

# **Medical and Legal Protocol for Dealing with Victims of Domestic Violence**

**New York State Office for the Prevention of Domestic Violence  
80 Wolf Road  
Albany, NY 12205  
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# Medical and Legal Protocol for Dealing with Victims of Domestic Violence

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**A note about our use of gender specific language:** Because the vast majority of victims of adult domestic violence are women who are abused by their male partners, the content of the protocol refers to victims as female and abusers as male. However, the majority of the content in this protocol will apply to all victims regardless of their gender or the gender of their partner, including gays, lesbians, transgender people and men who are physically abused by their female partners.

# Medical and Legal Protocol for Dealing with Victims of Domestic Violence

## Overview

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### Introduction

Domestic violence is a health care problem of pandemic proportion with far reaching implications. Women in the US make close to 700,000 visits to the health care system per year as a result of injuries due to physical assault.<sup>1</sup> This number does not reflect the visits made for numerous chronic health problems exacerbated by domestic violence such as depression, substance abuse and hypertension.

Many patients are discharged with only the presenting symptoms or injuries having been treated, leaving the underlying cause of the problem, domestic violence, unaddressed. Failing to identify domestic violence can result in incorrect diagnosis, costly unnecessary testing, and increased utilization of health care services and hospitalizations.

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### Domestic Violence

Domestic violence is a pattern of coercive tactics that can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.<sup>2</sup>

Domestic violence occurs in all ethnic, religious, socio-economic, sexual preference and age groups.

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### Domestic Violence Myths

The following are often blamed as a “cause” for domestic violence:

- Alcohol/substance abuse
- Stress
- Socio-economic factors
- Anger/loss of control
- Another person’s behavior

While these factors may be **contributing**, they are not **causal**. Many people experience the above factors and do not abuse their partners.

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<sup>1</sup> Family Violence Prevention Fund, “Health Care Public Policy and Domestic Violence,” available from <http://endabuse.org/programs/printable/display.php3?DocID=209> ; Internet; accessed 12 April 2004.

<sup>2</sup> Model Domestic Violence Policy for Counties (New York: NYSOPDV, January 1998) p 1.

# Tactics & Clinical Cues

**Tactics & Clinical Cues**

Tactics of control may manifest in the following ways:

Tactics	Health Care Manifestations
<p><b><u>Physical Abuse</u></b></p> <ul style="list-style-type: none"> <li>• Biting</li> <li>• Grabbing</li> <li>• Punching</li> <li>• Shoving</li> <li>• Kicking</li> <li>• Slapping</li> <li>• Shooting</li> <li>• Stabbing, etc.</li> </ul> <ul style="list-style-type: none"> <li>• Withholding medication, medical care, medical equipment, nutrition</li> <li>• Forcing use of alcohol or other drugs</li> </ul>	<ul style="list-style-type: none"> <li>• Ecchymosis (bruises)</li> <li>• Lacerations, often to arms &amp; face</li> <li>• Headaches</li> <li>• Anxiety</li> <li>• Hyperventilation</li> <li>• Hypertension</li> <li>• Chest pains</li> <li>• Chronic pain</li> <li>• During pregnancy               <ul style="list-style-type: none"> <li>– Injury to abdomen, breasts, genitalia</li> <li>– Hemorrhaging, including placental separation</li> <li>– Uterine rupture</li> <li>– Miscarriage/stillbirth</li> <li>– Pre-term labor</li> <li>– Premature rupture of membranes</li> </ul> </li> </ul> <ul style="list-style-type: none"> <li>• Delay in seeking prenatal care</li> <li>• Frequently missed appointments</li> <li>• Lack of attendance to prenatal education</li> <li>• Poor nutrition</li> <li>• Continued use of cigarettes, drugs and/or alcohol during pregnancy</li> </ul>

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## Tactics & Clinical Cues, Continued

