Domestic Violence
Reporting Requirements for Health Care Providers

Reporting to Authorities
Providers are under legal obligation to report abuse (Utah Statute 26-23a-2). In Utah, providers cannot incur civil or criminal liability for reporting cases of suspected abuse. Health care providers cannot be discharged, suspended, disciplined, or harassed for making a report.

However, penalties can be pursued against providers who fail to report suspected or confirmed cases of abuse. Such consequences can include being charged with a misdemeanor, time in jail, and both personal and corporate fines.

When possible, a provider may want to offer a patient the option to immediately report to law enforcement. This will empower a victim to take control of his or her own situation and provide law enforcement with more detailed information regarding the crime. Although a provider may want to record information for documentation purposes, a provider who has personal knowledge that a report has been made in compliance with Utah law is under no further obligation to make a report regarding that injury.

When reporting incidents of abuse, providers should report to the municipal or county law enforcement agency where the injury occurred. If abuse occurs in more than one jurisdiction, notify the authorities closest and report the injuries that took place in that jurisdiction. It is required that you report by telephone or by another form of spoken communication. Again, it is important to document that the case was reported. If there are children in the home and they may have witnessed the abuse, DCFS must be notified.

Documentation of the report should include:
• Which law enforcement agency was contacted
• What phone number was called
• When the contact was made
• Name of the law enforcement officer spoken with
• Case number assigned by the law enforcement agency

What to include in the report:
• Name and address of the injured person
• Injured person’s whereabouts, if known
• Character and extent of the person’s injuries
• Name, address, and phone number of the person making the report
• Information on any children who may have witnessed the incident

After the Report
After a report of abuse is made to law enforcement, the health care provider is required to inform the patient of the report, according to the Privacy Rule (HIPAA). However, if the health care provider, in the exercise of professional judgment, believes informing the individual would place the patient in greater danger, he/she is absolved of this requirement.

Health care providers should never dictate a specific course of action to the patient. In abusive relationships, the victim always has been told what to do. By offering information to patients, the provider will be giving them the tools to make choices for themselves.
The patient may, understandably, become distressed when the health care provider informs the patient of a domestic violence report. The patient may beg the provider to forgo notifying the authorities. The victim may be afraid that his/her children will be removed or that he/she will be in more danger once the police are involved. Being supportive, but honest and straightforward, is the best response. Explain to the patient the legal requirements of health care providers. Use this opportunity to educate the patient about domestic violence. Some important messages to convey to the patient are listed below. Domestic violence is cyclical and may intensify, causing more harm to the victim.

- Abuse is not the victim’s fault and the victim is not responsible for the violence inflicted upon her/him.
- There are health risks associated with violence not only for the patient but also for the children.

Domestic violence is a crime for which there are solutions.

**III. Reporting Requirements for Health Care Providers**

It is important for the health care provider to be supportive of the patient after a report to authorities is made. The patient may be nervous, apprehensive or afraid. Some suggestions for supporting the victim after the report is made are listed below.

- Contacting a crisis worker or social worker within your organization if one is available.
- Contacting a victim advocate on behalf of the victim.
- Providing the victim with resources and referral numbers.
- Offering to contact clergy of the victim’s faith. Many hospitals have clergy on-site who may be able to offer comfort and resources to the victim.
- Discussing with the victim her level of safety and, if feasible, developing a safety plan.

Brochures on safety planning are available from the Utah Domestic Violence Coalition at (801) 521-5544 or [www.udvc.org](http://www.udvc.org). If there are children in the home, encourage the mother to contact his/her physician for appropriate referrals and care. Many victim advocate programs have packets that contain helpful information for victims of domestic violence. However, some patients may not be willing to speak with a victim advocate. Health care agencies should have resource information available if the victim chooses not to talk with a DV advocate or shelter. Give this information to the patient only if it is safe to do so. These packets should include:

- A business card with the victim advocate’s phone number and an after-hours crisis phone number that will automatically page the on-call advocate.
- A safety plan. Safety plan brochures may be obtained from the Utah Domestic Violence Coalition at (801) 521-5544 or [www.udvc.org](http://www.udvc.org).
- Phone numbers and addresses of domestic violence shelters in the area.
- Information on protective orders and how to obtain one.
- Resource lists that provide information on emergency shelters, food, crisis nurseries, health clinics, alcohol and drug detoxification centers, legal help, support groups, counseling options, rape recovery centers, and employment services.
- A crime victim reparation application.
- A risk and lethality assessment form.
- A victim impact statement.
- A guide to the criminal justice system (court process).

Local victim advocate programs will be helpful in obtaining this information. Health care providers are classified as mandatory reporters of abuse by the state of Utah. Mandatory reporting laws require reporting instances of:

- Child abuse (call Child Protective Services) (855) 323-3237
- Elderly/disabled person abuse (call Adult Protective Services at (800) 371-7897)
- Any assault* (call local law enforcement or 911)
An assault occurs when one person inflicts an injury on another person — this includes abuse. It is against the law even if an acquaintance or a loved one inflicted the injury.

If any patient presents with an assaultive injury, the health care provider is required by law to report the injury to law enforcement. It is important to note that inflicting any injury on another person with the intent of causing harm is a crime and considered a violation of the criminal statute of the state of Utah. It is the health care provider’s responsibility to contact law enforcement if a patient presents with an injury inflicted by another person. A patient may choose not to disclose the actual details regarding the causation of the injury, but this does not absolve the provider from notifying law enforcement. It is important to document that law enforcement has been contacted. If a patient is being treated for an injury or illness that is not related to abuse, but discloses to the provider that he or she is a victim of domestic violence, the health care provider is not mandated to report this to law enforcement. It is, however, strongly recommended that providers refer the patient to resources to obtain the help they need.

Any health care provider who knowingly fails to report an injury inflicted by another person can be charged with a class B misdemeanor. A link to the Utah Health Code, which includes definitions, requirements, and penalties, is provided at the end of this.

After a report is made, health care providers are mandated by HIPAA (Health Insurance Portability and Accountability Act) to inform the patient of the report. However, health care providers are absolved of this requirement if, in their professional judgment, they believe informing the patient would place the patient at risk of serious harm.

Child abuse and neglect is a mandatory reportable crime. In the state of Utah, commission of domestic violence in the presence of a child is considered child abuse (and therefore needs to be reported to law enforcement or the DCFS) as defined in the Utah Statute §76-5-109.1, “...A person is guilty of child abuse if the person commits or attempts to commit criminal homicide...against a cohabitant in the presence of a child; or intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon...or other means of force likely to produce death or serious bodily injury against a cohabitant in the presence of a child...or commits an act of domestic violence in the presence of a child...”

‘In the presence of a child’ is defined as: “…in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence.” Health care providers who are assessing a victim of domestic violence should inquire as to the presence and safety of any children who may be living in the home.

HIPAA Regulations
The Health Insurance Portability and Accountability Act (HIPAA) permits covered entities to disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence. Such disclosures can be made only to government agencies authorized by law to receive such reports, such as:

• Public health authorities
• Social service or protective services agencies
• Law enforcement authorities

HIPAA allows providers to disclose abuse that is required to be reported to comply with state law.

*Utah law allows for reporting of domestic violence to authorities without disclosure to the patient or their representatives prior to the report.

The following is excerpted from the Health Insurance Portability and Accountability Act 42CFR Section 164.512(c).

Standard: Disclosures about victims of abuse, neglect or domestic violence.
(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized by statute or regulation and:

(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or

(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

(2) Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:

(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or

(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

JCAHO STANDARD PE.1.9
Possible victims of abuse are identified using criteria developed by the hospital.

