

# MEDICAL, LEGAL, AND ETHICAL ISSUES

# OBJECTIVES

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- ✓ Define scope of practice and standard of care
- ✓ Define consent and discuss methods of obtaining consent
- ✓ Define duty to act, abandonment, negligence, and assault
- ✓ Explain legal and ethical considerations in patient refusals
- ✓ Discuss advance directives and EMT's obligations

# OBJECTIVES

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- ✓ Discuss Good Samaritan Laws
- ✓ Identify what would constitute a breach of patient confidentiality
- ✓ Identify what to look for at crime scenes
- ✓ Discuss how to preserve evidence at crimes scenes
- ✓ Explain mandatory reporting and Identify some warning signs

# SCOPE OF PRACTICE

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A set of regulations and ethical considerations that define the scope, or extent and limits, of the EMT's job.

*WHAT YOU CAN DO*

# SCOPE OF PRACTICE

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- ✓ May include skills and procedures
- ✓ These skills and procedures are defined by legislation, which varies from state to state

# SCOPE OF PRACTICE

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- ✓ Governing body: New York State Department of Health (statewide)
- ✓ Regional Emergency Medical Organization (REMO) region wide body

# SCOPE OF PRACTICE

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Your duty is to provide for the well being of the patient by rendering necessary and legally allowed care as defined under the scope of practice in your area

# STANDARD OF CARE

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Care expected from an EMT with similar training  
for a patient in a similar situation

*HOW YOU SHOULD DO IT*

# STANDARD OF CARE

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- ✓ Meeting the standard of care = reduction in risk of legal action
- ✓ To be effective, you must maintain your skills and knowledge
- ✓ Practice to perfection, then constantly train

# ETHICS

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- ✓ Make the physical / emotional needs of the patient a priority
- ✓ Honesty in reporting
- ✓ Remember the “Golden Rule”
- ✓ Maintain patient confidentiality

# PATIENT CONSENT

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Permission from a patient to assess, treat, and transport

## *THREE TYPES*

EXPRESSED

IMPLIED

CHILDREN AND MENTALLY INCOMPETENT  
ADULTS

# EXPRESSED CONSENT

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Consent given by adults who are of legal age and mentally competent to make a rational decision in regard to their medical well-being

- ✓ Must be obtained from all patients who are physically and mentally able to do so
- ✓ Also considered *Informed Consent- must be informed of procedures and risks*

# IMPLIED CONSENT

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Pertains to unconscious patient (or one who may be physically or mentally incapacitated but in need of care)

- Consent is assumed

- ✓ Law states that rational patients would consent to treatment if they were conscious

# CHILDREN & MENTALLY INCOMPETENT ADULTS

- ✓ Not legally allowed to provide consent or refuse medical care and transportation
- ✓ Parents and guardians have legal authority to give consent. Written authorization must first be given

# EXCEPTIONS FOR CONSENT OF CHILDREN

- ✓ In loco parentis

- In place of parents when the parents are not physically present (school officials, child care)

- ✓ Emancipated minors

- Minors who have legally separated from their parents or who are married

- ✓ Minors who have children

# CONSENT DURING EMERGENCIES

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When emergency situations exist and the parent and/or guardian are not available for consent, treatment should be rendered based on **implied consent**



# INVOLUNTARY TRANSPORTATION

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- ✓ Times when a patient is transported against their will
- ✓ Typically will be based upon a decision by a mental health professional or police officer  
(MHL 941)
- ✓ May be restrained. If restrained by police, they must transport with patient
- ✓ Restraints equal significant legal responsibility

# REFUSALS OF CARE

# REFUSAL OF CARE

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- ✓ A patient may refuse care or transport
  - Must be legally able to consent
  - Must be mentally competent and oriented
  - Fully informed of risks
  - Must sign release form
- ✓ May withdraw from treatment at any time
- ✓ Despite all precautions, EMT may still be liable

# WHEN IN DOUBT

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- ✓ Discuss decision with patient
- ✓ Ensure patient understands risks
- ✓ Consult medical direction
- ✓ Ask to contact a family member
- ✓ Contact law enforcement
- ✓ Understand why patient is refusing

# PRIOR TO LEAVING THE SCENE

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- ✓ Try again to persuade the patient to go to the hospital
- ✓ Ensure patient is legally able to refuse  
(able to give expressed consent, no alcohol or drugs)
- ✓ Inform patient of risks associated with refusal
- ✓ Inform the patient they have the right to request transport again

# PRIOR TO LEAVING THE SCENE

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- ✓ Consult medical direction if needed
- ✓ Consider law enforcement
- ✓ Never make an independent decision

# DOCUMENTATION

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- ✓ Document that patient was informed of the risks and that they understood such risks
- ✓ Have the refusal witnessed
- ✓ Have the patient sign the refusal
  - What if the patient refuses to sign?????

# NEW YORK STATE PCR

NON-HOSPITAL DISPOSITION CODES:

NURSING HOME ..... 001  
 OTHER MEDICAL FACILITY ..... 002  
 RESIDENCE ..... 003  
 TREATED BY THIS UNIT, TRANSPORTED  
 ..... BY ANOTHER UNIT ..... 004  
 REFUSED MEDICAL AID OR  
 ..... TRANSPORT ..... 005  
 CALL CANCELLED ..... 006  
 STANDBY ONLY (NO PATIENT) ..... 007  
 NO PATIENT FOUND ..... 008  
 OTHER ..... 010

**Hospital Receiving Agent**  
 (Signature) \_\_\_\_\_  
 (Print Name) \_\_\_\_\_  
**COMPLETE ON WHITE (AGENCY) COPY ONLY**

**REFUSAL OF TREATMENT/TRANSPORTATION**  
 REFUSO A RECIBIR TRATAMIENTO/SER TRASLADADO  
**RELEASE**  
 EXONERACION DE RESPONSABILIDADES  
**COMPLETE ON WHITE (AGENCY) COPY ONLY**  
 COMPLETE EN BLANCO (COPIA DE LA AGENCIA)

I hereby refuse (treatment/transport to a hospital) and I acknowledge that such treatment/transportation was advised by the ambulance crew or physician. I hereby release such persons from liability for respecting and following my express wishes.  
 Mediante la presente declaro que me niego a aceptar el tratamiento/traslado a un hospital y reconozco asimismo que el medico o el personal de la ambulancia recomendaron que fuera tratado/traslado. Consecuentemente, salvo a dichas personas de toda responsabilidad por haber respetado y cumplido mis deseos expresos.

Signed: \_\_\_\_\_  
 Firma: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Testigo: \_\_\_\_\_

**THE RULE OF NINES**  
 Estimation of Burned Body Surface (PERCENT)

ADULT INFANT

**Glasgow Coma Scale**

Eye Opening	Spontaneous	4	
	To Voice	3	
	To Pain	2	
	None	1	
Verbal Response	Orients	5	Patient's Best Verbal Response
	Confused	4	Answer patient with words or partial phrases
	Inappropriate words	3	
	Incomprehensible sounds	2	
	None	1	
Motor Response	Obeys Commands	6	Patient's Best Motor Response
	Localizes Pain	5	Response to command or painful stimulus
	Withdraws Pain	4	
	Flexion/Extension	3	
	Extension/None	2	
	None	1	

Total GCS Score: **15**

**ICD DIAGNOSTIC CODE**

INSURANCE ID # \_\_\_\_\_ CARRIER \_\_\_\_\_

1  MEDICARE 2  MEDICAID 3  CROSS 4  COMMERCIAL INSURANCE 5  SELF PAY

WAS THIS A WORKERS COMPENSATION INJURY:  YES  NO INSURANCE CODE \_\_\_\_\_

PATIENT'S EMPLOYER: \_\_\_\_\_ PHONE (\_\_\_\_\_) \_\_\_\_\_

EMPLOYER'S ADDRESS: \_\_\_\_\_

RESPONSIBLE PARTY: \_\_\_\_\_ PHONE (\_\_\_\_\_) \_\_\_\_\_

ADDRESS: \_\_\_\_\_ (ZIP: \_\_\_\_\_) RELATION: \_\_\_\_\_

# AGENCY SPECIFIC REFUSAL FORM

## Western Turnpike Rescue Squad, Inc.

200 Centre Drive, Albany, New York 12203 – Phone 518.456.3600 – Fax 518.862.0843 – www.wtrs.org



### Refusal of Medical Assistance Supplemental Check Sheet

*This form is to be used while completing a Refusal of Medical Assistance for any patient requesting such. This form is an adjunct to RMA documentation and is a continuation of the PCR. A copy of this form must be attached to the PCR for **EVERY** RMA.*

Run Number: \_\_\_\_\_

Patient Last Name: \_\_\_\_\_

#### **CAPACITY of patient or guardian making the refusal:**

- \_\_\_ Alert and oriented to person, place, time, and events
- \_\_\_ Clear and coherent speech (or normal for the patient)
- \_\_\_ No known or presumptive specific medical, legal, or psychological conditions precluding competence
- \_\_\_ The patient is willing and able to engage in meaningful conversation
- \_\_\_ No evidence of alcohol or mind altering drug use

*If any of the above are not checked, or the patient is less than 5 or greater than 65 years of age, consider contacting medical control.*

REMO MD # \_\_\_\_\_ RE/MAC RUN #: \_\_\_\_\_

#### **PRECAUTIONS AND WARNINGS to patient:**

- \_\_\_ Explained the potential known and unknown problems including, but not limited to: \_\_\_\_\_
- \_\_\_ Explained potential for fatal or permanently disabling consequences included, but not limited to: \_\_\_\_\_
- \_\_\_ Advised the patient to seek care with an Emergency Department or physician as soon as possible
- \_\_\_ Advised the patient to call 911 or his/her local EMS if his/her condition changes or he/she changes his/her mind regarding care and/or transport

#### **Patient Statement of Understanding:**

I, \_\_\_\_\_, understand that people maintain the right to refuse medical care, treatment, and/or transportation. I further acknowledge that I have been advised by members of the **Western Turnpike Rescue Squad** that they recommend that I receive medical care, treatment, and/or transportation to the hospital Emergency Department for further evaluation by a physician. I further understand that I may refuse medical care, treatment, and/or transportation, but do so at my own risk. I do not have any known physical or mental condition that would prohibit me from making an informed decision to refuse the medical care, treatment, and/or transportation that has been offered and recommended.

I understand the risk associated with refusal may include possible loss of limb or life or permanent disability. I have also been advised that if I develop any medical complaints or symptoms, I should immediately contact an ambulance, hospital Emergency Department, or my physician.

I hereby release the **Western Turnpike Rescue Squad**, its officers, agents, personnel, and employees from any and all claims, causes of action or injuries, of whatsoever kind or nature, arising out of or in connection with my refusal of medical care, treatment, and/or transportation.

Patient or Guardian Name: \_\_\_\_\_ Date: \_\_\_\_\_

Patient or Guardian Signature: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Witness/Signature: \_\_\_\_\_

Provider Name: \_\_\_\_\_ Provider Signature: \_\_\_\_\_

\_\_\_\_\_ This patient was given the information noted above and refused to sign the form as requested.

White Copy – With Agency PCR

Yellow Copy – Patient Copy

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DOCUMENT

DOCUMENT

DOCUMENT

# ADVANCE DIRECTIVES

ADVANCE DIRECTIVES

# DO NOT RESUSCITATE ORDER (DNR)

- ✓ Legal document expressing patient's wishes if patient is unable to speak for self
- ✓ If DNR cannot be physically shown, begin care and contact medical control for further orders
- ✓ When in doubt, contact medical control

# WHEN TO NOT HONOR A DNR

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- ✓ Reasonable evidence to suggest the DNR has been revoked or cancelled
- ✓ Patient is conscious and wished resuscitative efforts
- ✓ Family member requests resuscitation, and refusal would result in a confrontation
- ✓ A physician directs the order to be disregarded

# LIABILITY PROTECTION

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## PHL Section 2977.12

- ✓ Cannot be held liable for honoring a DNR if acting in good faith
- ✓ Cannot be held liable for not honoring a DNR if acting in good faith

**GOOD FAITH**

# WHAT TO DO OR NOT DO

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- ✓ No chest compressions, ventilation, defibrillation, airway management, or meds
- ✓ Full treatment if not in arrest
- ✓ Relieve choking, however if respirations stop, no ventilations
- ✓ Start CPR until a DNR can be produced, or medical control contacted

# HEALTH CARE PROXY

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- ✓ Legal document establishing a certain person to make medical decisions for patient when patient is unable to make decisions.
- ✓ Not a legal DNR. If proxy requests no CPR be done, contact medical control.
- ✓ Cannot honor Proxy without contacting Medical Control

# MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT MOLST

NEW YORK STATE DEPARTMENT OF HEALTH

## Medical Orders for Life-Sustaining Treatment (MOLST)

**THE PATIENT KEEPS THE ORIGINAL MOLST FORM DURING TRAVEL TO DIFFERENT CARE SETTINGS. THE PHYSICIAN KEEPS A COPY.**

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_

DATE OF BIRTH (MM/DD/YYYY) \_\_\_\_\_

Male  Female

MOLEST NUMBER (THIS IS NOT AN MOLEST FORM) \_\_\_\_\_

### Do-Not-Resuscitate (DNR) and Other Life-Sustaining Treatment (LST)

This is a medical order form that tells others the patient's wishes for life-sustaining treatment. A health care professional must complete or change the MOLST form, based on the patient's current medical condition, values, wishes and MOLST instructions. If the patient is unable to make medical decisions, the orders should reflect patient wishes, as best understood by the health care agent or surrogate. A physician must sign the MOLST form. All health care professionals must follow these medical orders as the patient moves from one location to another, unless a physician examines the patient, reviews the orders and changes them.

**MOLST is generally for patients with serious health conditions. The patient or other decision-maker should work with the physician and consider asking the physician to fill out a MOLST form if the patient:**

- Wants to avoid or receive any or all life-sustaining treatment.
- Resides in a long-term care facility or requires long-term care services.
- Might die within the next year.

**If the patient has a developmental disability and does not have ability to decide, the doctor must follow special procedures and attach the appropriate legal requirements checklist.**

### SECTION A Resuscitation Instructions When the Patient Has No Pulse and/or Is Not Breathing

Check *one*:

**CPR Order: Attempt Cardio-Pulmonary Resuscitation**

CPR involves artificial breathing and forceful pressure on the chest to try to restart the heart. It usually involves electric shock (defibrillation) and a plastic tube down the throat into the windpipe to assist breathing (intubation). It means that all medical treatments will be done to prolong life when the heart stops or breathing stops, including being placed on a breathing machine and being transferred to the hospital.

**DNR Order: Do Not Attempt Resuscitation (Allow Natural Death)**

This means do not begin CPR, as defined above, to make the heart or breathing start again if either stops.

### SECTION B Consent for Resuscitation Instructions (Section A)

The patient can make a decision about resuscitation if he or she has the ability to decide about resuscitation. If the patient does NOT have the ability to decide about resuscitation and has a health care proxy, the health care agent makes this decision. If there is no health care proxy, another person will decide, chosen from a list based on NYS law.

SIGNATURE \_\_\_\_\_  Check if verbal consent (Leave signature line blank) DATE/TIME \_\_\_\_\_

PRINT NAME OF DECISION-MAKER \_\_\_\_\_

PRINT FIRST WITNESS NAME \_\_\_\_\_

PRINT SECOND WITNESS NAME \_\_\_\_\_

**Who made the decision?**  Patient  Health Care Agent  Public Health Law Surrogate  Minor's Parent/Guardian  §1750-b Surrogate

### SECTION C Physician Signature for Sections A and B

PHYSICIAN SIGNATURE \_\_\_\_\_ PRINT PHYSICIAN NAME \_\_\_\_\_ DATE/TIME \_\_\_\_\_

PHYSICIAN LICENSE NUMBER \_\_\_\_\_

PHYSICIAN PHONE/PAGER NUMBER \_\_\_\_\_

### SECTION D Advance Directives

Check all advance directives known to have been completed:

Health Care Proxy  Living Will  Organ Donation  Documentation of Oral Advance Directive

# OTHER LEGAL ISSUES

# DUTY TO ACT

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- ✓ EMT has an obligation to act
- ✓ Implied obligation- ambulance is called, dispatched, and care is initiated
- ✓ Formal- Service has a contract with municipality. Clause should indicate if and when service can be refused.
- ✓ No NYS laws regarding duty to act.

MORAL / ETHICAL CONSIDERATIONS

# NEGLIGENCE

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Deviation from the accepted standard of care resulting in further injury to patient

- ✓ Duty to Act
- ✓ Breach of the Duty
- ✓ Injury / damages were inflicted
- ✓ Actions of EMT caused injury / damage
- ✓ EMT may be held liable in civil proceedings

# ABANDONMENT

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Termination of care of the patient without assuring the continuation of care at the same level or higher

- ✓ Turned over to Paramedic or hospital
- ✓ Turned over to transporting unit of same or higher level of care

# ASSAULT

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- ✓ Unlawfully touching a patient without their consent
- ✓ Providing emergency care when the patient does not consent to the treatment

# CONFIDENTIALITY

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- ✓ Information consists of:
  - patient history obtained through interview
  - assessment findings
  - treatment rendered

## HIPPA

Health Insurance Portability and Accountability  
Act

# RELEASE OF CONFIDENTIAL INFORMATION

- ✓ Requires written release signed by patient
- ✓ Guardianship must be established

When a release is not required:

- ✓ Other health care providers with need to know
- ✓ Third party billing forms
- ✓ Legal subpoena
- ✓ Statewide data collection

# GOOD SAMARITAN LAWS

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- ✓ Grants immunity from liability if person acts in good faith within level of training
- ✓ Rarely applies to on-duty personnel
- ✓ Does not protect from gross negligence or violations of law
- ✓ NYS PHL Section 3000-a

# THINK ABOUT IT

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- ✓ You arrive on scene of a cardiac arrest and family states patient has a DNR but cannot produce. How should you handle this??
- ✓ You are off duty and arrive on scene of a MVA. Police and Fire have yet to arrive. Are you legally obligated to stop and render aid??

Indicates serious  
medical condition

- ✓ Allergies
- ✓ Diabetes
- ✓ Epilepsy
- ✓ Others



**MEDICAL IDENTIFICATION DEVICES**

# ORGAN DONOR

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- ✓ Person with completed legal document allowing donations of organs and tissues in event of death
- ✓ Identified by family, donor card, driver's license
- ✓ Contact medical control and receiving hospital

# SAFE HAVEN LAWS

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- ✓ Allows a parent to abandon a newborn baby up to 30 days of age
- ✓ Must be with appropriate person or location
- ✓ Must promptly notify an appropriate person
- ✓ Does not have give their name

Protects children who may otherwise be abandoned or harmed

# CRIME SCENES

- ✓ Location of where crime was committed
- ✓ Once scene is safe, EMTs priority is patient care
- ✓ Know what evidence is
- ✓ Know how to preserve evidence



# EXAMPLES OF EVIDENCE

- ✓ Condition of scene
- ✓ Patient
- ✓ Fingerprints and footprints
- ✓ Microscopic
- ✓ Weapons
- ✓ Furniture
- ✓ Entry points



# EVIDENCE PRESERVATION

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- ✓ Remember what you touch
- ✓ Minimize impact on scene
- ✓ Work with police
- ✓ Do not disturb any item unless care requires to do so

# EVIDENCE PRESERVATION

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- ✓ Stretcher sheet may be valuable if transported
- ✓ If possible do not cut through holes in clothing caused by weapon
- ✓ Consider your entry points, what you touch, and where you step
- ✓ Document anything unusual and all actions

*Remember you may be a key witness*

# MANDATORY REPORTING

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- ✓ EMT's are mandatory reporters per NYS law
- ✓ Can be held criminally and civilly liable if failure to report
- ✓ Oral report to NYS Office of Children and Family Services 1-800-635-1522
- ✓ Hotline is staffed 24 hours
- ✓ CPS will make a determination within 60 days, reporter may ask to be notified

# MANDATORY REPORTING

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- ✓ Must report abuse and/or maltreatment
- ✓ Must have a reasonable cause to suspect either
- ✓ Can be physical abuse, sexual abuse, maltreatment, and/or neglect

# PHYSICAL ABUSE INDICATORS

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- ✓ Injuries to the eyes or both sides of the head or body
- ✓ Frequent injuries of the same type
- ✓ Destructive, aggressive, or disruptive behavior
- ✓ Passive, withdrawn, or emotionless behavior
- ✓ Fear of going home, or fear of parents
- ✓ THEY TELL YOU!!!!

# INDICATORS OR SEXUAL ABUSE

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- ✓ Symptoms of sexually transmitted disease
- ✓ Injury to genital area
- ✓ Difficulty and/or pain when sitting or walking
- ✓ Sexually suggestive, inappropriate, or promiscuous behavior
- ✓ Expressing age inappropriate knowledge of sexual relations
- ✓ Sexual victimization of other children

# INDICATORS OF MALTREATMENT

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- ✓ Obvious malnourishment, listlessness, or fatigue
- ✓ Stealing or begging for food
- ✓ Lack of personal care
- ✓ Lack of apparent medical care
- ✓ Frequent absence or tardiness from school
- ✓ Inappropriately left unattended

# CONSIDERATIONS

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Consider the family if your report is without merit

Should CPS determine a need for an investigation, the family will suffer many hardships during the investigation

QUESTIONS??????

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[http://www.youtube.com/watch?v=dBoKorve6Cg  
&feature=player\\_detailpage](http://www.youtube.com/watch?v=dBoKorve6Cg&feature=player_detailpage)