

House Bill 3328: Karly's Law

A Summary for MDTs and Community Partners

Introduction

The changes brought forth by House Bill 3328 affect the way child abuse multidisciplinary teams (MDTs) identify, document, and respond to child abuse. The intent of the bill is to standardize some basic child abuse investigation procedures and protocols regarding child physical abuse.

HB 3328 includes an emergency clause, which makes the requirements listed in this summary effective immediately. The statutory changes will require changes in protocols, additional data collection, and increased communication between MDT members and community partners. This legislation requires a lot from MDTs in a short amount of time. Recognizing the large task MDTs face, the Department of Justice is committed to helping teams succeed in this implementation process by providing data collection forms, training, and technical assistance.

What follows is a summary of the most important aspects and requirements of HB 3328. Please share this information with your MDT, your agency, or any community partners that are involved in child abuse intervention in your area.

The Three Core Requirements of HB 3328

The requirements listed below are the three essential requirements of this bill. The bill continues to clarify these points for MDTs and community partners who participate in the investigation and intervention of child abuse. Many of these changes will require MDTs to make changes to their protocols. This summary will explore the details of each core requirement individually.

- Any person conducting an investigation who observes a child who has suffered suspicious physical injury must immediately photograph the injuries or cause to have photographed the injuries.
- Each MDT must identify a designated medical professional who is trained and regularly available to conduct medical assessments as described in ORS 418.782.
- Any person conducting an investigation who observes a child who has suffered suspicious physical injury must ensure that a designated medical professional conducts a medical assessment within 48 hours.

Photos

According to Section 3 (2) (a), *“If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person has a reasonable suspicion that the injury may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary team described in ORS 418.747:*

(a) Immediately photograph or cause to have photograph the suspicious physical injuries in accordance with ORS 418B.028;”

To photograph a “suspicious physical injury,” investigators first must be able to consistently identify what a suspicious physical injury is. The new legislation gives a detailed definition of suspicious injury in Section 3 (1) (b). Suspicious physical injury includes but is not limited to:

- Burns or scalds
- Extensive bruising or abrasions on any part of the body
- Bruising, swelling or abrasions on the head, neck or face
- Fractures of any bone in a child under the age of three
- Multiple fractures in a child of any age
- Dislocations, soft tissue swelling or moderate to severe cuts
- Loss of the ability to walk or move normally according to the child’s developmental ability
- Unconsciousness or difficulty maintaining consciousness
- Multiple injuries of different types
- Injuries causing serious or protracted disfigurement or loss of impairment of the function of any bodily organ
- Any other injury that threatens the well-being of a child

Upon the identification of such an injury, the injuries must be photographed IMMEDIATELY per the new statutes.

Additionally, HB 3328 gives direction regarding the taking, development, and maintenance of photographs in suspicious injury cases. Pursuant to Section 3 (3) of the bill, photographs MUST be taken:

- Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel during the investigation of a new allegation of abuse or if the injury was not previously observed by a person conducting an investigation under ORS 419B.020
- Regardless of whether the child has been previously photographed or assessed during an investigation of an allegation of abuse

Typically, DHS or law enforcement will be taking these photographs, unless the injuries are anogenital injuries. In a case where anogenital injuries are present, only medical personnel may photograph the child’s injuries. (See Section 5 (1) of HB 3328.) As a result of the photography requirement of HB 3328, investigators must make sure they have the appropriate equipment to take the required photographs. If training in the photographing of such injuries is needed, please contact the Department of Justice for referral to the training resources available throughout the state.

In regard to the development and maintenance of the required photos, the person or investigator taking the photographs does have a deadline by which to develop the photographs. Per Section 5 (2) of the bill, the person taking the photographs SHALL – within 48 hours or by the end of the next regular business day (whichever occurs later):

- Provide hard copies or prints of the photographs and, if available, copies of the photographs in electronic format to the designated medical professional described in ORS 418.747 (9).
- Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in any relevant files pertaining to the child maintained by the law enforcement agency or the department.
- Make the photographs available to each member of the MDT at the first meeting regarding the child's case following the taking of the photographs. (This requirement is located in Section 6 (10) of HB 3328.)

As a result of the above changes regarding the taking, development, and maintenance of these photographs, teams must include these changes in their protocols in order to ensure that these photographs are being taken in suspicious physical injury cases.

Ultimately, MDTs will have to report to the Department of Justice regarding the implementation of this process. Currently a form is being developed by the Department of Justice to assist MDTs in collecting this data. In the interim, teams are encouraged to begin developing strategies as to how they will collaborate to collect the required data for this implementation process as it pertains to all of the requirements of HB 3328.

Designated Medical Professional

Section 6 (9) of HB 3328 states:

“Each team shall designate at least one physician, physician assistant, or nurse practitioner who has been trained to conduct child abuse medical assessments, as defined in ORS 418.782, and who is, or who may designate another physician, physician assistant or nurse practitioner who is, regularly available to conduct the medical assessment described in Section 3 of this 2007 act.”

As teams are looking towards compliance with the medical assessment component of this bill, a clear understanding of who is to provide those medical assessments and how is essential. As the statute states above, the designated medical professional can be a physician, physician assistant or nurse practitioner. That medical professional may be located within your county, or in another county, in a child abuse intervention center, or in another type of medical facility. The only requirements of the designated medical professional are:

- They are trained to perform child abuse medical assessments as defined in ORS 418.782
- They are regularly available to conduct these examinations

In order to meet this requirement of HB 3328, MDTs may have to recruit or train a designated medical professional for their county. As a result, MDT resources may have to be allocated towards this purpose. If your MDT is struggling with locating, training, or recruiting a designated medical professional, please contact CAMI and technical assistance will be provided.

