



VERMONT MANDATORY REPORTING LAW

WHAT YOU NEED TO KNOW

AS A MEDICAL PROFESSIONAL

For over thirty years, Vermont law has mandated that many different people, based upon their occupations or roles in the community, make reports to the Department for Children and Families when they encounter possible abuse or neglect of a child. Included in the list of those who must report are health care professionals. The reports must be made within 24 hours and failure to report can be treated as a violation of the law. Everyone licensed or certified by the Board of Medical Practice needs to understand this requirement; it is not limited to those situations in which the mandated reporter learns of the suspected abuse or neglect in the performance of his or her medical duties. If you are a health care professional, you are a mandated reporter.

During the 2015 legislative session, the Vermont Legislature passed Act 60, which revised several provisions in law with the purpose of improving the State's system to prevent, identify, and respond to child abuse. The changes became effective on July 1, 2015. All mandated reporters need to take notice of recent updates to the law, and this article summarizes the changes of most importance to our licensees. The Board hopes you find it helpful, but reading this article alone it is not sufficient. We encourage all of our licensees to make use of DCF information resources, discuss the changes within your practices, check in with your legal counsel, and discuss the changes with staff so that all understand the new legal requirements.

Statement of the Obligation in the Law

The mandatory reporting obligation is stated in one sentence. As modified in 2015, it now reads: "Any mandatory reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed." 33 V.S.A. § 4913. That one sentence includes three important changes. First, a report must be made to DCF when a mandated reporter **reasonably suspects abuse or neglect of a child**. Second, the 24-hour limit of time for making the report was clarified by adding that the 24-hour period begins when the information regarding the suspected abuse or neglect was **first received or observed**. Third, Act 60 revised the obligation to be "**shall report**," eliminating the additional language "or cause a report to be made."

We are prohibited from issuing legal advice, so we cannot try to explain the significance of the change to

"reasonably suspects abuse or neglect" from the previous wording, "reasonable cause to believe." However, we note that the stated intent of the Legislature was "to better prevent child abuse and neglect. The Department for Children and Families is the agency responsible for implementing the mandatory reporting law, and they encourage anyone with questions about whether information about possible abuse should be reported to call and ask.

The Department for Children and Families puts it this way on its [website](#):

"What if I am not sure?"

Please call us for advice, if you:

- Are not sure a report is warranted; or
- Are considering telling the parents about your report. In some cases, this could endanger the child and hinder the response.

You need only have a reasonable suspicion that abuse or neglect happened to make a report. ***If in doubt, report!***

The second change in the wording of the obligation is the restatement of the time period for making a report. The 24 hours allowed for reporting start as soon as the information that would lead one to suspect abuse or neglect is received or observed. In other words, a mandatory reporter is not allowed 24 hours from the time he or she comes to suspect abuse or neglect. It is the time when the information is first known that starts the time period.

The third change was the deletion of an option that related to the action a mandated reporter must take. The requirement now is worded as simply "**shall report**," and the option to "cause a report to be made" was eliminated. A mandated reporter is responsible to make sure that a report is made. Within a practice or other group of mandated reporters each person with information that triggers the requirement to report is obligated to make a report. On its website, DCF recommends reporting as a group, but keep in mind that it is an individual responsibility. The [form available on the DCF website](#) includes space for multiple reporters to be identified.

For the medical professional, failure to make a report could constitute a criminal violation of the mandatory reporting statute and, in addition, unprofessional conduct under the licensing statutes.



Definitions of Key Terms

Many of the changes to the mandatory reporting law in 2015 were in the definitions section. One of the notable changes was to the definition of “risk of harm,” which is a key term because it is used in the definition of abuse or neglect. The statutory definition of “risk of harm” was significantly expanded to include a non-exhaustive list of behaviors that could constitute “risk of harm” to a child that must be reported.

“Risk of harm” had long been defined to include “a significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury or sexual abuse.” Any source of risk of harm that meets that standard continues to be reportable, regardless of whether it is in the new list of reportable examples. Act 60 added the following specific reportable risk situations, making it clear that risk of harm from these dangers must be reported:

- * a single, egregious act that has caused the child to be at significant risk of serious physical injury;
- * the production or preproduction of methamphetamines when a child is actually present;
- * failing to provide supervision or care appropriate for the child’s age or development and, as a result, the child is at significant risk of serious physical injury;
- * failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;
- * failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and
- * a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.

Revisions were also made to the definition of “sexual abuse.” Again, to provide mandatory reporters more specific guidance, a non-exhaustive list of examples that constitute sexual abuse was added. The list of specified forms of reportable sexual abuse was expanded to include child pornography and human trafficking, among others. The definition of “serious physical injury” was also expanded. All of the changes to definitions in the mandatory reporting law made by Act 60 can be found [here](#).

Finally, Act 60 also made changes to the list of mandated reporters, making it 100 percent clear that every health care professional is a mandated reporter. If you are licensed by the State of Vermont as a health care professional, you are subject to the obligation.

The Bottom Line

Vermont health care professionals licensed by the Board of Medical Practice must be aware of their obligations as mandatory reporters. With the many changes made to the law earlier this year, this is the time to review the requirement subject, make sure you understand when you must report, and update any policies or guidelines that may exist within your practice or the facilities where you work.

Resources

DCF Information for Mandated Reporters: <http://dcf.vermont.gov/fsd/reporting/mandated>

Text of Act 60: <http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT060/ACT060%20As%20Enacted.pdf>

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