KARLY'S LAW
ORS 419B.022 THROUGH 419B.024

Suspicious physical injuries

Suspicion that injuries are caused by abuse must be addressed in the coordinated comprehensive way required by Karly's Law.

As discussed below, Karly's Law has three core components: Designate a DMP. Photograph the injuries and share the photos with the DMP. Perform a medical assessment within 48 hours of identifying suspicious physical injuries.

Note: With the passage of 2009's HB 2449, there are no exceptions to Karly's Law suspicious physical injury documentation requirements. If a responder encounters a child with broken bones and scalding burns and the parent admits to abusing the child, the injuries still must be documented in accordance with Karly's Law. Per statute, if the first responder "is certain" that the injuries were caused by abuse, Karly's Law protocols must be followed. Photographs must be taken immediately and an assessment must be conducted by the DMP within 48 hours of the initial report.

In addition to DHS workers, every law enforcement officer who might encounter children should carry a camera that is capable of sending digital pictures. Every MDT protocol should include provisions for sharing Karly's Law photographs electronically.

B. CORE REQUIREMENTS

Karly's Law has three essential requirements. The requirements are specified in detail in the Oregon Revised Statutes (ORS).

- 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 (DMP) who is trained and regularly available to conduct medical assessments as described in ORS 418.782(2).

- Any person conducting an investigation who observes a child who has suffered suspicious physical injury must ensure that a DMP conducts a medical assessment within 48 hours.

C. PHOTOGRAPHS

According to 419B.023 (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 team described in ORS 418.747:
(a) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028;"

To photograph a suspicious physical injury, investigators must first be able to consistently identify what a suspicious physical injury is. The legislation gives a detailed definition of suspicious injury, which 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

Do not overlook the last five, which might be difficult to recognize in some cases. Upon the identification of any such suspicious physical injury, the injuries must be photographed IMMEDIATELY per statute.

Karly's Law gives direction regarding the taking, development, and maintenance of photographs in suspicious physical injury cases. Pursuant to 419B.023 (3), photographs MUST be taken:

- Each time suspicious physical injury is observed by DHS 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 photographs, unless the injuries are anogenital injuries. In accordance with ORS 419B.028 (1), in a case where anogenital injuries are present, only medical personnel may photograph the child's injuries. As a result of Karly's Law's photography requirement, investigators must ensure they have the appropriate equipment to take the required photographs. DOJ intends to provide Karly's Law refresher training during Annual MDT days. Also, MDTs and CAICs should contact

the CAMI Regional Service Provider in their region for assistance with photography of injuries.

ORS 419B.028 (2) directs that 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 DMP 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. *Preserve evidence of the child's condition at the time of the investigation!*

- 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 ORS 418.747 (10)].

As a result of the above statutory requirements regarding the taking, development, and maintenance of these photographs, MDTs must include these elements in their protocols in order to ensure that these photographs are being taken in suspicious physical injury cases. For the 2011-2013 biennium, the CAMI Program requires Karly's Law Protocol to be one of five separate and distinct MDT child abuse intervention protocols.

Reminder: There is no exemption for Karly's Law photography requirements. Agencies cannot simply decide that someone is too busy to comply with this aspect of the law. CAMI staff is available to provide assistance to MDTs if compliance with Karly's Law in the field is or becomes problematic.

Although the CAMI Program revised the reporting requirements for the 2011-2013 biennium, MDTs will have to report on the ongoing activities related to this process. Refer to Section IV, Required Reporting, for more information on Karly's Law reporting requirements. DOJ will monitor Karly's Law reports closely for compliance questions.

D. DESIGNATED MEDICAL PROFESSIONAL (DMP)

ORS 418.747 (9) 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[1], 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 ORS 419B.023."

As MDTs work to comply with the medical assessment component of this bill, a clear understanding of who is to provide medical assessments, and how, is essential. As ORS

[1] Defined in Section E below.

418.474 (9) states, the DMP can be a physician, physician assistant or nurse practitioner; may be located within the same county as the MDT or in another county; in a CAIC; or in another type of medical facility. The only requirements of the DMP are:

- Trained to perform child abuse medical assessments as defined in ORS 418.782
- Regularly available to conduct these examinations

In order to meet the requirement of Karly's Law, MDTs may have to recruit or train a DMP for the county. As a result, MDT resources may have to be allocated towards this purpose. [2]

As with the photograph requirement of the bill, there is ongoing data collection attached to this requirement. Through the 2011-2013 CAMI Program grant application and subsequent bi-annual reports, MDTs must submit information to DOJ that:

- identifies their DMP and provides information regarding their training and availability; or,
- in cases when an MDT is unable to identify a DMP for their county, they must submit a written plan which describes how they will recruit and train a DMP 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.