As with the photograph requirement of the bill, there will be a data collection piece attached to this requirement as well. MDTs will be required to submit information to the Department of Justice that not only identifies who their designated medical professional is, but also provides information regarding their training and availability. If, after a reasonable effort, an MDT is unable to identify a designated medical professional for their county, they must submit a written plan to the Department of Justice which describes how they will recruit and train a designated medical professional for their county, as well as how the MDT will ensure that children with suspicious physical injuries are receiving the required medical assessments during the interim period.

While the bill does not require the information regarding each MDT's designated medical professional to be submitted until September 1, 2008, the emergency clause in the bill requires the changes involving the designated medical professional to be implemented immediately. Thus, teams must begin the process of identifying the designated medical professional for their county immediately as well. MDTs will be required to submit this information to the Department of Justice as soon as possible. A form will be provided by the Department of Justice to help MDTs collect and submit this information.

Medical Assessments for Suspicious Physical Injury Cases

Another core requirement listed in Section 3 (2) (b) states:

“(2) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person has a reasonable suspicion that the injury may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

(b) Ensure that a designated medical professional conducts a medical assessment within 48 hours or sooner if dictated by the child's medical needs.”

In order to ensure the child's safety, medical assessments are now required within 48 hours of the identification of suspicious physical injuries. Not only will this help to ensure the child's health, safety, and well-being, but also will help MDTs to collect, document, and preserve important and often quickly disappearing evidence. Children heal so rapidly, that often by the time the child is seen by a physician, the injuries are no longer visible. By requiring the child to see a designated medical professional, the hope is that children will be seen by well-trained and qualified medical providers.

Additional statutory changes in the bill give further direction to MDTs and investigators regarding medical assessments on suspicious physical injury cases. Medical assessments **MUST** be conducted within 48 hours:

- Each time suspicious physical injury is observed by the Department of Human Services or law enforcement personnel during the investigation of a new allegation of abuse or if the injury was not previously observed by a person conducting an investigation under ORS 419B.020
- Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

Recognizing that not all suspicious physical injuries will fall within regular working hours or on-call hours when the designated medical professional would be available, further statutory allowances were made. If, after a reasonable effort, law enforcement or Department of Human Services personnel are unable to get the child seen by the designated medical professional, the child **MUST** be seen by any available physician. If a child is seen by a physician other than the designated medical professional, the physician conducting the exam:

- **SHALL** make photograph, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional within 72 hours following the evaluation of the child.
- **MAY** consult with and obtain records from the child's regular pediatrician or family physician under ORS 419B.050.
- **MAY**, within fourteen days, refer children under five years of age for a screening for early intervention services or early childhood special education. This referral may **NOT** indicate the child is subject to a child abuse investigation.

While the timeline on these medical assessments is 48 hours, there is nothing to prevent the person conducting the child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care. Additionally, nothing in HB 3328 limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment.

The statutory changes of HB 3328 regarding medical assessments require MDTs to change their protocols regarding physical abuse cases. Each of the 36 county MDTs in Oregon has a unique set of protocols. It will be up to MDTs individually, to review the requirements of HB 3328 and incorporate the new statutory requirements into their protocols.

There will be data collection involved in this piece of the implementation process. The Department of Justice will be collaborating with MDTs, community partners, child abuse intervention centers, and the county designated medical professionals to gather this information in an efficient, user-friendly, and consistent manner.

Other Important Requirements

Additional requirements were included in HB 3328 that affect the handling of suspicious physical injury cases. For example, if an investigation is being conducted regarding a child under the age of five who is already receiving early intervention services, the MDT **SHALL** invite the person involved in the delivery of those services to participate in the MDTs review of the child's case (See Section 3 (6)). MDTs have the option of inviting the early intervention service provider to only those MDT meetings in which the provider is involved in a case, or they may include the early intervention service provider in the MDT as a regular or permanent MDT member.

Section 4 requires the assignment of Critical Incident Response Teams (CIRT) by the Department of Human Services. DHS shall assign a CIRT within 24 hours after the department determines that a child fatality was related to child abuse or neglect if:

- The child was in DHS custody at the time of death
- The child was the subject of a child protective services assessment by DHS within 12 months prior to the date of death

During the course of the CIRT case review, the CIRT may consult with the district attorney from the county where the death occurred.

Reporting

As indicated previously, the Department of Justice is currently working on developing forms and templates to help MDTs, child abuse intervention centers, and other partner agencies to collect data regarding the implementation of HB 3328. The statutory changes require MDTs to submit information to the Department of Justice by September 1, 2008. After the MDTs have submitted the information to the Department of Justice, the Department of Justice then must compile that information and report back to an interim legislative committee on the implementation data by October 1, 2008.

Due to the immediacy of the changes required by this legislation, the Department of Justice will be requiring quarterly reports from MDTs regarding the implementation of HB 3328. While the Department recognizes that this will be an additional reporting burden for MDTs, it is our hope that through the forms provided and a more frequent reporting process, MDTs will be spared the last minute scramble to collect a year's worth of data from numerous agencies and community partners.

The reporting forms are currently being developed and will be provided to MDTs as soon as they are available. MDTs will also be provided with a schedule of submission dates for the required quarterly reports.

So what does it all mean?

HB 3328 requires a lot from MDTs in a very short amount of time. The changes made to statutes and, ultimately, MDT protocols and procedures will be significant. Hopefully, through these changes, physical abuse cases will be more consistently addressed statewide, children will be seen by qualified medical professionals, and MDTs will be able to provide a more comprehensive array of intervention services to children and families.

The Department of Justice is committed to assisting MDTs through the implementation process by providing any training or technical assistance MDTs might need. Through collaboration, we will be successful in implementing these important changes that can improve the welfare of Oregon's children.