

A PHYSICIAN'S GUIDE TO NATIONAL LAWS CONCERNING CHILD ABUSE

The National Legal Mandate



THE CHILD PROTECTION UNIT

PHILIPPINE GENERAL HOSPITAL • UNIVERSITY OF THE PHILIPPINES, MANILA

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THE ADVISORY BOARD FOUNDATION, WASHINGTON, D.C.

Training, Research and Development for Child Abuse

Manila, Philippines, 1997

Letter from the Head of the Philippine General Hospital–Child Protection Unit

October 22, 1997

Dear Colleagues:

We present “A Physician’s Guide to National Laws Concerning Child Abuse” in the hope that it will help all of us fulfill our legal roles and responsibilities when handling child abuse cases. As physicians we are required by law to report cases of suspected child abuse to the appropriate authorities.

Our legal mandate notwithstanding, our professional and moral mandates dictate that we care for the child-at-risk beyond diagnosis, beyond reporting. Let us participate in the multidisciplinary continuum of care necessary for the healing of physical injuries to children’s bodies and the all too silent pervasive injuries to their persons.

As members of the larger Filipino community, we have a unique opportunity to make a difference in the life of the child-at-risk.

As we all continue to learn, we welcome any comments and questions regarding this document and its implications for medical practice. Please send all correspondence to the address listed below.

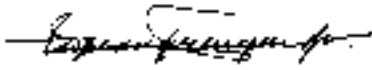
Sincerely,

Bernadette J. Madrid, M.D.
Head, Child Protection Unit
Recipient of the Jessie Lichauco Faculty Grant for Child Abuse

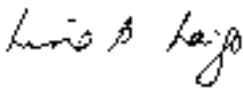
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ENDORSEMENTS FOR THE PHYSICIAN'S GUIDE

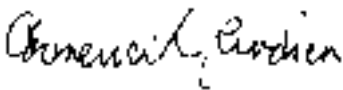
Government Agencies



Secretary Teofisto Guingona,
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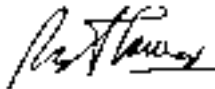


Secretary Lina Laigo,
Department of Social Welfare and Development



Secretary Carmencita Reodica, M.D.,
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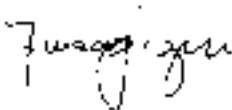
Medical Societies



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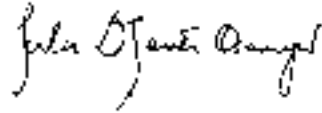


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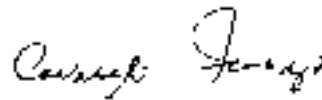
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Justice Delilah Magtolis	Court of Appeals
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Sergeant Myrna Ricasa	Women's and Children's Desk, Western Police District Headquarters, Philippine National Police
Attorney Carlos Saunar	Anti-Child Abuse Discrimination and Exploitation Division, National Bureau of Investigation
Attorney Evelyn Ursua	Women's Legal Bureau

Reporting Is the Law

Republic Act 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act) and Presidential Decree 603 (Child and Youth Welfare Code) mandate that physicians report suspected cases of child abuse to governmental authorities.¹

These laws state that the head of any public or private hospital, medical clinic and similar institution, as well as the attending physician and nurse, shall report the examination and/or treatment of any child who appears to have suffered abuse to the appropriate authorities within two days time.² Failure to report a possible case of child abuse within 48 hours of the examination is punishable as stated in RA7610 and PD603.³

RA7610 and PD603 also grant all persons acting in good faith immunity from any liability that may arise as a result of filing a report.⁴

¹ RA7610, Article I, PD603, Article 2.

² RA7610, Implementing Rules and Regulations (IRR), Section 4; PD603, Article 166.

³ RA7610, IRR, Section 6, PD603, Article 166.

⁴ RA7610, IRR, Section 7, PD603, Article 167.

