Mandatory Referral and Reporting Requirements For Professionals

Domestic and Dating Violence, Child Abuse, and Vulnerable Adult Abuse

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Welcome!

- Participate and ask any questions you have throughout
- Contact information at the end - feel free to reach out for further information

Agenda:

- Overview of new elements of KRS 209A – requirements for professionals
- Review of existing mandatory reporting laws in Kentucky
- Screening and referral-making strategies

Objectives

- Gain understanding of the new mandatory education and referral requirements of KRS 209A
- Review existing requirements regarding mandatory reporting
- Expand understanding of domestic violence services and resources
- Provide information on how to use screening tools and make referrals to reduce risk/harm from domestic violence

Thank you to those who helped make this change!

- Sen. Ralph Alvarado - Clark, Fayette and Montgomery counties
- Rep. Melinda Prunty - Hopkins and Muhlenberg counties
- Kentucky Coalition Against Domestic Violence
- Kentucky Association of Sexual Assault Programs
- Cabinet for Health & Family Services' Department for Community-Based Services

- Children's Alliance
- Homeless & Housing Coalition of Kentucky
- Kentucky Association of Criminal Defense Lawyers
- Kentucky Coalition of Nurse Practitioners and Nurse Midwives
- Kentucky Commonwealth Attorneys Association
- Kentucky County Attorneys Association
- Kentucky Equal Justice Center
- Kentucky Justice and Public Safety Cabinet
- Kentucky Medical Association
- Kentucky Mental Health Coalition
- Kentucky Psychological Association
- Kentucky Voices for Health
- Kentucky Youth Advocates
- National Alliance on Mental Illness Kentucky
- Prevent Child Abuse Kentucky

Overview: KY mandatory reporting and referral laws

- KRS 209A: Partner abuse/neglect
  - Certain professionals must provide clients who disclose abuse with information about local DV resource program, and protective orders
- KRS 620: Child dependency/abuse/neglect
  - Any adult who knows about or suspects child abuse must report to Child Protective Services
- KRS 209: "Vulnerable" adult abuse/neglect/exploitation
  - Any adult who knows about or suspects vulnerable adult abuse must report to Adult Protective Services
- KRS 202A/645: Duty to warn
  - Certain professionals must warn law enforcement about credible homicidal or suicidal threats

Partner abuse and neglect

- KRS 209A - this chapter has changed dramatically as of June 29, 2017
- **Duty to report replaced by duty to provide educational material and information**
- Expanded to cover all victims of intimate partner, domestic, and dating violence:
    - Married or formerly married
    - Child in common
    - Living together
    - Dating as demonstrated by declarations of interest, activities, duration of relationship, etc. (as defined in protective order statute, KRS 456)

KRS 209A before 6/29/17

- Universal duty to report spouse abuse/neglect
- Any person having reasonable cause to suspect that an adult has suffered abuse/neglect shall report to CHFS
- Penalty for failure to report was class B misdemeanor

Updates to 209A change the law so that it is less risky for survivors to disclose to service providers that they are experiencing abuse.

Why was this change important?

- Regional DV programs replaced CHFS as primary responder to DV
  - Subcontracts with state; able to provide broader services
- CHFS data indicated the majority of DV reports were not resulting in victims being linked to services
  - In 2012, 40,000 reports were received → APS able to locate/contact victim in 50% of cases → 25% of victims actually wanted to receive services from APS → very few victims (about 40 per year) had cases substantial enough for CHFS to issue ongoing protective services
- Interference in provider-patient relationship
  - Potential to increase risk of harm
  - 35-50% of victims less likely to disclose abuse to a provider if they knew it had to be reported (research by Carol Jordan, University of Kentucky)

If a professional has reasonable cause to believe that a victim with whom he or she has had a professional interaction has experienced domestic violence and abuse or dating violence and abuse, the professional shall provide the victim with educational materials related to domestic violence and abuse or dating violence and abuse including information about how he or she may access regional domestic violence programs or rape crisis centers and information about how to access protective orders

Professional:

- Physician
- Osteopathic physician
- Coroner
- Medical examiner
- Medical resident
- Medical intern
- Chiropractor
- Nurse
- Dentist
- Optometrist
- Emergency medical technician
- Paramedic
- Licensed mental health professional
- Therapist
- CHFS employee
- Child care personnel
- Teacher
- School personnel
- Ordained minister or denominational equivalent
- Victim advocate
- Organization/agency employing any such professional

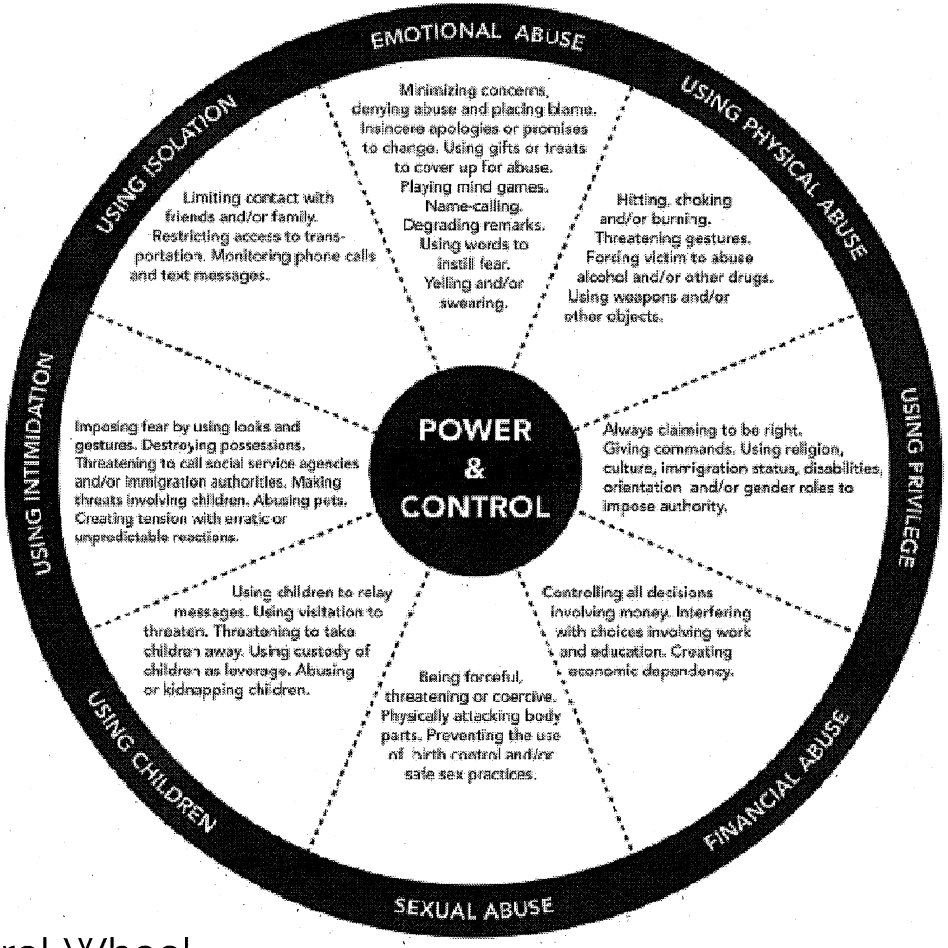
in the context of a professional interaction

Victim of domestic violence and abuse or dating violence and abuse:

- **An individual who is or has been abused by a spouse, former spouse, or intimate partner with whom they live or have lived, or have a child in common**
- **An individual who is or has been abused by a dating partner (dating relationship is defined as one of a romantic or intimate nature)**

Victim of domestic violence and abuse or dating violence and abuse:

- **Physical injury, serious physical injury, stalking, sexual abuse, or assault or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse or assault (KRS 403.720)**
- **Some abuse falls outside this definition – you can still provide referrals!**



Power and Control Wheel

adapted from Domestic Abuse Intervention Project (Duluth MN) and Casa Myrna Vazquez (Boston MA)

Educational materials:

- Educational material and information about how to access regional programs and protective orders will be housed on the KCADV website: www.kcadv.org (find the "KRS 209a Referral Information" tile)
- *Help is Here* brochure: print and give to client

HB 309 does not change anything about the mandatory reporting of child dependency, abuse, and neglect or vulnerable adult abuse, neglect, and exploitation.

