CHILD PROTECTION POLICY

Please find our Child Protection policy adopted by NZDA Board April 2001

Reviewed with CYF & Adopted by NZDA Board Sept 2006

PRACTICE GUIDELINE

GUIDELINES FOR CHILD PROTECTION

Contents:

1. INTRODUCTION – STATEMENT OF COMMITMENT

Dentists as health professionals have a range of responsibilities to their patients. Patient care includes the overall welfare of our patients, and this is particularly relevant to children and young people. If a dentist believes a child may be suffering a form of abuse, he/she should report the concerns.

In such cases the safety and welfare of the child or young person is paramount. (Section 6 CYP & F Act 1989)

2. DEFINITION OF CHILD ABUSE

Child Abuse means the harming (whether physically, emotionally or sexually), ill-treatment, neglect or deprivation of any child or young person. (Section 2 (i) CYP & F Act 1989)

The Children, Young Persons and Their Families Act 1989 (CYP&F Act 1989), defines a child as someone under the age of 14 years and a young person as someone aged 14 years and over, but under 17 years.

3. RELEVANT LEGISLATION

Children, Young Persons, and Their Families Act 1989

All the privacy restrictions contained in the Health Act 1956, the Privacy Act 1993, and the Health Information Privacy Code 1994, are overridden by sections 15 and 16 of CYP&F Act 1989.

Section 15 provides for "any person who believes that a child or young person has been or is likely to be harmed, ill-treated, abused, neglected or deprived" to "report the matter to a social worker or member of the Police".

Hesitation to act can come from fear of personal involvement or retribution, consequently Section 16 provides protection from prosecution for people making a report under section 15, and states:

"No civil, criminal, or disciplinary proceedings shall lie against any person in respect of the disclosure or supply, or the manner of the disclosure or supply, by that person pursuant to section 15 of the Act of information concerning a child or young person (whether or not that information also concerns any other person) unless the information was disclosed or supplied in bad faith."

While the Child Youth and Family Service is not required to divulge the source of information, the law does not give blanket confidentiality to those who report abuse. Unless it is an exceptional situation reporting of abuse by professionals may be discovered by the alleged perpetrator. Moreover, only in exceptional cases will the name of the person reporting remain confidential under the provision of the Official Information Act.

For further information on legal issues, refer to Appendix 3

4. WHEN TO REPORT

A dentist should report his/her concerns where he/she suspects that a child or young person has been abused, is at risk from abuse or is in serious and imminent danger.

Abuse is, where from your observations, a child or young person has been subject to any of the following:

1. Physical abuse or harm: for example unexplained repetitive bruises, lacerations, abrasions, fractures or burns.
2. Serious psychological abuse: this may include (but is not restricted to) rejection, deprivation of stimulation or affection, constant criticism or exposure to family violence.
3. Sexual Abuse: may be recognised by inappropriate language or behaviour.
4. Serious Neglect: failure, by parents, guardians or usual caregivers to provide for the child's appropriate physical, emotional or medical needs. The child's health, development or safety is endangered.

5. REPORTING

Reports of suspected child abuse should be made in the first instance to:

1. **The Child Youth and Family Service National Call Centre – 0508 FAMILY (0508 326459), or fax 09 9141211**

Or contact

1. **The Police**,

Both agencies provide a 24hour service everyday and Child Youth and Family has social workers on after hours call-out between 5.00pm and 8.00am and 24 hours over weekends and public holidays to provide a national coverage. If required the National Call Centre will arrange the call-out.

If working for a District Health Board, discuss case with the paediatrician on duty. Each DHB has its own child abuse referral protocols, but generally, the first step here, is to consult with the paediatrician on duty.

The dentist's role is not to conduct an investigation to confirm whether or not abuse has occurred, but to observe, document and report.

NOTE: Care must be taken not to ask leading questions of the child or young person or to undertake actions, which are more properly suited to the Child Youth and Family Service or the Police. No in-depth interview of the child should be attempted.

If there are immediate concerns for the physical safety of the child, a report should be made immediately to the Child Youth and Family Services or the Police. Section 17 of CYP&F Act 1989 requires that a social worker or member of the Police must undertake or arrange an investigation as soon as practicable.