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NATIONAL LAWS FOR

The Legal Mandate

📌 RA7610 📌

Republic Act 7610: Special Protection of Children against Child Abuse

📌 PD603 📌

Presidential Decree 603: Child and Youth Welfare Act

- Who Should Report**
- Attending physician
 - Attending nurse
 - Head or administrator of health care unit, institution
 - ❖ *Reporter is granted immunity from any liability arising from reporting*
- What to Report**
- Suspicion of child abuse
 - Examination or treatment of child who appears to have suffered abuse
 - Medical diagnosis of child abuse
 - ❖ *Any abuse, whether habitual or not, and regardless of intention*
- When to Report**
- Within 48 hours of learning of the case
 - ❖ *Always, whether or not parent/guardian files a criminal case*
- Why to Report**
- To protect the child from high risk of further abuse
 - To protect siblings or other children-at-risk
 - To notify authorities of suspicion of abuse
 - To update national registry of child maltreatment
 - ❖ *Notification is not accusation*
- How to Report**
- Written report preferred
 - ❖ *When absolutely necessary, oral report suffices*
- Where to Report**
- To any of the following authorized agencies
 - Department of Social Welfare and Development (DSWD)
 - Local Government Unit (LGU) social worker
 - Child Rights Center, CRC
 - Anti-Child Abuse Discrimination and Exploitation Division (ACADED), National Bureau of Investigation (NBI)
 - Women’s and Children’s Desk, Philippine National Police
 - ❖ *Selection of authorized agency could depend on local accessibility*
- Failure to Report**
- Sanctions stipulated: fine of no more than P2000
 - ❖ *Places child at risk for reinjury*

REPORTING CHILD ABUSE

The Legal Definition

Definition of Child

☛ RA7610 ☛

- *Person below eighteen years of age*
- *Person over eighteen years of age unable to care for or protect self from abuse, neglect, cruelty or exploitation due to mental or physical disability⁵*

Definition of Child Abuse or Maltreatment

*...whether habitual or not,
regardless of intention,
regardless of "cooperation" by child...*

- | | |
|---------------------|--|
| Cruelty | • Any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child |
| Physical Abuse | • Includes but is not limited to lacerations, fractured bones, internal injuries, severe injury or serious bodily harm |
| Psychological Abuse | • Harm to child's psychological or intellectual functioning exhibited by a change in behavior, emotional response or cognition |
| Neglect | • Failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to endanger the physical, mental, social and emotional growth and development of the child |
| Sexual Abuse | • Includes the use of a child to engage in sexual intercourse or lascivious conduct, molestation or prostitution of, or incest with, child, <i>regardless of consent</i> |
| Lascivious Conduct | <ul style="list-style-type: none"> • Includes intentional touching of the genitalia, anus, groin, breast, inner thigh or buttocks of a child, directly or through clothing • Introduction of any object into the genitalia, anus or mouth of a child |
| Exploitation | <ul style="list-style-type: none"> • Includes the performance or posing of any child in obscene exhibition and indecent shows • Selling or distribution of child pornography materials⁶ |

⁵ RA7610, Article 1, Section 3(a).

⁶ RA7610, IRR, Section 2.

REPORTING SUSPECTED

Filing the Report

ESSENTIAL INFORMATION

Reporter

- ✓ Name, title and signature of individual filing the report
- ✓ Institution and address of reporter
- ✓ Name of agency to receive report

Patient Information

- ✓ Patient's name, gender and date of birth
- ✓ Patient's address, telephone number and present location (e.g., hospital, home)
- ✓ Name and address of school patient attends (if applicable)
- ✓ Name(s) of patient's parent(s) or guardian(s)

Situation Description

- ✓ Type of abuse suspected (sexual, physical, emotional, neglect, etc.)
- ✓ Description of the nature and extent of the abuse
- ✓ Any explanation given by the child or guardian for injuries
- ✓ Any knowledge of history of abuse to the child

Protecting the Child

RA7610, IRR, section 6; PD603, Article 166:

Failure of any attending physician or head administrator of a hospital, clinic or similar institution to report a possible case of child abuse within 48 hours of the examination is punishable by a fine of no more than P2000.

