

(c) Notification of services.--Upon the initiation of an assessment, investigation or the provision of services by a county agency, an authorized official of the county agency shall notify the certified medical practitioner who is the child's primary care provider and other certified medical practitioners who are providing ongoing care to the child of the following information:

- (1) The reason that the county agency is involved with the child.
- (2) Any service plan developed for the child and the child's family.

**Comment to § 6340.1**

This section is intended to promote the flow of information between medical personnel who are involved with the child who is a subject of the report of suspected child abuse and the county agency or law enforcement to provide better input regarding the medical care and follow-up treatment of the child. The federal Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. § 5101 *et seq.*, specifically authorizes release of information to other entities or classes of individuals authorized by statute to receive information pursuant to a legitimate state purpose.

This section specifically authorizes physicians to report children believed to be in need of general protective services without parental consent under the exclusion found in the federal Health Insurance Portability and Accountability Act (HIPAA), at 45 C.F.R. § 164.512(c).

Under HIPAA, written authorization is not required when reporting child abuse to an appropriate government authority authorized by law to receive reports of child abuse and neglect. (45 C.F.R. § 164.512(b)(1)(ii)) Lack of parental consent is seen as a bar to physicians attempting to report children in need of general protective services (GPS), because they are not identified as child abuse cases. However, § 6373(a)(2) specifically cites as one of the goals of general protective services the prevention of abuse, neglect or exploitation. HIPAA permits disclosure when the physician reasonably believes a person is a victim of abuse, neglect or domestic violence, to a government authority, including a social service or protective services agency authorized by law to receive reports of such abuse, neglect or domestic violence to the extent the disclosure complies with and is limited to the relevant requirements of the law. The disclosure must be expressly authorized by statute or regulation, and the physician, in the exercise of professional judgment, must believe the disclosure is

necessary to prevent serious harm to the individual (in GPS cases, the child). Generally, the physician is required to notify the individual of the report (or the individual's personal representative, *i.e.*, the parent of a child) UNLESS the physician believes that the personal representative (*e.g.*, the parent) is responsible for the abuse, neglect or domestic violence and that informing such person, in the physician's professional judgment, would not be in the best interests of the individual. Further, notice to the individual (child) is not required if notifying the individual will place the individual at risk of serious harm. (45 C.F.R. § 164.512(c))

[§ 6341. Amendment or expunction of information.

(a) General rule.--At any time:

(1) The secretary may amend or expunge any record under this chapter upon good cause shown and notice to the appropriate subjects of the report.

(2) Any person named as perpetrator, and any school employee named, in an indicated report of child abuse may, within 45 days of being notified of the status of the report, request the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter.

(b) Review of grant of request.--If the secretary grants the request under subsection (a)(2), the Statewide central register, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 45 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide central register shall comply with the decision of the secretary and advise the county agency to