When you phone the Child Youth and Family Service National Call Centre, you will be put forward to an intake worker. It will be helpful to have as much information as possible.

The intake social worker will need the following information:

- Your concerns or suspicions
- The reasons why you believe this child is at risk or suffering abuse
- An indication that this is a formal notification of actual or suspected child abuse
- Your opinion about whether this notification is urgent.

It will be helpful to document the information and the National Call Centre may request you follow up the phone reporting with a written statement.

6. **DOCUMENTATION**
7. Documents should be specific, objective and include the date and who was present.
8. Write a verbatim account of the incident, child's/parent's/guardian's statements and note any physical signs or relevant behavioural anomalies.
9. Document whether you sought advice on the matter and why
10. Document the content of any discussions you have and with whom
11. Document subsequent actions taken. (e.g. rang child youth and family services)

12. Sign and print your name on this record.
13. Documentation may be called for and used in court.
14. Any diagrams completed for physical injuries should have date, description and signature appended.

7. **RESPONSIBILITIES**
8. It is important for dentists and their staff to understand their reporting responsibilities. Dentists should feel free to discuss their concerns and understand they have the right to call and discuss situations with the National Call Centre intake social worker to determine if the matter should be a notification under S15 of the CYF Act.
9. Dentists and their staff are encouraged to seek educational opportunities to improve their knowledge in this area.
10. The Child Youth and Family Service has available Community Liaison Social Workers who are able to provide education and training in the reporting of child abuse.

8. **WHAT TO DO IF ASKED TO DIVULGE INFORMATION**

Social workers may from time to time, require patient information from dentists. In this situation, the dentist should be provided with a written request for personal information which contains reference to section 22C of the Health Act. For an example of such a request, see **Appendix 4**.

Also refer to the **Health Information Privacy Code 1994 (Appendix 3)**

A P P E N D I X 1

Referral facsimile

Suggested Dental Practice referral/notification facsimile form. The facsimile form is found on the next page. Please photocopy for your use, or use as a template for computer referrals.

To: Child, Youth and Family National Call Centre

Fax number: 09 914 1211

From: Dentist: …….

Practice name: …….

Phone: …….. Fax: …….

Date: ……

Child's name:……
….

Also known as:
……

Date of birth:…….. Ethnicity:
……

Contact address:
……..

Phone: ……

Date of presentation:
……..

Mother: …….. Phone:
……..

Address:
……
…

Father:…… Phone:
……..

Address:
……
…

Caregiver:…….. Phone:
……..

Address:
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History and physical findings:

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Tick other agencies involved:

Paediatrician Name…….. Phone: ……

Police Public HealthNurse Homebuilders

Plunket Iwi/Maori Social Service Barnardos

Open Home Foundation Family Start Pacific Peoples Social Service

Any others:

Signed: …….. Date: ……..

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transmitted sheet. If you are not the addressee, note that any disclosure, photocopying, distribution or use of the contents

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immediately so that we can arrange for the retrieval of the original document/s at no cost to you.

A P P E N D I X 2

Child, Youth and Family

Referral procedures

Definitions:

Care and Protection Coordinator coordinates family group conferences and reconvenes family group conferences for review. They are responsible for ensuring that family/whanau members are invited to the conference and provided with the relevant information to make a plan for the care and protection of the child or young person.

Care and Protection Resource Panel is established under the CYP&F Act 1989 to provide advice to social workers, Police and care and protection coordinators. Most panels include pediatricians.

Police Child Abuse Team works with Child, Youth and Family in the investigation of sexual and serious physical abuse cases. Police make the decision on any prosecution.

Response Time Matrix is a guide used to assess the urgency of an investigation.

Risk Estimation System is used to assess current and future risk of abuse and neglect to the child.

Social worker has a statutory authority to receive reports of abuse or neglect, to investigate, assess and arrange appropriate intervention including family support and alternative care. They have authority to make applications to the Family Court for a Place of Safety Warrant, or make an application for a Declaration that a child or young person is in need of care or protection, or to make referrals for a family group conference.

