Title X Mandated Reporting Training

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Disclaimer

- This presentation is intended for informational purposes only and does not constitute legal advice.
- Practitioners are encouraged to consult with their organizational leadership and/or legal counsel.

Objectives

- Understand confidentiality requirements under Title X.
- Identify reporting requirements under Michigan law.
- Michigan's Child Protection Law (CPL.)
- Michigan's Social Welfare Act, Vulnerable Adult Protection Laws.
- Recognize the role of state and federal law in:
  - Mandatory reporting.
  - Minor consent.

Relevant Laws

- Title X.
  - (42 CFR 59.1–59.10.)
- Michigan's Child Protection Law.
  - (MCL 722.621–722.638.)
- Michigan's Social Welfare Act.
  - (MCL 400.11–400.11f.)
  - Vulnerable Adult Protection Law.

Title X - Purpose

- 42 CFR Part 59 Subpart A – Project Grants for Family Planning Services.
  - Programs must provide a broad range of acceptable and effective medically approved family planning methods and services.

42 CFR 59.5

Title X - Confidentiality

- All personal facts/information must be kept confidential.
  - Exceptions:
    - Patient's documented consent.
    - Necessary to provide services to the patient.
    - Required by law (e.g., mandatory reporting).
- Make reasonable efforts to protect confidentiality when collecting charges.
- Must inform patient of risk that their health information may be disclosed to policyholder, if policyholder is someone other than patient.

42 CFR 59.10(a)

Title X - Minors

- Programs may not:
  - Require parental/guardian consent for services to minors.
  - Notify parents/guardians at any time about services requested or received.
- To the extent practical, Title X projects shall encourage family participation.

42 CFR 59.10(b)

Michigan Minor Consent Laws Regardless of Title X Funds

- Minors (under age 18) do not need parental consent for certain services:
  - Emergency care.
  - Care for emancipated minors.
  - Reproductive health care.
    - Contraceptives.
    - Pregnancy testing.
    - Prenatal care.
    - Sexually Transmitted Infections (STI) testing & treatment.
  - Substance use treatment.
  - Mental health treatment.

Michigan Laws Related to Right of a Minor to Obtain Health Care (NPHL 2020)

Michigan's Child Protection Laws (CPL) – Purpose

- MCL 722.621 – 722.638.
- Includes requirements for reporting, investigating and responding to claims of child abuse and neglect.
- Requires reporting by certain persons (mandated reporters).

CPL Definitions

Child abuse means:

- Harm or threatened harm to a child's health or welfare that occurs:
  - Through nonaccidental physical or mental injury, sexual abuse, sexual exploitation or maltreatment.
  - By a parent, a legal guardian, any other person responsible for the child's health or welfare, a teacher, a teacher's aide, a member of the clergy or an individual 18 years of age or older who is involved with a youth program.

MCL 722.622(g)

CPL Definitions

Person responsible for the child's health or welfare means:

- Parent/legal guardian).
- Owner, operator, volunteer or employee of:
  - A licensed or registered childcare organization.
  - A licensed or unlicensed adult foster care family home or adult foster care small group home.
- Non-parent adult means:
  - Has a close personal relationship with any of the above adults.
  - Has substantial and regular contact with the child.
  - Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

MCL 722.622(aa), (cc)

CPL Definitions

Child neglect means:

- Harm or threatened harm to a child's health or welfare by a parent, legal guardian or any other person responsible for the child's health or welfare that occurs through either of the following:
  - Negligent treatment, including the failure to provide adequate food, clothing, shelter or medical care though financially able to do so. Or by the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter or medical care.
  - Placing unreasonable risk to the child's health or welfare by failure of the parent, legal guardian or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person can do so and has or should have knowledge of the risk.

MCL 722.622(k)

CPL Mandated Reporters On or Off Duty

- Athletic trainer.
- Audiologist.
- Dentist.
- Friend of the court professionals.
- Law enforcement officer.
- Licensed emergency medical care providers (EMTs, paramedics, first responders),
- Licensed professional counselor.
- Marriage/family therapist.
- Medical examiner.
- Member of the clergy.
- Nurse.
- Occupational therapist.
- Physical therapist.
- Physical therapist's assistant.
- Physician.
- Physician's assistant.
- Psychologist.
- Registered dental hygienist.
- Registered social service technician.
- Regulated childcare provider.
- School administrator.
- School counselor or teacher.
- Social service technician.
- Social worker.