KRS 620.030 – ANY person having reasonable cause to believe a child is dependent, neglected, or abused shall immediately report orally or in writing to local law enforcement, KSP, CHFS, Commonwealth Attorney, or County Attorney.

Scenario: Your patient comes in to your office with complaints of chronic abdominal pain. You also know, from previous visits, that she has been in treatment for substance abuse. You ask her if she feels safe at home.

She says things are okay, hesitates, and then tells you about a recent incident. She says her son spilled some food on the floor in the kitchen, and then her boyfriend yelled at her and called her names, and yelled at their son to "quit crying."

She tells you she is somewhat scared of her boyfriend, but doesn't want anyone to know what happened because, in her words, "I'm a terrible mother and I just have to make my kid follow the rules better."

Child abuse reporting

- All adults are responsible for reporting known or suspected child abuse to CPS
- The fact that a child's parent or guardian has been the victim of domestic violence is not in and of itself a sufficient basis for reporting suspected child abuse or neglect
- In order to not penalize victims of domestic violence, viewing non-offending parent and the child/ren as a unit is important. *Often, what is in the best interest of the non-offending parent is actually what is in the best interest of the child. Referrals can help!*

Suggested practices

Provided the child is not in immediate danger:

- Encourage non-offending parent to contact CPS on their own - can increase the likelihood that child/ren and non-offending parent stay together
- Actively include children and non-offending parent in interventions and safety planning
- Assess for impact of exposure and offending parent's interference in non-offending parent's parenting, and provide appropriate services

Abuse of vulnerable adults

KRS 209.020:
ADULT = 18 YRS or older who because of mental or physical dysfunctioning is unable to manage his/her own resources, carry out the activity of daily life or protect him/herself from neglect, exploitation, hazardous, abusive situation

Any person having reasonable cause to suspect abuse/neglect/exploitation shall report to CHFS

Duty to warn

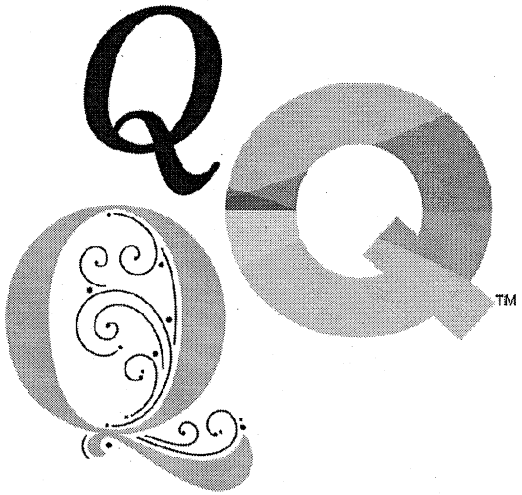
KRS 202A.400/KRS 645.270 an actual threat of physical violence against a clearly identified or reasonably identifiable victim or an actual threat of some specific violent act

Made to a qualified mental health professional (physician, psychiatrist, psychologist, mental health RN, LCSW, LMFT, counselor, pastoral counselor, art therapist)

Reasonable efforts to warn victim, police or seek civil commitment

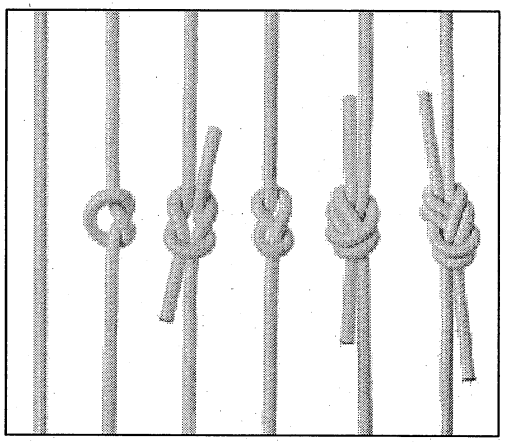
Professional responses to DV - CUES

- Confidentiality
- Universal screening
- Empathy and empowerment
- Supported referrals