Different roles are identified for social workers:

- ***Community liaison social worker****works with the community and professional groups to raise awareness of child abuse and neglect and develops and monitors protocols for the reporting of abuse and neglect.*
- ***The National Call Centre intake social worker****takes/receives referrals and undertakes the initial risk and safety assessment.*
- ***Case/key social worker at the site****is allocated the case for investigation and has the main responsibility for the case.*
- ***Co-social worker****works alongside the case/key social worker in the initial investigation.*

Supervisor has social work experience and provides supervision for social workers, especially for investigation planning and ongoing child protection needs.

Youth Screening Tools are assessment tools. CAGE and Kessler screening tools screen alcohol and drug use, and psychological distress. There are also tools to assess the risk of suicide, and well-being.

1. ***Making a referral to Child, Youth and Family***

For advice on determining if the concerns you have should be a notification or how to proceed **before** making a notification, phone:

- The Child, Youth and Family National Call Centre**(Phone 0508 FAMILY or 0508 326 459)**and discuss the matter with the National Call Centre intake social worker.
- Or you may wish to discuss matters such as what constitutes a care and protection concern or what some of the signs of abuse are. If so, the local community liaison social worker will give advice but will not take a notification.

All referrals (notifications) go through the Child, Youth and Family National Call Centre.

1. **National Call Centre (Phone 0508 FAMILY or 0508 326 459 and Fax 09 914 1211)**

The National Call Centre operates 24 hours from 8.00 am Monday to 8.00 am Saturday and on all public holidays that fall within these days and is always staffed by intake social workers. All after-hours calls outside these days and times are relayed, via the Call Centre, to someone at Answer Services who will direct your call to the local after-hours duty social worker.

The intake social worker will:

(a) Take the details of your referral, such as:

- The notifier, client and family/whanau
- The specific concerns and full details of any previous concern
- The current location of the child or young person
- Any alleged perpetrator and that person's access to the client
- Details of any protector present
- History of violence, stress, substance abuse, mental illness or incapacity, social isolation and potential for flight
- Any physical hazards at the home; for example, weapons, threats of violence, dogs.

(b) Obtain any additional information where required, to determine the appropriate response.

(c) Determine the response time necessary for action to be taken. A *Response Time Matrix* is

used to assess vulnerability, access of alleged abuser to the child, ability of the non-offending adult to protect the child, pattern of injuries or conditions, etc.

- Response times are:
- critical – same day (24 hours)
- very urgent – day of notification plus one day
- urgent – within seven days
- Low-urgency – within 28 days.

(d) Advise the care and protection duty social worker at the local office by phone if it is a critical or

Very urgent case (within 15 minutes of the notification being received if critical).

(e) Record the notification on the computer system.

(f) Send notice of the new notification to the care and protection duty social worker at

the local Child, Youth and Family Office.

(g) The National Call Centre will officially advise you by letter that the notification has been made and to which local CYF office.

After the notification has been made and you have further concerns or want to know who to speak to at the local office please phone the National Call Centre and the customer services representative will be able to direct you to the right person.

2. **The Local office**

(a) The case is allocated to a **case/key social worker**. Allocations are made at the time of notification if the case is critical or very urgent (refer 1d). Urgent or low-urgency cases are allocated at a later time to meet the response time frame. If the time frame cannot be met for low urgency cases then there is prioritizing and daily reviewing until resources become available.

(b) An investigation plan is developed with the supervisor.

(c) If sexual abuse or serious physical abuse is alleged the Police Child Abuse Team is involved in the investigation plan.

(d) The **case/key social worker** will contact the referring dentist about the case. The contact with the dentist is to ensure the social worker has full and correct information, to receive any update on further developments and to give the dentist information on action being taken. The timing will vary depending on the response time.

(e) The Care and Protection Resource Panel provides advice on the investigation. The Panel gives cultural/specialist advice.

(f) Any other parties involved with the family/whanau may be contacted for further information.

(g) Depending on the circumstances, this is usually followed by an initial visit to the home to sight the child and meet the

parent(s).

(h) At the end of the investigation (which can take 6 to 16 weeks from referral) the case/key social worker has a legal obligation to inform the dentist (as the notifier) that the referral has been investigated and whether any further action has been taken (section 17 (3)).