Tactics	Health Care Manifestations
<p><b><u>Psychological Abuse</u></b></p> <ul style="list-style-type: none"> <li>• Instilling, or attempting to instill fear through ridiculing or humiliating the victim</li> <li>• Destroying property</li> <li>• Threatening to harm self or victim</li> <li>• Blaming abuse on victim</li> <li>• Injuring, killing, or threatening to injure or kill pets</li> </ul>	<ul style="list-style-type: none"> <li>• Depression</li> <li>• Anxiety</li> <li>• Hypertension</li> <li>• Chronic muscle tension</li> <li>• Psychosomatic illness</li> <li>• Suicidal ideation</li> <li>• Homicidal ideation</li> <li>• Substance abuse</li> </ul>
<p><b><u>Sexual Abuse</u></b></p> <ul style="list-style-type: none"> <li>• Coercing, or attempting to coerce any sexual activity without consent               <ul style="list-style-type: none"> <li>– Rape, sodomy, attacks on sexual parts of the body</li> <li>– Unprotected sex</li> <li>– Sex with others</li> <li>– Prostitution</li> <li>– Degrading, sexually explicit behavior toward victim</li> <li>– Taking/showing sexually explicit film or photos and using them against the victim</li> </ul> </li> <li>• Attempts to undermine a person’s sexuality               <ul style="list-style-type: none"> <li>– Treating partner in a sexually derogatory manner</li> <li>– Criticizing sexual performance and desirability</li> <li>– Accusations of infidelity</li> <li>– Withholding sex</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• STD’s</li> <li>• HIV</li> <li>• Multiple pregnancies</li> <li>• Pregnancy-related injuries, usually around abdomen, breast and genitalia</li> <li>• Spontaneous abortion</li> <li>• Sexual assault injuries</li> <li>• Depression</li> <li>• Anxiety</li> </ul>

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## Tactics & Clinical Cues, Continued

Tactics	Health Care Manifestations
<p><b><u>Economic Abuse</u></b></p> <ul style="list-style-type: none"> <li>• Making, or attempting to make a person financially dependent</li> </ul>	<ul style="list-style-type: none"> <li>• Depression</li> <li>• Anxiety</li> <li>• Migraines/headaches</li> <li>• Reluctance to schedule additional tests, or accept needed prescriptions</li> </ul>
<p><b><u>Emotional Abuse</u></b></p> <ul style="list-style-type: none"> <li>• Undermining, or attempting to undermine, a person's self-worth               <ul style="list-style-type: none"> <li>– Constant criticism</li> <li>– Put downs</li> <li>– Insults</li> <li>– Name calling</li> <li>– Silent treatment</li> <li>– Manipulating feelings/emotions</li> <li>– Repeatedly making and breaking promises</li> <li>– Subverting partner's parenting and/or relationship with children</li> <li>– Threatening to harm, kill or abduct children</li> <li>– Using child visitation to harass victim</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Depression</li> <li>• Anxiety</li> <li>• Hypertension</li> <li>• Chronic muscle tension</li> <li>• Substance abuse</li> <li>• Suicidal ideation</li> <li>• Homicidal ideations</li> <li>• Psychosomatic illness</li> </ul> <p><b>***NOTE: Any pre-existing conditions can be exacerbated by domestic violence</b></p>

## Identification & Guidelines

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**Identification** To achieve early identification of domestic violence, private routine screening is recommended for all female patients over the age of 16. In addition, men and women in gay and lesbian relationships are also at risk for domestic violence and should be routinely screened. (Please review NYSDOH Guidelines for Integrating Domestic Violence Screening in Relation to HIV Counseling, Testing, Referral and Partner Notification found at <http://www.health.state.ny.us/nysdoh/rfa/hiv/protocol.htm> )

Patients receiving care in the emergency department, and surgical, primary care, pediatric, prenatal, substance abuse and mental health settings should be informed that **“Because intimate partner violence and abuse are so common, we screen for it routinely.”** This gender-neutral statement communicates to the patient that the physician is knowledgeable about domestic violence and does not assume that everyone is heterosexual.