MCL 722.623(1)(a); Mandated Reporters Are Required by Law to Report (michigan.gov)

CPL Definitions
Reasonable Cause

- Law says reasonable cause to suspect child abuse or child neglect always exists in the following circumstances:
  - Pregnancy of a child less than 12 years of age.
  - STI in a child who is between one month old and 12 years old.
- Anything else is a judgement call.
  - Consult attorney or colleagues.

MCL 722.623(8)

CPL Mandated Reporters Protections

- Civil & Criminal Immunity
  - If acting in good faith when:
    - Making a report.
    - Cooperating in an investigation.
    - Assisting in other requirements under the CPL.
  - This does not extend to a negligent act that causes personal injury or death.
- Hospitals, agencies and schools cannot retaliate for:
  - Making a required report.
  - Cooperating with an investigation.
- Anonymity/Confidentiality
  - Reporter's identity is confidential except:
    - Consent of reporter.
    - Judicial process.
    - Investigators (e.g., police, certified public accountants).
    - Office of Children's Ombudsman.
  - MCL 722.625

CPL Mandated Reporters Liability & Penalties

- Failure to Report
  - Civil liability for damage caused.
  - Guilty of misdemeanor.
    - 93 days of imprisonment.
    - $500 fine.
- False Report
  - Intentional.
  - Misdemeanor or felony.
    - Depends on severity of false allegations.

MCL 722.633

CPL How to Report

- Reasonable cause to suspect abuse/neglect.
  - Report immediately.
    - Online reporting system.
      - No further action required.
    - Call Centralized Intake 855-444-3911.
      - Written e-report within 72 hours.
      - No further action required.
  - In addition to state reporting requirements, staff members at hospitals, agencies and schools must notify those in charge.

MCL 722.623; Reporting Process (michigan.gov); Mandated Reporters are Required to Report by Law (Michigan.gov)

CPL What to Include

- Verbal Report
  - Helpful information.
  - Parents/guardians:
    - Name and address.
  - Other household members:
    - Names and identifying information (e.g., date of birth, race).

  Alleged incident(s):
    - Location/address.
    - Whether alleged perpetrator has access to child.
  - History of child's behavior.
  - Why child abuse and/or neglect is suspected.
  - Whether child was asked about an injury or if child volunteered information.

MCL 722.623; Mandated Reporter Training Guide (michigan.gov)

CPL What to Include, Continued

- Written Report
  - Required information.
  - Form DHS-3200: Report of Actual or Suspected Child Abuse or Neglect.

MCL 722.623; Mandated Reporter Training Guide (michigan.gov)

Michigan's Social Welfare Act - Purpose Vulnerable Adult Protection Laws

- MCL 400.11 – 400.11f.
- Includes requirements for reporting, investigating and responding to claims of abuse, neglect or exploitation of vulnerable adults.
- Requires the reporting by certain persons mandated reporters.

Vulnerable Adults Definitions

- Adult in need of protective services means:
  - Adult in need of protective services or adult vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected or exploited.
  - Protective services includes, but is not limited to, remedial, social, legal, health, mental health and referral services; provided in response to a report of alleged harm or threatened harm because of abuse, neglect or exploitation.
  - Vulnerable means a condition in which an adult is unable to protect himself or herself from abuse, neglect or exploitation; because of a mental or physical impairment, or because of advanced age.

MCL 400.11(b), (e), (f)

Vulnerable Adults – Definitions Abuse & Exploitation

- Abuse means harm or threatened harm to an adult's health or welfare caused by another person.
- Abuse includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse or maltreatment.
- Exploitation means an action that involves the misuse of an adult's funds, property or personal dignity by another person.

MCL 400.11(a), (c)

Vulnerable Adults Definitions Neglect

- Neglect means harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare.
- Neglect includes the failure to provide adequate food, clothing, shelter or medical care.
- A person shall not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination and this act shall not require any medical care or treatment in contravention of the stated or implied objection of that person.

