

## Definitions of Types of Child Abuse

### *Reference Document for Child Caring Agencies (CCA) and Proctor Foster Homes*

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There are two places where the types of child abuse are defined:

- Oregon Revised Statute (ORS) 419B.005 that applies to all children
- Senate Bill (SB) 1515, Section 36 (Oregon Laws 2016, Chapter 106, Section 36) that includes additional types of abuse that apply specifically to children residing in or receiving services from a Child-Caring Agency (CCA)

CCA employees are mandatory reporters of child abuse and are required to report to the Oregon Department of Human Services (DHS) or law enforcement. Reports are required when an employee suspects a child the employee has come into contact with has suffered abuse or when the employee suspects a person the employee has come into contact with has abused a child.

The purpose of this document is to provide CCA employees with an overview of the types of abuse to be reported under both statutes. Please note the additional descriptive language used in this document for *physical restraint*, *chemical restraint* and *involuntary seclusion* is taken from the licensing and Behavior Rehabilitation Service (BRS) rules.

Statute and rules can change. This document reflects definitions in place in October 2016. For more information, regularly check the DHS Administrative Rules and Policies webpage at <http://www.oregon.gov/DHS/POLICIES/Pages/index.aspx>.

#### **DHS Key Contacts:**

- *Harry Gilmore, Children's Care Licensing Unit/Office of Licensing & Regulatory Oversight, 503.373.0217*
- *Deb Carnaghi, Child Welfare Child Protective Services, 503.799.6778*
- *Peter Rosenblatt, Child Welfare Child Well-Being Unit (for BRS providers), 503.945.5732*
- *Therese Hutchinson, Office of Adult Abuse Prevention & Investigations, 503.945.7176*

## ORS 419B.005

*Types of Abuse: Neglect, Physical Abuse, Sexual Abuse, Mental Injury, Threat of Harm and Other*

### **Applies to:** All Children

(1) **Neglect.** Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(2) **Physical Abuse.** Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury. "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(3) **Sexual Abuse.**

(a) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(b) Sexual abuse, as described in ORS chapter 163.

(c) Sexual exploitation, including but not limited to:

(A) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(B) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(4) **Mental Injury.** Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(5) **Threat of Harm.** Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(6) **Other.** The following abuse may be categorized under the **Neglect or Threat of Harm** abuse types:

(a) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) Buying or selling a person under 18 years of age as described in ORS 163.537.

(c) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

## **SB 1515, Section 36 (Oregon Laws 2016, Chapter 106, Section 36)**

*Types of Abuse: Neglect, Physical Abuse, Sexual Abuse, Verbal Abuse, Involuntary Seclusion, Wrongful Use of Restraint, Financial Exploitation, Abandonment*

### **Applies to:** Children residing in or receiving services from a Child-Caring Agency

(1) **Neglect**, which includes:

- (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home*; or
- (b) The failure of a *child-caring agency*, *proctor foster home*, *caregiver*, or other person to make a reasonable effort to protect a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* from abuse.

(2) **Physical abuse**, which includes:

- (a) Any physical injury to a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* caused by other than accidental means, or which appears to be at variance with the explanation given of the injury; or
- (b) Willful infliction of physical pain or injury upon a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home*.

(3) **Involuntary seclusion** of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* for the convenience of a child-caring agency or caregiver or to discipline the *child* or *young adult*.

"Seclusion" in licensing and BRS rules means that a child in care is involuntarily confined to an area or room, and is physically prevented from leaving.

(4) **Sexual abuse**, which includes:

- (a) Sexual harassment, sexual exploitation as described in ORS 419B.005 (1)(a)(E) or inappropriate exposure to sexually explicit material or language;
- (b) Any sexual contact as described ORS 163.305 (1)(a)(E) between a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* and an employee of a *child-caring agency*, a proctor foster parent, caregiver, or other person responsible for the provision of care or services to such a *child* or *young adult*;
- (c) Any sexual contact between a person and a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* that is unlawful under ORS chapter 163 and not subject to a defense under that chapter;
- (d) Any sexual contact that is achieved through force, trickery, threat, or coercion; or
- (e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(5) **Verbal abuse**.

- (a) Verbal abuse includes threatening significant physical or emotional harm to a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* through the use of:
  - (A) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
  - (B) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(b) Verbal abuse does not include age-appropriate discipline that may involve the threat to withhold privileges.

(6) **A wrongful use of a physical or chemical restraint** of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home*, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

"Physical restraint" in licensing and BRS rules means the act of restricting a child in care's voluntary movement as an emergency measure in order to manage and protect the *child in care* or others from injury when no alternate actions are sufficient to manage the child in care's behavior. "Physical restraint" does not include temporarily holding a *child in care* to assist him or her or assure his or her safety, such as preventing a *child in care* from running onto a busy street.

"Chemical restraint" in licensing and BRS rules means the administration of medication for the management of uncontrolled behavior, is prohibited. Chemical restraint is different from the use of medication for treatment of symptoms of severe emotional disturbances or disorders.

(7) **Financial exploitation.**

(a) Financial exploitation includes:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home*;

(B) Alarming a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* by conveying a threat to wrongfully take or appropriate moneys or property of such a *child* or *young adult* if the *child* or *young adult* would reasonably believe that the threat conveyed would be carried out;

(C) Misappropriating, misusing or transferring without authorization any moneys from any account held jointly or singly by a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home*; or

(D) Failing to use the income or assets of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* effectively for the support and maintenance of such a *child* or *young adult*.

(b) Financial exploitation does not include age-appropriate discipline that may involve the threat to withhold, or the withholding of, privileges.

(8) **Abandonment**, which includes desertion or willful forsaking of a *child* or *young adult* residing in or receiving services from a *child-caring agency* or a *proctor foster home* or the withdrawal or neglect of duties and obligations owed such a *child* or *young adult* by a child-caring agency, caregiver or other person.

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