E. MEDICAL ASSESSMENTS FOR SUSPICIOUS PHYSICAL INJURY CASES

ORS 419B.023 (2) states:
"*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."

Further, ORS 418.796(2) defines child abuse medical assessment as: *an assessment by or under the direction of a licensed physician or other licensed health care professional trained in the evaluation, diagnosis and treatment of child abuse. "Child abuse medical assessment" includes taking a thorough medical history, a complete physical examination, and an interview for the purpose of making a medical diagnosis, determining whether or not the child has been abused and identifying the appropriate treatment or referral for follow-up for the child.*

In order to ensure the child's safety, medical assessments are required <u>within 48 hours of the identification of suspicious physical injuries</u> (not within 48 hours of the injury itself).

[2] CAMI Program staff will work with RSPs in 2011 to design technical assistance that may help those MDTs that are struggling to identify a DMP.

This helps to ensure the child's health, safety, and well-being, and also helps the MDT collect, document, and preserve important and often quickly disappearing evidence.

Children heal rapidly; often by the time the child is seen by a physician, the injuries are no longer visible. Requiring suspected abuse victims to be assessed by the DMP makes certain that children will be seen by well-trained and qualified child abuse interveners.

Additional statutory language gives further direction to the MDT 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 DHS 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.

In recognition that not all suspicious physical injuries will fall within regular working hours or on-call hours when the DMP is available, statutory allowances are made: If, after a reasonable effort, law enforcement or DHS personnel are unable to have the child seen by the DMP, the child MUST be seen *by any available physician*. MDT Karly's Law protocol should establish guidelines for DHS workers or LEA to use for contacting medical professionals. If a child is seen by a physician other than the DMP, the physician conducting the exam:

- SHALL make photograph, clinical notes, diagnostic and testing results and any other relevant materials available to the DMP 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 medical assessments by a DMP 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 Karly's Law 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 requirements in Karly's Law regarding medical assessments require the MDT to refine protocols regarding physical abuse cases. Each of the 36 MDTs in Oregon

have a unique set of protocols. Therefore, each MDT must consider the requirements of Karly's Law and incorporate these statutory requirements into their local protocols.

Medical assessment information will be collected in the CAMI Bi-Annual MDT Statistical Report. Be prepared to identify how many medical assessments were completed during the reporting period, and be prepared to separately specify how many Karly's Law assessments were completed within the 48 hour timeframe. Refer to Section IV, Required Reporting, for more information.

F. Other Important Requirements

1. Early Intervention: Karly's Law includes additional requirements 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 or Head Start services, the MDT SHALL invite the person involved in the delivery of those services to participate in the MDT's review of the child's case (See ORS 419B.023 (6)). MDTs have the option of inviting the Early Intervention or Head Start 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.

2. Critical Incident Response Team (CIRT): ORS 419B.024 requires the assignment of CIRT by DHS 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.

DHS shall adopt rules necessary to carry out the provisions of this section. The rules shall substantially conform to the department's child welfare protocol regarding Notification and Review of Critical Incidents.

Photographing Injuries

- Photographs:
  - 1st photo: Full body photo of child
  - 2nd photo: If injury on arm, then photo of arm
  - 3rd photo: closer shot of injury
  - 4th photo: close up shot using "flower " or "macro setting
  - 5th photo: close up shot with measuring device

Take multiple photos, making sure each are in focus prior to moving onto the next photo.

Appendix 2.5

JUSTIFYING A PARENT/CAREGIVER CAN AND WILL PROTECT

A Reference Guide

The following are examples of family situations which should support the determination that a parent or caregiver can and will protect the child against threats to child safety. In some situations, more than one of these conditions would be necessary to support and confirm a parent's/caregiver's capacity to protect.

☐ Parent/Caregiver has demonstrated the ability to protect the child in the past while under similar circumstances and family conditions.

☐ Parent/Caregiver has made appropriate arrangements which have been confirmed to assure that the child is not left alone with the perpetrator. This may include having another adult present within the home who is aware of the protective concerns and is able to protect the child.

☐ Parent/Caregiver can specifically articulate a plan to protect the child, such as the parent/caregiver leaving when a situation escalates, calling the police in the event the restraining order is violated, etc.

☐ Parent/Caregiver believes the child's report of abuse or neglect and is supportive of the child.

☐ Parent/Caregiver is physically able to intervene to protect the child.

☐ Parent/Caregiver does not have significant individual needs which might affect the safety of the child, such as severe depression, lack of impulse control, medical needs, etc.

☐ Parent/Caregiver has asked, demands, expects the perpetrating adult to leave the household and can assure the separation is maintained effectively.