Model adapted from Futures Without Violence

CUES - Confidentiality



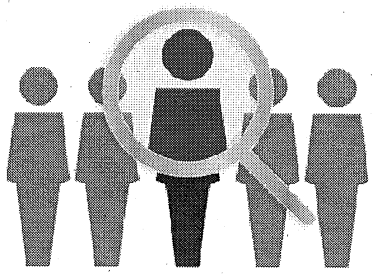
- One-on-one, face-to-face screening
- "Everything we talk about will stay between us, and I will not do anything without your consent. The only exception to that is if you tell me about child abuse, abuse of a vulnerable adult, or a homicidal or suicidal threat. You get to decide what to share with me, but it's my goal and responsibility to connect you to outside help if you are experiencing one of those issues."

Model adapted from Futures Without Violence

CUES - Universal screening

- Create expectations that patients will be asked - e.g. notice on intake form, or sign in waiting room: "All patients will be seen one-on-one for a portion of the exam"
- Framing: "Your relationships can affect your health, and I ask all my patients some questions about that. May I ask you some questions related to that topic?"
- You opening the conversation sends the message that you are a safe person to disclose to; takes the burden off patients to determine whether, when, and how to disclose

Model adapted from Futures Without Violence



CUES - Universal screening

- Investigate lifetime (current or past) victimization
- One-on-one, face-to-face with patient: no partners, friends, relatives, or children over 2; use professional interpreters if patient has limited or no English
- All genders
- At least annually; at major change in life circumstances
- Regularly during pregnancy

Model adapted from Futures Without Violence

CUES - Universal screening

- Safety card screen - "I've started giving two of these cards to all my patients. One for you, in case it's ever an issue for you, because relationships can change. You have an extra card so you can help a friend/family member if it's an issue for them."
- HITS Tool
- Lethality assessment
- Open discussion
- Believe, first and foremost. You don't need to investigate the full story in detail, but do ask enough questions to assess for risk.

Model adapted from Futures Without Violence

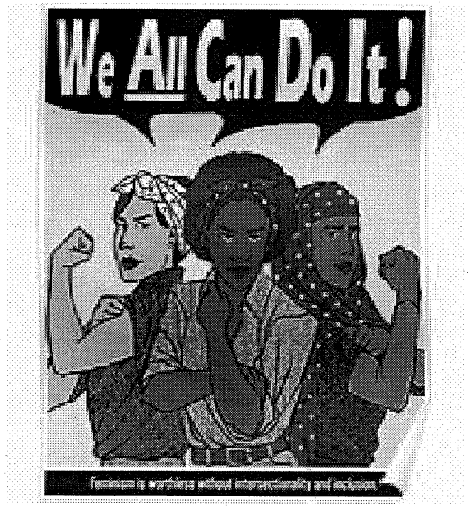
CUES - Empathy

- Validate and believe
  - "Thank you for telling me. I believe you."
  - "This is not your fault. Nothing you did caused this."
  - "I'm concerned for your safety and your health."
- Reflect back language and emotions
  - "That does sound intimidating."
  - "How often does he call you these names?"
- Take what they say seriously, and avoid minimizing, even if they do

Model adapted from Futures Without Violence

CUES - Empowerment

- Follow their lead:
  - "What do you want to do next?"
  - "What do you think would keep you safe?"
  - "What can I do to be helpful?"
  - *Avoid* "you should / must / need to …"
- Give options
  - "Is there anything else you'd like to talk about?"
  - "Would you like to take this brochure with you?"



Model adapted from Futures Without Violence

CUES - Supported referral

- "This card lists a number you can call for 24/7 help. These folks know a lot about complicated relationships."
- Keep cards in bathrooms, on counters, etc.
- Affirm your patient's decision, even if you don't agree
- Know about where you're referring them and generally what they can expect
- Offer office phone and private space
- Help them locate and access services - e.g. schedule a time to visit, help them access transportation
- Safety planning - e.g. arriving at appointments safely, alternative treatments, etc.
- Follow up with them at next appointment

Model adapted from Futures Without Violence

Don't forget about documentation!

- Current presentation
- Disclosed history of abuse
  - *Reported* instead of alleged
- Direct quotes from patient
- Referrals/reports made
  - *Declined* instead of refused

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