(i) If abuse or neglect is substantiated, the *Risk Estimation System* is used to determine the

safety needs of the child and any other siblings. If the concerns are about the behavior of a young person then the *Youth Screening Tools* will be used. Follow-up action may include:

- referral to another agency
- an intervention plan negotiated with the family/whanau to address identified problems and showing the services to be provided (eg, counseling and support)
- family group conference
- Court action – this can occur at any stage of the investigation if necessary to provide immediate safety pending full investigation.

(j) Where any intervention is put in place regular reviews and monitoring processes are established.

1. ***After making the referral to Child, Youth and Family***
2. Should you inform parents/caregivers of your suspicion?

The child may be placed at further risk if the parents/caregivers are informed of your suspicion. Consult Child, Youth and Family, or the Police if they are involved, about whether to inform the parents/caregivers.

Remember the paramount consideration is the immediate safety of the child, and/or the safety of other children.

If you decide to discuss your concerns with the parents/caregivers (after contacting Child, Youth and Family or the Police) be aware that:

- You need to be confident the parents/caregivers will follow your advice.
- If it is a case of serious abuse the Police will be involved and their ability to gain evidence may be hindered if parents/caregivers are alerted.
- The family may make themselves inaccessible as a result of the discussion.

2. The**case/key social worker**will consult the referring dentist to check they have correct and up-to date information.
3. The dentist may want to further consult the**case/key social worker**and can use the National Call Centre and/or ask for the direct phone number for the local office or **case/key social worker** involved.

1. ***Child, Youth and Family may contact GPs/dentists***

When they are seeking:

- information for an investigation of abuse or neglect
- advice on the management of a case
- medical advice eg, immunisation
- information for a family group conference
- a medical examination

Or

- To advise GPs/dentists on medical risk factors to a child or young person eg, a young person who is suicidal.

A P P E N D I X 3

Legal issues

There are no legal barriers to disclosure of patient information relating to suspected or actual child abuse given in good faith to an appropriate authority (CYP&F Act 1989 sections 15 and 16).

The Health Act 1956 protects practitioners acting under section 22C from civil or criminal liability if they act in good faith and take reasonable care.

The statutory responsibility for investigation lies with the Child, Youth and Family social worker or member of the Police. (RNZCGP, 2000, *WELLCHILD*, p42.)

Please note the following KEY PRINCIPLES of the Children And Young Persons And Their

Families Act 1989

SECTION 6: WELFARE AND INTEREST OF CHILD AND YOUNG PERSON PARAMOUNT.

In all matters relating to the administration or application of this Act the welfare and interests of the child or young person shall be the first and paramount consideration.

SECTION 15: REPORTING OF ILL-TREATMENT OR NEGLECT OF CHILD OR YOUNG PERSON

Any person who believes that any child or young person has been or is likely to be harmed (whether physically, emotionally, or sexually), ill treated, abused, neglected, or deprived may report the matter to a Social Worker or a member of the Police.

SECTION 16: PROTECTION OF ILL-TREATMENT OR NEGLECT OF A CHILD OR YOUNG PERSON

No civil, criminal or disciplinary proceedings shall lie against any person in respect of the disclosure or supply, or the manner of the disclosure or supply, by that person pursuant to section 15 of this Act of information concerning a child or young person, (whether or not that information also concerns any other person), unless the information was disclosed or supplied in bad faith.

Note: Section 16 provides statutory protection for general practitioners who suspect child

abuse and/or neglect to report.

SECTION 17: RESPONSIBILITY FOR INVESTIGATION

“Where any Social Worker or member of the Police receives a report pursuant to section 15 of this Act relating to a child or young person, that Social Worker or member of the Police shall, as soon as practicable after receiving the report, undertake or arrange for the undertaking of such investigation as may be necessary or desirable into the matters contained in the report and shall, as soon as practicable after the investigation has commenced, consult with a Care and Protection Resource Panel in relation to the investigation.”

Health Act 1956

Section 22C of the Health Act provides guidance on when a doctor/dentist can release health information.

