

## **EMTs as Mandated Reporters in New York**

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### EMTs AS MANDATED REPORTERS

#### Duty to report

*Duty to report only when working in professional capacity as an E.M.T.*

Section 413 of the Social Services Law now requires emergency medical technicians to report or cause a report to be made about suspected child abuse or maltreatment in two instances. In both cases, the E.M.T. must be acting in his/her professional capacity as an E.M.T. in order for the duty to arise. Thus, an E.M.T. who, while resting on a beach and not at work, sees a mother severely beat her child, is not under a duty to report. On the other hand, an E.M.T. who is working as a firefighter is still an E.M.T. and is thus still under a duty to report.

*Report when there is reasonable cause to suspect abuse or maltreatment based upon personal observations.*

When the E.M.T. has reasonable cause to suspect that a child before is an abused or maltreated child, based upon his/her own observation of the child, he must make a report or cause a report to be made. Children are persons under the age of eighteen. Reports are to be made to a hotline maintained by New York State called the Statewide Central Register of Child Abuse and Maltreatment. E.M.T.s also have the option of "causing" a report to be made. However, relying on another person to make the report is less than ideal, as there can be no assurances that the report will be made. Additionally, the hotline will ask for specific information that only the E.M.T. with knowledge may possess.

*Report when information is received about abuse or maltreatment*

The second instance in which a report must be made is when an E.M.T. has reasonable cause to suspect that a child is an abused or maltreated child based upon the parent, guardian, custodian or other person legally responsible for such child coming before the E.M.T. and stating from personal knowledge facts, conditions or circumstances, which, if true, would render the child an abused or maltreated child.

In other words, if a school teacher informs the E.M.T. that she personally witnessed a parent severely beating a child, the E.M.T. should report the information to the hotline. However, the law does not require that "rumors" be reported. Thus, if a neighbor simply states that she hears from others that the parents beat the child, this may not be enough to mandate that an E.M.T. make a report.

#### Reporting

##### *The Report*

Calls to the hotline must be made immediately by telephone or by fax using the form provided. The phone number for mandated reporters is: 1-800-635-1522. Non-mandated reporters should call 1-800-342-3720.

When making a report by telephone to the hotline, the following information should be provided:

- \* the names and addresses of the child and his parents or other person responsible for his care; family composition; (where relevant) the name and address of the residential or day care facility or program in which the child resides or is receiving care
- \* the child's age, sex and ethnicity
- \* the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child and his/ her siblings
- \* the name of person or persons responsible for causing the injury, abuse or maltreatment
- \* the source of the report (personal observations, or a report from another)
- \* the actions taken by the reporting source, including the taking of photographs, x-rays, removal or keeping of the child or notifying the medical examiner or coroner
- \* any additional information that may be helpful.

E.M.T.s required to make an oral report must then follow up with a written report within twenty-four hours after the oral report. While on the phone with the hotline, request the address of where you should mail the written report. This will be the Child Protective Service of the County designated by the State to investigate the matter.

*Actions to be taken in addition to reporting.*

E.M.T.s may now take or cause others to take photographs of the areas of trauma visible on a child suspected of being abused or maltreated. These photographs must be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible. The E.M.T. may request that the cost of the photographs be reimbursed by the county. These requests should be made at the time the report is submitted. Thus, emergency medical service providers should consider placing a camera on their units for purposes of taking photographs of injuries, even if the parent refuses care for the child.

E.M.T.s may not take a child into protective custody and may not detain a parent from leaving with the child. However, if a police officer is present, the police officer may take the child into protective custody if the police officer has reason to believe that leaving the child with the parent or guardian presents an imminent danger to the child's life or health. The E.M.T. may provide facts to the police officer that are intended to give the officer a reason to believe that an imminent danger is present.

*Penalties for not reporting.*

Any E.M.T. who is acting in his/her capacity as an E.M.T. and intentionally fails to report suspected child abuse or maltreatment will be guilty of a class A misdemeanor. In addition, an E.M.T. who knowingly and willfully fails to make a report will be civilly liable for any damages directly caused by the failure to make the report. A civil suit is one where the E.M.T. or its employer/volunteer agency is sued for money damages.

Bradley Pinsky, Esq. can assist departments with drafting mandated reporter policies. Such policies are required by the Department of Health. Mr. Pinsky may be reached at his firm at (315) 428-8344.