

CLIENT ADVISORY

MANDATED REPORTING OF CHILD ABUSE AND NEGLECT

Introduction

Pursuant to Massachusetts General Laws, Chapter 119, Section 51A ("Section 51A"), all health care providers in Massachusetts are required to notify the Department of Social Services ("DSS") if they suspect that any child has been, or is at risk of being, abused or neglected. This Client Advisory provides an overview of Section 51A and sets forth the process for reporting to DSS.

Section 51A

Section 51A requires certain professionals whose work brings them in contact with children to notify DSS if, in their professional capacity, they have reasonable cause to believe that a child under the age of 18 years has been, or is at risk of being, abused or neglected. The professionals who are mandated reporters under Section 51A include, but are not limited to, the following: physicians; medical interns; hospital personnel engaged in the examination; care or treatment of persons; psychologists; emergency medical technicians; dentists; nurses; chiropractors; podiatrists; optometrists; osteopaths; psychiatrists; and clinical social workers.

There is often much confusion as to what is meant by abuse or neglect under Section 51A. The regulations associated with Section 51A provide the following definitions:

Abuse means: The non-accidental commission of any act by a caretaker upon a child under age 18 which causes, or creates a substantial risk of, physical or emotional injury; or constitutes a sexual offense under the laws of the Commonwealth; or any sexual contact between a caretaker and a child under the care of that individual. This definition is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting).

Neglect means: Failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care; provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is not dependent upon location (i.e., neglect can occur while the child is in an out-of-home or in-home setting).

Physical injury means: Death; or fracture of a bone, a subdural hematoma, burns, impairment of any organ, and any other such nontrivial injury; or soft tissue swelling or skin bruising, depending upon such factors as the child's age, circumstances under

which the injury occurred and the number and location of bruises; or addiction to a drug or drugs at birth; or failure to thrive.

Emotional Injury means: An impairment to or disorder of the intellectual or psychological capacity of a child as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior.

DSS defines a "caretaker" as a child's parent, step-parent, guardian, or any household member entrusted with the responsibility for a child's health or welfare. Furthermore, any other person entrusted with the responsibility for a child's health or welfare, both in and out of the child's home, regardless of age, is considered a caretaker (i.e., foster parents, teachers, staff at a group facility, etc.).

Reporting Under Section 51A

If a mandated reporter believes that a child has been, or is at risk of being, abused or neglected, the mandated reporter needs to immediately telephone the DSS Area Office serving the child's residence and ask for the Protective Screening Unit (a directory of the DSS Area Offices is attached to this Client Advisory). After 5 p.m. and on weekends and holidays, mandated reporters should call the Child-At-Risk Hotline at 1-800-792-5200. In addition to calling the DSS Area Office, a mandated reporter is required to file a written report to DSS within 48 hours of the oral report (a copy of the Section 51A Report Form is attached to this Client Advisory). The written report can be either mailed or faxed to the local DSS Area Office.

If based upon a report from a mandated reporter, DSS determines that there is reasonable cause to believe that a child has been abused or neglected, DSS will conduct an investigation which includes a home visit during which a social worker meets and talks with the child and the caretaker.

Conclusion

Any mandated reporter who fails to make a required oral and written report under Section 51A can be punished by a fine of up to \$1,000. Mandated reporters are immune from liability in any civil or criminal action resulting from an appropriate report of abuse or neglect under Section 51A.

It needs to be noted that if a situation requiring a report under Section 51A arises in the hospital setting as opposed to a health care provider's office setting, the health care provider also needs to comply with that hospital's policy for filing a report under Section 51A. Such policy usually requires notifying the hospital's Risk Management Department.

If you have any questions or concerns regarding a Section 51A report, please do not hesitate to contact any of the attorneys at The Rogers Law Firm.

This Client Advisory is published by The Rogers Law Firm's Health Law Practice Group to keep its clients informed of developments in health law. The Client Advisory should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. If you have any questions or concerns regarding the Client Advisory or would like legal advice or legal opinion concerning a specific matter, please do not hesitate to contact any of the attorneys at The Rogers Law Firm, at (617) 723-1100.

DSS Area Office Directory – Please ask for the Protective Screening Unit

WEST

Pittsfield	413-236-1800
Greenfield	413-775-5000
Holyoke	413-493-2600
Robert Van Wart Center East Springfield	413-205-0500
Springfield	413-452-3200

CENTRAL

Leominster	978-466-1500
Whitinsville	508-234-1000
Worcester	508-929-2000

NORTHEAST

Lowell	978-275-6800
Lawrence	978-557-2500
Haverhill	978-469-8800
Cape Ann, Salem	978-825-3800
Lynn	781-477-1600

METRO

Malden	781-388-7100
Framingham	508-424-0100
Cambridge/Somerville	617-520-8700
Arlington	781-641-8500
South Weymouth	781-682-0800

SOUTHEAST

Attleboro	508-431-9500
Brockton	508-894-3700
Fall River	508-235-9800
New Bedford	508-910-1000
Cape & Islands	508-760-0200
Plymouth	508-732-6200

BOSTON

Hyde Park	617-360-2500
Dimock Street, Roxbury	617-989-2800
Park Street	617-822-4700
Chelsea	617-660-3400



Massachusetts
Department of
Social Services

Report of Child(ren) Alleged to be Suffering from Serious Physical or Emotional Injury by Abuse or Neglect

Massachusetts law requires an individual who is a mandated reporter to immediately report any allegation of serious physical or emotional injury resulting from abuse or neglect to the Department of Social Services by:

1. Immediately reporting by oral communication; **and**
2. Completing and sending this written report to the appropriate Department of Social Services' office within **48 hours** of making the oral report.

Please complete all sections of this form. If some data is unknown, please signify. If some data is uncertain, place a question mark after the entry.

▼ DATA ON CHILDREN REPORTED

Name	Current Location / Address	Sex	Age or Date of Birth
_____	_____	<input type="checkbox"/> Male <input type="checkbox"/> Female	_____
_____	_____	<input type="checkbox"/> Male <input type="checkbox"/> Female	_____
_____	_____	<input type="checkbox"/> Male <input type="checkbox"/> Female	_____
_____	_____	<input type="checkbox"/> Male <input type="checkbox"/> Female	_____
_____	_____	<input type="checkbox"/> Male <input type="checkbox"/> Female	_____

▼ DATA ON MALE GUARDIAN OR PARENT

Name: _____
First Last Middle

Address: _____
Street and Number City / Town State Zip Code

Phone #: _____ Age: _____

▼ DATA ON FEMALE GUARDIAN OR PARENT

Name: _____
First Last middle

Address: _____
Street and Number City / Town State Zip code

Phone #: _____ Age: _____

▼ DATA ON REPORTER / REPORT

Report Date: _____ Mandatory Report Voluntary Report

Reporter's Name: _____
First Last middle

(If the reporter represents an institution, school or facility, please indicate)

Reporter's Address: _____
Street and Number City / Town State Zip code

Phone #: _____

Has reporter informed caretaker of report Yes No

▼ What is the nature and extent of injury, abuse, maltreatment, or neglect, including prior evidence of same?
(Please cite the source of this information in not observed firsthand.)

▼ What are the circumstances under which the reporter became aware of the injuries, abuse or maltreatment, or neglect?

▼ What action has been taken thus far to treat, shelter, or otherwise assist the child(ren) to deal with the situation?

▼ Please give other information that you think might be helpful in establishing the cause of the injury
and /or the person(s) responsible for it. If known, please provide the name(s) of the alleged perpetrator(s)?

Signature of Reporter: