



STATE OF DELAWARE
Child Death Review Commission (CDRC)
Policy and Procedure

Statutory Duties to Report

Purpose:

The primary purpose of the CDRC is to review deaths of children and maternal deaths and provide its findings or recommendations to alleviate practices or conditions which impact the mortality of children or pregnant women, in order to safeguard their health and safety. In meeting this purpose, the CDRC must also comply with statutory requirements to report suspected child abuse and neglect (16 Del. C. §903) and to report suspected unprofessional conduct by a medical professional (24 Del. C. §1731A.)

Policy:

This policy and procedure will outline the process for complying with CDRC's statutory duty to report child abuse or neglect and unprofessional conduct by a medical professional by reporting CDRC cases to the appropriate authority where there is a statutory requirement to do so.

Legislative Authority:

24 Del. C. §1731A. (a)
16 Del. C. §903

Procedure:

Reports of Child Abuse or Neglect

A CDRC Commissioner, employee, panel participant or a panel that knows or reasonably suspects child abuse or neglect shall promptly contact the Department of Services for Children, Youth and their Families (DSCYF) Hotline at 1-800-292-9583. The CDRC Executive Director shall be responsible for making said report on behalf of any panel or committee and shall notify the panel or committee members when the report is made.

Delaware law *mandates* any person, agency, organization or entity to make an immediate oral report to the Department of Services for Children, Youth and Their Families when they know of, or suspect, child abuse or neglect under Chapter 9 of Title 16 of the *Delaware Code* and to follow up with any requested written reports ([16 Del. C. §903](#)).

Confidentiality: All reports to the hotline are confidential pursuant to 42 U.S.C § 5106(a) and the identity of the reporter shall be confidential. In addition, all records of CDRC, including the making of this report, are confidential pursuant 31 [Del. C. § 324](#).

Safety Concerns

A CDRC employee, panel participant or panel that identifies safety concerns in an active DSCYF case shall immediately report those concerns to DSCYF. The CDRC Executive Director shall be responsible for making said report of safety concerns on behalf of any panel or committee. The CDRC Executive Director shall promptly contact the Division of Family Services (DFS) Office of Children's Services Administrator and specifically outline the safety concerns. This report shall NOT be used in lieu of a hotline report for suspected child abuse or neglect, but may be made in addition to a report of suspected child abuse or neglect.

***Confidentiality:* All records of CDRC, including the making of this report, are confidential pursuant 31 [Del. C. § 324](#).**

Failure to Report Child Abuse or Neglect to DSCYF

A CDRC employee, panel participant or panel that identifies an entity or person who failed to report a case of suspected child abuse or neglect to DSYF shall immediately report such person to the Department of Justice (DOJ) and the Division of Professional Regulation, if applicable. The CDRC Executive Director shall be responsible for making said report on behalf of any panel or committee. The CDRC Executive Director shall promptly contact the Department of Justice designee and specifically outline the following:

- Child's name/Family's name.
- Name of person or entity that failed to report.
- DFS Caseworker name if available.
- Documentation demonstrating the failure to report.

If the person failing to report is a licensed professional, the CDRC Executive Director shall also promptly report that individual to the Division of Professional Regulation at <http://dpr.delaware.gov/boards/investigativeunit/filecomplaint.shtml>.

Confidentiality: All records of CDRC, including the making of this report, are confidential pursuant to 31 Del. C. § 324.

Reporting Unprofessional Conduct by Medical Professionals

Delaware law mandates that all State agencies other than law enforcement agencies, as well as individual medical providers, report a medical practitioner licensed by the Board of Medical Licensure and Discipline when they *reasonably* believe that the practitioner is (or may be) guilty of unprofessional conduct or that the practitioner is unfit to practice (24 Del. C. §1731A).

The term medical practitioner means anyone who is licensed by the Board of Medical Licensure and Discipline, including physicians, physician assistants, paramedics, respiratory practitioners, acupuncture practitioners, polysomnographers, midwifery practitioners, and genetic counselors. Unprofessional conduct is explained in 24 Del. C. §1731.

The license law and regulations of most healthcare professions mandate persons licensed in that profession to report other licensees in that profession under certain circumstances. For example, the Delaware Board of Nursing's Rules and Regulations require Delaware-licensed nurses to report unsafe nursing practices or conditions.

For the license law and regulations of each healthcare profession, go to the Division of Professional Regulations website at www.dpr.delaware.gov. to see each profession's website and to file a complaint. Each profession's licensees are notified of their mandatory duties to report. You should review the specific licensing requirements for your profession.

Therefore, if any medical provider is conducting a medical abstraction of CDRC records as a CDRC contractor, their individual obligations under the medical practices act apply or under their individual professional licensing statute. That individual should inform the CDRC Executive Director of the report for tracking purposes.

The narrative to DPR shall contain the following:

- Issue of concern.
- The names of the records reviewed.
- Reference to the CDRC statute.
- A highlighted bold statement (see below) that this referral shall be kept **confidential** pursuant to 31 Del. C. § 324.¹

§ 324 Confidentiality of records and immunity from suit.

¹ Although DPR may attempt to keep the referral confidential, they cannot guarantee confidentiality. The duty to report mandates that a report be made whether or not the report is kept confidential.

(a) The records of the Commission and of all committees, regional panels, Fetal and Infant Mortality Review Case Review Teams, and Community Action Teams, contractors, and volunteers, including original documents and documents produced in the review process with regard to the facts and circumstances of each death or stillbirth, are confidential and may not be released to any person except as expressly provided in Subchapter II of this chapter. Such records must be used by the Commission, committees, and any regional panel or team, and its staff, contractors, and volunteers, only in the exercise of the proper function of the Commission, regional panel, or team and are not public records. Such records, together with the summary information, findings, and recommendations therefrom are not available for court subpoena or subject to discovery, are not admissible into evidence or otherwise in any civil, criminal, administrative, or judicial proceeding, and are not considered binding under claim or issue preclusion doctrines.

During the course of a CDRC team/panel meeting, if a report needs to be made in good faith on behalf of the team/panel, the CDRC ED will submit the report to Division of Professional Regulation (DPR). The narrative will include the previous list under individual reports.