RA7610

Even a single incidence of physical, sexual or emotional maltreatment constitutes child abuse.

Protecting the Reporter

RA7610, IRR, section 7; PD603, Article 167:

No person may sue a physician (or any other individual) in a civil or criminal court for filing a suspected child abuse report in good faith. All reporters of child abuse are presumed, until proven otherwise, to have acted in good faith.

Philippine General Hospital–Child Protection Unit Viewpoint

A single injury may represent years of chronic abuse. It may be an early warning sign of a child at risk for further maltreatment.

CHILD ABUSE

Selecting an Appropriate Agency

**If: Family is Not Willing to File Complaint
or
Clear and Present Danger to Child
or Siblings Exists**

And you need:

To Develop a Case Plan for:

- Alternative living arrangements
- Emergency custody
- Family risk assessment
- Medical consultation
- Rehabilitation of child, livelihood programs
- Pursuit of criminal prosecution
- Interagency coordination of case plan

Then contact:

- Child Help and Intervention Protective Services (CHIPS), or a regional DSWD office
- or*
- Local Government Unit (LGU) social workers

RA7160, section 17 (Local Government Code of 1991): By virtue of the devolution powers, the LGU social worker has the same legal mandate as the DSWD social worker.

**If: Family or Authorized Individual
Willing to File Complaint
or
Death of Child Is Suspicious**

And you need:

- Apprehension of alleged perpetrator

Then contact:

- Women's and Children's Desks, Philippine National Police (PNP)

or

You need:

- Investigation for criminal prosecution of alleged perpetrator

Then contact:

- Child Rights Center, Commission on Human Rights
- Anti-Child Abuse Discrimination and Exploitation Division (ACADED), National Bureau of Investigation (NBI)

or

You need:

- Authorization to hold body or autopsy

Then contact:

- Philippine National Police (PNP)
- National Bureau of Investigation (NBI)

For Nationwide Registry all cases should be reported to:

Department of Social Welfare and Development (DSWD)
National or Regional Units

Philippine General Hospital–Child Protection Unit Viewpoint

The legal mandate is fulfilled with the report to one authorized governmental agency listed above. However, multiple agencies should be alerted depending on need for diverse services outlined.

Physician's Role in Special Instances

Child needs to be removed from the home

- Recommend to DSWD or LGU social worker removal of child for safety reasons
- DSWD or LGU social worker may invoke power of protective custody and remove child from a dangerous situation
- Police may assist DSWD or LGU social worker
- For uncooperative parents, DSWD or LGU social worker suspends parental authority and files for involuntary commitment

Child has been abandoned

- Contact DSWD or LGU social worker immediately
- If no social worker is available, bring child to DSWD-accredited shelter

Child needs to be transferred to safety

- Obtain parental/guardian consent, and then transfer child to DSWD or LGU social worker office or accredited shelter
- If parents/guardians do not consent, contact DSWD or LGU social worker
- If unable to contact child's parents, DSWD or LGU social worker, transfer abandoned child to accredited shelter only as documented last resort

Child needs to remain in hospital without parental consent

- File report with DSWD or LGU social worker to obtain appropriate case plan for:
 - Safe placement in protective custody
 - Involuntary commitment of child to child caring agency
 - Suspension of parental rights of authority
- If all recourse unsuccessful, physician is limited to reasoning with the parent and, if unsuccessful, issuing a certificate stating that the child is released against medical recommendations

Physician's Role in Fatal Child Abuse

Mobilize governmental agencies for safety of siblings/other children

- File report to DSWD for family risk assessment and case plan for siblings-at-risk
- File report to Women's Desk, PNP, to protect parent at risk for domestic violence
- Notify police and/or NBI for investigation

Determine cause of suspicious death: request for autopsy

- Request consent of parents or nearest kin of the deceased child for an autopsy
- Notify police authorities, solicitor general, provincial or city fiscal to obtain written request

Presidential Decree 856 (Sanitation Code), Section 91f

If the person who issues a death certificate has reason to believe that the cause of the death was due to a violent crime, he shall notify immediately the local authorities concerned. In this case, the deceased shall not be buried until permission is obtained from the provincial or city fiscal.

