When it is common knowledge that the court is reluctant to grant such orders
 - After obtaining approval from a local law enforcement agency
 - When the child is in imminent danger and there is no time to get a court order
 - After approval from Child Protective Services is obtained
8. Which is a **true** statement about consequences for failing to report child abuse?
- Failure to report generally has no legal consequences.
 - Persons who fail to report cannot be sued in civil court.
 - Only physicians are subject to legal action if they fail to report.
 - Failure to report can result in being charged with a Class A misdemeanor.