☐ Parent/Caregiver has adequate resources necessary to meet the child's basic needs.

☐ Parent/Caregiver is capable of understanding the specific threat to the child and the need to protect.

☐Parent/Caregiver has adequate knowledge and skill to fulfill caregiving responsibilities and tasks. This may involve considering the parent's/caregiver's ability to meet any exceptional needs that the child might have.

☐ Parent/Caregiver is cooperating with the caseworker's efforts to provide services and assess the specific needs of the family.

☐ There is no precedence for the current abuse or neglect in respect to type and severity, and the parent/caregiver demonstrates appropriate concern and intolerance.

☐ Parent/Caregiver is emotionally able to carry out a plan and/or to intervene to protect the child (parent/caregiver not incapacitated by fear of the perpetrator).

☐ Parent/Caregiver has legally separated from the perpetrator and has/does demonstrate behavior to suggest he or she will not reunite until circumstance warrants or they are proceeding with divorce action.

☐ Parent/Caregiver displays concern for the child and the child's experience and is intent on emotionally protecting the child.

☐ Parent/Caregiver and child have strong bond, and parent/caregiver is clear that the number one priority is the well-being of the child.

☐ The parent/caregiver consistently expresses belief that the perpetrator is in need of help and that he or she supports the perpetrator getting help. This is parent's/caregiver's point of view without being prompted by CPS.

☐ While the parent/caregiver may be having a difficult time believing the other person would abuse or neglect the child, the parent/caregiver describes the child as believable and trustworthy. Parent/Caregiver does not place responsibility on the child for the problems of the family.

Safety Service Provider Assessment
(Refer to Oregon DHS Policy I-AB.7)

When using people within the family network to participate in and have responsibilities in a safety plan, the caseworker must assess whether the individuals are appropriate. This should remind us that family protective resources, in particular individuals within the family network, cannot be considered acceptable only on the recommendation of the child's parents and/or part of the family network.

How do you assess a person as a safety service provider? What questions should guide you as you consider whether someone who is available as a family protective resource is appropriate to manage safety in a safety plan?

Some General Questions

Is the person a responsible adult who is physically and cognitively appropriate to ensure safety?

Does the person understand what the threats are and accept them as existing, serious and safety concerns?

Does the person have a sufficiently strong will and personality so that he or she cannot be influenced by the child's family members?

Is the person fully aware of and committed to their assigned tasks in the safety plan or protective action?

Is the person available and ready to begin the same day the safety plan or protective action is enacted?

Can the person complete his or her responsibilities throughout the life of the safety plan or protective action?

Is the person accessible which means in close proximity with transportation and easily and immediately reachable as required by the safety plan/protective action?

Does the person possess a keen sense of perception about things happening around him or her?

Is the person prepared, trained and skilled in a particular area of competency required by the safety plan/protective action?

Is the person trustworthy, willing to work with the Agency in a cooperative/collaborative relationship and willing to communicate regularly concerning all matters associated with the safety plan/protective action?

Does the person have a precise understanding of the schedule, activities and expectations contained in the safety plan/protective action?

More Specific Questions

Is the person's viewpoint toward the child appropriate and realistic?

Is the person's attitude toward whether the child contributed to the need for a safety plan, a placement or family problems consistent with the facts and appropriate?

Is the person's attitude toward the child's parents appropriate and realistic?

Does the person accept DHS involvement?

Does the person possess the ability to perform the basic care and/or activities exactly as needed for the safety plan/protective action?

Does the person's use of substances in any way that would impact the persons' ability to perform expected responsibilities.

Are the person's beliefs about what happened requiring safety intervention and who is responsible reasonable and appropriate?

Does the person possess the knowledge, skill and motivation necessary?

Is the person currently involved in any criminal activity or does he or she have a history of criminal behavior that would impact the person's ability to perform expected responsibilities?

Does the person possess sufficient resources to meet his or her responsibilities?

Is the person involved in domestic violence in any way that would impact the person's ability to perform expected responsibilities?

Does the person have an active Child Welfare case or history of being a Child Welfare case that would impact the person's ability to perform expected responsibilities?

Does the person have a history of being protective of and providing acceptable care to children?

All of these questions may seem daunting. The idea we are attempting to express by laying out all kinds of things you should know in order to qualify a family network member as suitable to be part of a safety plan/protective action is to "know as much as you can as soon as you can." It is conceivable that you may have to rely on a person within the family network to provide protection for a child in an emergent situation when a protective action is necessary. Such circumstances may not allow you the opportunity to fully "vet" the person, but as long you are relying on the person to provide protection you should continue to seek the answers to these kinds of questions to reinforce your confidence in his or her suitability.