

North Carolina Statutory Changes for Reporting Suspected Child Maltreatment

Overview

N.C.G.S. § 90-21.20 has been revised to require healthcare facilities and physicians to report “nonaccidental trauma” in children to both law enforcement and the Department of Social Services.¹ These changes go into effect December 1, 2008.²

Background

The impetus for this bill is confusion that exists among some healthcare facilities and providers regarding the reporting requirement for suspected maltreatment of children.³ Some providers believe a report should be made to law enforcement and protective services while others believe reporting to protective services precludes a report to law enforcement.⁴ The concern is that a child might be released back into a dangerous environment and protective services may not become involved for up to 48-72 hours.⁵ However, law enforcement response is generally immediate.⁶ Due to this, The Child Fatality Task Force recommended changing the current statutory language to add the requirement for filing a report with law enforcement because the report is critical for the protection of the child.⁷

Current Status of the Law

Currently, N.C.G.S. § 90-21.20(a) requires a healthcare facility or physician to notify law enforcement when someone has a wound, injury or illness that appears to be the result of a criminal act (i.e. wound from gun, poisoning, knife/sharp instrument, or criminal act of violence). However, children are not specifically addressed in the statute. Conversely, N.C.G.S. § 7B-301 requires any person or institution to report suspected child maltreatment to the Department of Social Services. HB 2338 was proposed to clarify the confusion regarding the reporting requirements and increase the safety of children by involving law enforcement early in the process for a more prompt response to suspected maltreatment.⁸

Statutory Change

Effective December 1, 2008, healthcare facilities and physicians will be required to report “nonaccidental trauma” in children to both law enforcement and the Department of Social Services.⁹ Healthcare facilities and physicians must report cases of recurrent illness or serious physical injury that appear, in a physician’s professional judgment, to be the result of “non-accidental trauma.”¹⁰ If the juvenile is treated in a hospital or other healthcare facility, a designee of the facility is required to make the report.¹¹ A physician is required to report to law enforcement if the juvenile is treated outside of the facility.¹² The report should be made to the law enforcement agency in the town or county where the facility is located.¹³

¹ 2008 N.C. Sess. Laws 179.

² *Id.*

³ North Carolina Child Fatality Task Force, *NC Child Fatality Task Force Legislative Briefing Sheets*, at http://www.buckleupnc.org/pdf/NCCFTF_2008LegislativeBriefingSheets_May2008.pdf (May 23, 2008).

⁴ Email from Tom Vitaglione, Chair, NC Child Fatality Task Force to Megan Lee, Director of Risk Management, Catawba Valley Medical Center (Sept. 24, 2008, 11:25am EST)(on file with author).

⁵ *Id.*

⁶ North Carolina Child Fatality Task Force, *supra* note 3.

⁷ Written with support from the College of Emergency Room Physicians, the North Carolina Hospital Association, the North Carolina Medical Society, and was endorsed by the North Carolina Pediatric Society, the North Carolina Sheriffs’ Association, and the North Carolina Association of County Directors of Social Services. *Id.*

⁸ Vitaglione, *supra* note 4.

⁹ 2008 N.C. Sess. Laws 179 sec. c(1) and N.C.G.S. § 7B-301(2007).

¹⁰ 2008 N.C. Sess. Laws 179 sec. c(1).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

These statutory changes in no way obviate the requirements under N.C.G.S. § 7B-301 to report suspected child maltreatment to the Department of Social Services. It merely adds the additional requirement of also making a report to law enforcement.

Practice Change Recommendations

Risk Management personnel need to be aware of the changes and assist healthcare facilities and physicians in having the appropriate process in place by December 1, 2008. This should include review and revision of the facility's current policy and/or procedure as needed. Facility administration needs to specifically be aware that the onus is on the facility to file the report with the local law enforcement agency for care provided in the facility. Any process change should identify the person/persons responsible for filing the report with law enforcement. Staff and physicians also need to be informed regarding the new reporting requirement. These changes affect not only hospitals but also any physician, medical institution or facility. Therefore, consideration needs to be given to outlying clinics, physician offices and healthcare services. The information to be included in each mandatory report is slightly different and is summarized below.

Required Reporting Information

DSS:

1. name/address of child,
2. name/ages of other children in the home,
3. present location of the child,
4. nature/extent of any injury or condition resulting from abuse, neglect or dependency.¹⁴

Law Enforcement:

1. name,
2. age,
3. sex,
4. race,
5. residence or present location of the juvenile and
6. extent of the injuries.¹⁵

Conclusion

Overall, the revisions to N.C.G.S. § 90-21.20 are intended to provide clarification in North Carolina regarding current reporting requirements and enhance the safety of these at risk children. The original statutory requirements for suspected child maltreatment remain unchanged. The new statutory language only adds the requirement for healthcare facilities and physicians to file an additional report with local law enforcement.

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¹⁴ N.C.G.S. § 7B-301 (2007).

¹⁵ N.C.G.S. 90-21.20(c) (2007).