Other Roles in Fatal Child Abuse

Persons authorized to perform autopsies

- District health officers (Revised Administrative Code, Section 983)
- Local health officers (Revised Administrative Code, Section 984)
- Medical examiner of the city of Manila (Section 34 and 38, RA409 as amended by RA1934)
- Medical staff of the NBI (RA157)
- Medico-legal officers of the Philippine Constabulary (Section 38, RA409, RA1934)

RA409, Section 38, as Amended by RA1934

The aforementioned individuals may investigate cases of sudden death, which have not been satisfactorily explained and when there is suspicion that the death arose from unlawful acts or omissions of other persons, or from foul play, and in general victims of violence, sex crimes, accidents, self-inflicted injuries.

RESPONSIBILITIES

Enforcing Integrated Care

- Integrated medical care requires treatment of physical injuries, as well as recognition of the impact on the psychological and developmental well-being of the abused child
- The safety of the child is a priority and is integral to the medical care of the abused child; cooperation with social workers and governmental agencies will facilitate the provision of integrated care

Managing the Media

- Confidentiality of the child's identity and medical findings must be enforced

RA7610, Section 29

It shall be unlawful (for any form of media) to cause undue sensationalized publicity of any case of violation of this Act which results in the moral degradation or suffering of the offended party.

PD603, Article 166

The records pertaining to sexual abuse cases shall be kept strictly confidential and no information relating to the case shall be disclosed except in the context of court proceedings. Any person who breaches this provision will be punished by a fine of not less than P2000, by imprisonment of not more than one year, or by both fine and imprisonment.

BEYOND REPORTING

Completing the Medico–Legal Certificate

- Summary document of the physical examination and/or forensic interview
- The Department of Justice states that only the following designated physicians are legally qualified to complete medico-legal examinations:
 - Rural health physicians
 - Physicians in Department of Health-accredited hospitals
 - Government hospital physicians (includes Philippine General Hospital–Child Protection Unit)
 - Medico-legal officers of the NBI, Commissions on Human Rights
 - Philippine Constabulary Crime Lab

Philippine General Hospital–Child Protection Unit Viewpoint

The interview and physical examination of a child abuse victim must not re-traumatize the child. Every effort should be made through standardized protocols and unequivocal documentation to prevent repeat interviews and examinations.

Cooperating with the Public Prosecutor

- The entire medical record from the attending physician who filed a suspected abuse report may be subpoenaed and should therefore be complete
- If medical findings and history are admitted as evidence for trial the physician will be required to testify
- Any physician qualified to complete medico-legal reports may be required to testify as an expert witness

In Their Words

“When I grow up, I would like to have more clothes and finish school... maybe I will still be alive by then.”

14-year-old physically abused boy

“I prefer being the one raped than my mother or sister, for if my mother dies, we would suffer more.”

8-year-old girl raped by stepfather

“To my parents and relatives... ‘burden’ was my nickname. I was so ashamed, I could not swallow food anymore. I would just listen to them, inhale deeply and say nothing.”

15-year-old girl sold into prostitution by her family at age 10

“A lost dog is luckier than I because his owner tries to find him, unlike my parents who don’t.”

15-year-old girl abandoned by her father and raped by her uncle

Taken from Advisory Board interviews and Philippine government records on cases of child abuse in Manila, 1996.

ABOUT THE PHILIPPINE GENERAL HOSPITAL CHILD PROTECTION UNIT

Description

- A multidisciplinary program committed to the highest clinical standards of care for abused children

Strategies and Scope of Services (*in brief*)

- Providing direct care through medical services and network partnerships
- Creating a lasting infrastructure in training, education, research and development

Sponsorship

- A program of the Philippine General Hospital and the University of the Philippines, Manila, with financial and operational support from the Advisory Board Foundation

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