“(1) Any person (being an agency that provides health services, or disability services,

or both, or being a funder) may disclose health information-

(a) If that information

(i) Is required by any person specified in subsection (2) of this section;

and

(ii) Is required … for the purpose set out in that subsection in relation to the person so specified; or

(b) "If that disclosure is permitted –

(i) By or under a code of practice issued under section 46 of the Privacy Act 1993 …

(2) The persons and purposes referred to in subsection (1)(a) of this section are as follows: …

(c) A Social Worker or a Care and Protection Coordinator within the meaning of the Children, Young Persons, and Their Families Act 1989, for the purposes of exercising or performing any of that person's powers, duties, or functions under that Act."

Health Information Privacy Code 1994

"Rule 11 Limits on disclosure of health information

(1) A health agency that holds health information must not disclose the information unless the agency believes, on reasonable grounds: …

(b) that the disclosure is authorised by:

(i) the individual concerned; or

(ii) the individual's representative where the individual is dead or is unable to give his or her authority under this rule; …

(2) Compliance with paragraph (1)(b) is not necessary if the health agency believes on reasonable grounds that it is either not desirable or not practicable to obtain authorization from the individual concerned and:

(a) that the disclosure of the information is directly related to one of the purposes in connection with which the information was obtained;

(b) that the information is disclosed by a registered health professional to a person nominated by the individual concerned or to the principal care giver or a near relative of the individual concerned in accordance with recognised professional practice and the disclosure is not contrary to the express wish of the individual or his or her representative; …

(d) that the disclosure of the information is necessary to prevent or lessen a serious and imminent threat to:

(i) public health or public safety; or

(ii) the life or health of the individual concerned or another individual; …

(i) that non-compliance is necessary:

(i) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or …

(ii) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); …

(3) Disclosure under sub-rule (2) is permitted only to the extent necessary for the particular purpose.
…

(4) Where under section 22F(1) of the Health Act 1956, the individual concerned or a representative of that individual requests the disclosure of health information to that individual or representative, a health agency:

(a) must treat any request by that individual as if it were a health information privacy request made under rule 6; and

(b) may refuse to disclose information to the representative if:

(i) the disclosure of the information would be contrary to the individual's interests;

(ii) the agency has reasonable grounds for believing that the individual does not or would not wish the information to be disclosed; or

(iii) there would be good grounds for withholding the information under Part IV of the Act if the request had been made by the individual concerned.

(5) This rule applies to health information about living or deceased persons obtained before or after the commencement of this code.

(6) [Despite sub-rule (5), a health agency is exempted from compliance with this rule in respect of health information about an identifiable deceased person who has been dead for not less than 20 years.]

Note: Except as provided in sub-rule 11(4) nothing in this rule derogates from any provision in an enactment which authorises or requires information to be made available, prohibits or restricts the availability of health information or regulates the manner in which health information may be obtained or made available – Privacy Act, s.7. Notes also that rule 11, unlike the other rules, applies not only to information about living individuals, but also about deceased persons – Privacy Act, s.46(6)."

Should GPs/Dentists breach the Health Information Privacy Code, a complaint can be laid with the Privacy Commissioner for resolution.

While this resource has been developed with all care and after consultation with many organisations, it is not intended to be legal advice. If you have any concerns about the material or a particular case, please contact your local Child, Youth and Family office.

A P P E N D I X 4

Sample Request for Information under Section 22C of the Health Act 1956

CALL CENTRE

Private Bag 78-901 If transmission is

490 Richmond Road faulty please

Grey Lynn phone (09) 912-3820 for

Direct Phone (09)X re-transmission

FAX (09) 914-1211

Facsimile Message

Date: No. of Pages: (including cover sheet)

To:

Fax No:

From: X

Intake Social Worker

REQUEST FOR PERSONAL INFORMATION UNDER SECTION 22C OF THE HEALTH ACT 1956

In my capacity as a social worker in terms of the NZ Children, Young Persons and Their Families Act 1989, under section 22C of the Health Act 1956, I require the use of the following personal information that is held by your organisation:

XXXX Details of information required XXXX

Section 22C will either be quoted in the letter or attached to it.

X

Intake Social Worker

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A P P E N D I X 5

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Children, Young Person and Their Families Act 1989

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