If the patient does not disclose abuse, consider domestic violence if any of the following is observed:

- Injuries to face, neck, throat, chest, abdomen or genitals
- Evidence of sexual assault; vaginal/anal injuries
- Bilateral or patterned injuries
- Injuries during pregnancy
- Delay between injury and treatment
- Multiple injuries in various stages of healing
- Injury inconsistent with patient’s explanation
- Frequent use of emergency department services
- History of trauma related injury
- Chronic pain symptoms with no apparent etiology
- Repeated psychosomatic or emotional complaints
- Suicidal ideation or attempts
- An overly attentive or aggressive partner accompanying the patient
- Patient appears fearful of partner

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## Identification & Guidelines, Continued

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### Guidelines

The following guidelines are designed to assist medical personnel in treating victims of domestic violence.

1. Interview the patient in private. Ask any accompanying spouse, friend or family member to leave the treatment area. Questioning the patient about domestic violence in the presence of the abuser, suspected abuser or other family members may put the patient in extreme danger.
2. Convey an attitude of concern and respect for the patient and assure the confidentiality of any information provided.
3. Inform the patient of routine domestic violence screening policy and ask the patient directly if the injuries or complaints are the result of abuse by someone they know.
4. If domestic violence is disclosed, communicate to the victim that they are not alone, they are not to blame for the abuse, and that help is available.
5. Take the patient's history and conduct a thorough medical examination, with appropriate laboratory tests and x-rays. If the extent or type of injury is not consistent with the explanation the patient gives, note this in the medical record. A question to elicit information about site and cause of injury that might indicate domestic violence should be asked. Ask for specifics and document using the patient's own words.

“She threw a cup of coffee at me” is better than “We were arguing and things got out of hand.”

“Patient states that her husband, Joseph Smith, hit her with his belt” is better than “Patient has been abused.”

All emergency department logs should include a code for domestic violence.

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## Identification & Guidelines, Continued

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### Guidelines (continued)

6. Preserve physical evidence. Bag torn or blood stained clothing and/or weapon. Mark bag with patient's name, date and name of person who collected evidence. Keep evidence under lock until it is turned over to the police, prosecutor or patient's lawyer. Refer to your facility's sexual assault protocol for evidence collection information.
7. Help the victim assess their immediate safety and safety of the children. Respect and accept the victim's evaluation of the situation. Talk with your local domestic violence program staff for further information on safety assessment and safety plans. Offer to contact the local domestic violence service provider. If appropriate, offer to call the police. Tell the patient that battering is a crime and help is available. Support the patient's decision.
8. Offer to photograph the patient's injuries. See your facility's sexual assault protocol for further information.
9. Encourage the patient to call a local domestic violence program or the toll-free statewide **Domestic Violence Hotline (English 1-800-942-6906 or Spanish 1-800-942-6908)**. Ensure access to a private telephone.
10. If you are working in a hospital or diagnostic and treatment center, The Family Protection and Domestic Violence Intervention Act of 1994 requires that you provide a copy of "The Victims Rights Notice" to all suspected or confirmed victims of domestic violence. A copy of this notice can be found at [www.health.state.ny.us/nysdoh/provider/women.htm](http://www.health.state.ny.us/nysdoh/provider/women.htm). In addition, Chapter 217 of the Laws of 1997 mandates that hospitals providing maternity/newborn services and diagnostic and treatment centers that offer prenatal care services must distribute a notice regarding family violence to all patients at prenatal visits or at post-partum visit. This notice, "Are You And Your Baby Safe?" can be ordered from [www.health.state.ny.us/nysdoh/publication\\_catalog/index.htm](http://www.health.state.ny.us/nysdoh/publication_catalog/index.htm). Provide additional information and referrals for counseling, shelter, support groups and legal assistance in the community. Assure confidentiality.

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## Identification & Guidelines, Continued

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**Guidelines**  
(continued)

11. Make safety the primary goal of all interventions. Victims are likely to be the best judge of what is safe for them. If it is necessary to follow-up with medical appointments, laboratory tests or prescriptions, ask directly if the victim can safely do so, or what could be done to make it possible for her to meet follow-up care needs.
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## Sample Assessment Questions

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### Notification of Routine Screening

Let your patients know that you ask everyone about domestic violence.

- “Because intimate partner violence and abuse are so common, we screen for it routinely.”
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### Assessment Questions

Avoid asking patients questions using the term “domestic violence.” Most victims do not initially identify with the term, and their understanding of the term varies greatly.