MCL 400.11(d)

Vulnerable Adults Mandated Reporters

- The following people are mandated reporters:
  - Person who is employed, licensed, registered or certified to provide health care, educational, social welfare, mental health or other human services.
  - An employee of an agency licensed to provide health care, educational, social welfare, mental health or other human services.
  - A law enforcement officer.
  - An employee of the office of the county medical examiner.

MCL 400.11a

Vulnerable Adults Mandated Reporters Protections

- Civil Immunity
  - If acting in good faith when:
    - Making a report.
    - Assisting in other requirements under the laws.
  - This does not extend to a negligent act that causes personal injury or death.

- Anonymity/Confidentiality
  - Identity is confidential except:
    - Consent of reporter.
    - Judicial process.
    - Investigators.
    - Office of Inspector General (OIG).
    - Michigan Department of Licensing and Regulatory Affairs (LARA).

MCL 400.11c

Vulnerable Adults Mandated Reporters Liability & Penalties

- Failure to Report
  - Civil liability for damage caused.
  - Civil fine of $500.
    - No criminal penalties.

MCL 400.11e

Vulnerable Adults & What to Include

- Verbal Report
  - Name of the adult.
  - Description of the alleged. abuse, neglect or exploitation.
  - Guardians/next of kin:
    - Name.
    - Address.
  - Other household members:
    - Names and identifying information (relationship to adult).

- Written Report
  - The county department shall reduce to writing the information provided in an oral report received pursuant to this section.

MCL 400.11a(4)

Vulnerable Adults & How to Report

- Suspects or has reasonable cause to believe abuse/neglect/exploitation.
  - Report immediately.
    - Call Centralized Intake 855-444-3911.

MCL 400.11a(1); Michigan Model Vulnerable Adult Protocol (pvm.org); Program Guidelines (michigan.gov)

Question & Answers

- Question: A minor patient reports being sexually active. When is a CPL report required?
  - Answer: When you have reason to believe the minor is experiencing abuse or neglect as those terms are defined in the CPL.
  - Consider the identity of the minor's partner(s), the role of the parent and how those things relate to the definitions of abuse and neglect.
- Question: Do mandatory reporting requirements apply only when on duty?
  - Answer: No. Nothing in the CPL or Social Welfare Act limits mandatory reporting duties to things seen while on duty.

Questions & Answers

- Question: Is there a duty to report signs of self harm in a minor patient?
  - Answer: The CPL requires reporting of child abuse and child neglect as those terms are defined in that law.
  - MDHHS Mandated Reporters' Resource Guide (DHS-Pub 112) lists scars or marks from self-harm as a physical indicator that a child may be suffering from abuse/neglect, but notes that the indicators if present, do not necessarily mean a child is being abused and neglected.

Questions & Answers

- Question: Can parents be present at their minor child's Title X clinic appointment?
- Answer: Yes, with the minor's consent.
- 42 CFR 59.10(a): All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality.
- 42 CFR 59.10(b): To the extent practical, Title X projects shall encourage family participation. However, Title X projects may not require consent of parents or guardians for the provision of services to minors.

Questions & Answers

- Question: How do I know if I have reasonable suspicion of abuse or neglect?
  - Answer: Review MDHHS Children's Protective Services/Adult Protective Services guidance documents, confer with agency leadership/legal counsel.
- Question: Does Michigan have a human trafficking reporting law?
  - Answer: No, Michigan does not have a human trafficking-specific law. However, human trafficking can often trigger a Child Protective Services (CPS) & Adult Protective Services (APS) report.

Questions & Anwers

- Question: Do I have to report an instance of child/vulnerable adult abuse or neglect if it has already been reported by someone else?
  - Answer: Yes. Nothing in the CPL or Social Welfare Act exempts a mandatory reporter from filing a report simply because someone else has filed a report.
- Question: Do I have to file a report if my client doesn't want me to do so? Or if filing a report might put them in greater danger?
  - Answer: Nothing in the CPL or Social Welfare Act exempts a mandatory reporter from filing a report because their client asks them not to, or because they think filing the report could put the client in greater danger.

Questions & Answers

- Question: What if I need to file a report but don't have all the information about the alleged perpetrator of abuse/neglect?
  - Answer: When child abuse and/or neglect is suspected, mandated reporters should attempt to gather as much information as possible to make a detailed referral without interrogating a child or conducting their own investigation. MDHHS Mandated Reporter Resource Guide 2025.

Thank you!

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