Intent of PE.1.9
Victims of abuse or neglect may come to a hospital through a variety of channels. The patient may be unable or reluctant to speak of the abuse, and it may not be obvious to the casual observer. Nevertheless, hospital staff members need to know if a patient has been abused, as well as the extent and circumstances of the abuse, to give the patient appropriate care. The hospital has objective criteria for identifying and assessing possible victims of abuse and neglect, and the criteria are used throughout the organization. Staff are to be trained in the use of these criteria. The criteria focus on observable evidence and not on allegation alone. They address at least the following situations:

• Physical assault
• Rape or other sexual molestation
• Domestic abuse
• Abuse or neglect of elders and children

When used appropriately by qualified staff members, the criteria prevent any action or question that could create false memories of abuse in the individual being assessed. Staff members are able to make appropriate referrals for victims of abuse and neglect. To help them do so, the hospital maintains a list of private and public community agencies that provide help for abuse victims. In addition, the assessment of victims of alleged or suspected abuse or neglect is conducted consistent with standard PE.8.

JCAHO STANDARD PC.3.10
Patients who may be victims of abuse or neglect are assessed (see standard RI.2.150).

Rationale for PC.3.10
Victims of abuse or neglect may come to a hospital in a variety of ways. The patient may be unable or reluctant to speak of the abuse, and it may not be obvious to the casual observer. Staff needs to be able
to identify abuse or neglect as well as the extent and circumstances of the abuse or neglect to give the patient appropriate care.

Criteria for identifying and assessing victims of abuse or neglect should be used throughout the hospital. The assessment of the patient must be conducted within the context of the requirements of the law to preserve evidentiary materials and support future legal actions.

**JCAHO STANDARD PE.8**

Patients who are possible victims of alleged or suspected abuse or neglect have special needs relative to the assessment process.

**Intent of PE.8**

As part of the initial screening and assessment process, information and evidentiary material(s) may be collected that could be used in future actions as part of the legal process. The hospital has specific and unique responsibilities for safeguarding such material(s). Policies and procedures define the hospital’s responsibility for collecting, retaining, and safeguarding information and evidentiary material(s). The following are documented in the patient’s medical record:

- Consents from the patient, parent, or legal guardian, or compliance with other applicable law
- Collecting and safeguarding evidentiary material released by the patient
- Legally required notification and release of information to authorities
- Referrals made to private or public community agencies for victims of abuse.

Hospital policy defines these activities and specifies who is responsible for implementing them.

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**Adult Abuse Statute**

**UTAH HEALTH CODE CHAPTER 26-23a INJURY REPORTING BY HEALTH CARE PROVIDERS**

26-23a-1. Definitions.
http://le.utah.gov/code/TITLE26/htm/26_23a000100.htm

26-23a-2. Injury reporting requirements by health care provider -- Contents of report.
http://le.utah.gov/code/TITLE26/htm/26_23a000200.htm

26-23a-3. Penalties.
http://le.utah.gov/code/TITLE26/htm/26_23a000300.htm

76-5-111. Abuse, neglect, or exploitation of a vulnerable adult -- Penalties.
http://le.utah.gov/code/TITLE76/htm/76_05_011100.htm

76-5-111.1. Reporting requirements -- Investigation -- Immunity -- Violation -- Penalty -- Physicianpatient privilege -- Nonmedical healing.
http://le.utah.gov/code/TITLE76/htm/76_05_011101.htm

Title 77 Utah Code of Criminal Procedure Chapter 36 Cohabitant Abuse Procedures Act

77-36-1. Definitions.
http://www.le.utah.gov/code/TITLE77/htm/77_36_000100.htm

77-36-2.1. Duties of law enforcement officers -- Notice to victims.
http://www.le.utah.gov/code/TITLE77/htm/77_36_000201.htm

Title 76 Utah Code of Criminal Procedure Chapter 5 Offenses Against the Person

76-5-102. Assault.
http://www.le.utah.gov/code/TITLE76/htm/76_05_010200.htm

Utah Code -- Title 62A -- Chapter 04a -- Child and Family Services


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