Tailor the following questions to your practice:

#### **Questions that tell victims they are not alone:**

- Many patients tell me their partners have hurt them. Is this happening to you?

#### **Questions based on observation:**

- You seemed frightened of your partner. Has he ever hurt you?
- Your partner seemed not to want to let me speak with you alone. I’m concerned that he might want to control what you tell me. Do you think that is happening?
- I noticed you check with your partner before you answer any questions. Are you afraid you might get hurt if you say the “wrong” thing?

#### **Questions about physical abuse:**

- Are you in a relationship where you get hit, punched, kicked or hurt in any way?
- Do arguments ever end in your partner pushing, shoving or slapping you?
- Has your partner ever used a fist or weapon to hurt or threaten you?

#### **Questions about sexual abuse:**

- Does your partner force you to engage in sex that makes you uncomfortable?
  - Does your partner ignore your decisions regarding safe sex or contraceptives?
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## Sample Assessment Questions, Continued

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### Assessment Questions (continued)

#### **Questions about emotional abuse, threats or intimidation:**

- Does your partner ever call you names or put you down?
  - When your partner gets angry, does he throw things? Hurt your pet?
  - Does your partner accuse you of having affairs? Check up on you?
  - Do you have to ask your partner's permission to do things you want to do?
- 

### Avoid These Questions

Avoid the following:

#### **Labeling questions:**

- Are you a victim of domestic violence?
- Are you battered?...abused?

#### **Blaming questions:**

- Why didn't you come to the hospital sooner?
- Why didn't you leave the first time he hit you?
- Why didn't you call the police?

Be cautious about giving advice (go to a shelter, leave your partner). Your advice may have safety implications of which you are unaware, while providing information about available resources may be helpful.

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## Referrals

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### **Domestic Violence Service Providers**

A domestic violence service provider is located in every county in New York State. These programs offer both residential and non-residential services.

Services can include:

- Emergency shelter
- 24 hour hotline
- Information and referral services
- Advocacy
- Counseling
- Children’s services
- Medical services
- Transportation
- Support groups
- Follow-up
- Community education/outreach

To locate the provider in your county, go to [www.ocfs.state.ny.us](http://www.ocfs.state.ny.us) and click on Domestic Violence Service Providers.

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### **Counseling & Therapy**

When appropriate, the victim and children may be referred to counseling to assist them in processing the abuse and the possible transition of the family.

Under no circumstances should family therapy or couples counseling be recommended. These forms of treatment assume a balance of power that does not exist when domestic violence is present and could put the victim’s safety at risk.

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## Legal Overview

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### **The Family Protection and Domestic Violence Intervention Act**

The Family Protection and Domestic Violence Intervention Act of 1994 requires that hospital and diagnostic and treatment center staff provide the Victim's Rights Notice to all suspected and confirmed victims of domestic violence. While not required by law, other health care providers are encouraged to provide victims with this notice. See Appendix A.

The Victim's Rights Notice can also be found at [www.health.state.ny.us/nyhdoh/provider/women.htm](http://www.health.state.ny.us/nyhdoh/provider/women.htm)

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### **New York State Department of Health Regulatory Codes**

#### **CHAPTER V MEDICAL FACILITIES/SUBCHAPTER C STATE HOSPITAL CODE ARTICLE 6 TREATMENT CENTER AND DIAGNOSTIC CENTER OPERATION**

##### **Section 751.5** Operating policies and procedures.

The operator shall ensure:

- a. The development and implementation of policies and procedures written in accordance with prevailing standards of professional practice which include but are not limited to:
  8. the identification, assessment, reporting and referral of cases of suspected child abuse or maltreatment and identification and treatment of domestic violence;
  9. the identification of patient's medically related, personal and social problems which may interfere with the patient's treatment, recovery or rehabilitation;
  10. the establishment and implementation, in conjunction with a qualified social worker, of a plan, consistent with available community and center resources, to provide or arrange for the provision of social work, psychological and health educational services that may be necessary to meet the treatment goals of its patients;

##### **Section 751.6** Personnel

The operator shall ensure:

- k. that each employee, as applicable, receives on-the-job training necessary to perform his/her duties;
- l. that all staff receive education in the identification, assessment, reporting and referral of cases of suspected child abuse, maltreatment, and identification and treatment of domestic violence;

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## Legal Overview, Continued

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**New York State  
Department of  
Health  
Regulatory  
Codes  
(continued)**

CHAPTER V MEDICAL FACILITIES SUBCHAPTER A – MEDICAL FACILITIES – MINIMUM STANDARDS / ARTICLE 2 HOSPITALS/ PART 405 HOSPITALS – MINIMUM STANDARDS (STATUTORY AUTHORITY: PUBLIC HEALTH LAW 2803, 2805 – k, 2805 – l, 2805-m and 4351)

- e. Domestic Violence. The hospital shall provide for the identification, assessment, treatment and appropriate referral of cases of suspected or confirmed domestic violence. The hospital shall establish and implement written policies and procedures consistent with the requirements of this section, which shall apply to all service units of the hospital.

### Emergency Services

3. Domestic Violence. The emergency services shall develop and implement policies and procedures that provide for the management of cases of suspected or confirmed domestic violence victims in accordance with the requirements of subdivision (e) of Section 405.9 of this Part.

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**Chapter 217  
Laws of 1997**

Chapter 217 of the Laws of 1997 mandates that hospitals that have maternity/newborn services and diagnostic and treatment centers that offer prenatal care services distribute a notice regarding family violence to all patients at prenatal visits or at the post-partum visit. This notice, “Are You And Your Baby Safe?” provides information about the effects of child abuse/maltreatment and domestic violence and services available to adult victims.

Copies of “Are You And Your Baby Safe?” can be obtained from the NYS Department of Health. To order, call (518) 474-5370, or go to [www.health.state.ny.us/nysdoh/publication\\_catalog/index.htm](http://www.health.state.ny.us/nysdoh/publication_catalog/index.htm).

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## Appendix A – Victim’s Rights Notice

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**The Victim’s Rights Notice was prepared to inform victims of domestic violence of their legal rights and remedies available under the law. If you are a victim of domestic violence you are encouraged to speak privately with a social worker or someone who can help you. You should be interviewed privately out of eyesight or earshot of anyone who accompanies you. Your rights as a patient will be violated if hospital staff asks if you are a victim of domestic violence in front of any accompanying partner or family member.**

### **IF YOU ARE A VICTIM OF DOMESTIC VIOLENCE:**

#### **The police can help you:**

- Get to a safe place away from the violence.
- Get information on how the court can help protect you against the violence.
- Get medical care for injuries you or your children may have.
- Get necessary belongings from your home for you and your children.
- Get copies of police reports about the violence.
- File a complaint in criminal court, and tell you where your local criminal and family courts are located.

#### **The courts can help:**

- If the person who harmed or threatened you is a family member or someone you’ve had a child with, then you have the right to take your case to the criminal courts, family court or both.
- If you and the abuser aren’t related, weren’t ever married or don’t have a child in common, then your case can be heard only in criminal court.
- The forms you need are available from the family court and the criminal court.
- The courts can decide to provide a temporary order of protection for you, your children and any witnesses who may request one.
- The family court may appoint a lawyer to help you in court if it is found that you cannot afford one.
- The family court may order temporary child support and temporary custody of your children.

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## **Appendix A – Victim’s Rights Notice, Continued**

New York state Law states: “If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangements to take you and your children to a safe place within such officer’s jurisdiction, including but not limited to a domestic violence program, a family member’s or a friend’s residence, or a similar place of safety. When the officer’s jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency.”

“You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you. You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which would include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session you may seek immediate assistance from the criminal court in obtaining an order of protection. The forms you need to obtain an order of protection are available from the family court and the local criminal court. Calling the following 800 numbers can access the resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters. Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime.” [CPL 530.011(6)]

**GET HELP NOW**

**GET SAFE**

**STAY SAFE**

**1-800-942-6909 (English)**

**1-800-942-6908 (Spanish)**

**or call your local Domestic Violence Program**

## Appendix B – Domestic Violence and Health Care Bibliography

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