

## What to Say and How to Say It

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## Objectives

- Describe appropriate documentation for the medical record in cases of suspected abuse
- Identify potential documentation pitfalls
- Analyze statements of opinion from medical professionals

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## Disclosure

- I have no financial interests to disclose.

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### Role of Mandated Reporters

To report suspected incidents of child abuse or maltreatment and neglect while acting in their professional capacity.

<http://childabusemd.com/documentation/documenting-information.shtml>

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### Reporting

A report of possible abuse is not an accusation – but a request to determine if abuse has occurred, and if so, it can be the beginning of the helping process.

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### What is needed to trigger a report?

- Reasonable cause to suspect abuse
- NOT a diagnosis



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## HIPAA

- When abuse or neglect is suspected, the physician must report and may disclose a child's protected health information to the CPS (and /or law enforcement) agency without parent authorization.
- When child abuse has already been reported and is being investigated, it is permissible to disclose information to the appropriate investigative agencies without parent notification or authorization.
- Committee on Child Abuse and Neglect. Policy statement-- Child abuse, confidentiality, and the health insurance portability and accountability act. *Pediatrics*. 2010 Jan;125(1): 197-201. Epub 2009 Dec 21.

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## Confidential and Privileged Communication

- Communication between a physician and patient is always considered confidential.
- Child abuse suspicion is an exception.
- Privileged communication means that disclosure cannot be compelled in court.
- Family Court Act states that no privilege applies to child abuse and neglect.

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## Confidential and Privileged Communication

- Despite the physician-patient privilege, assume that medical records involving cases of child abuse will become available in a criminal or civil legal matter.
- Do not assume you can and should turn over records to police, attorneys, or others without determining if authorization exists.
- When contacted by an attorney, determine whether you are authorized to talk to the attorney before releasing information.
- Any information turned over to one party will be turned over to all parties.

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### Definitions

- NYS Definitions of abuse
- Spectrum of parenting
- Classification systems for findings

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### Types of Maltreatment

- Physical
- Sexual
- Emotional
- Neglect
  - Most common single entity
- All of the above or some combination
  - Most common overall

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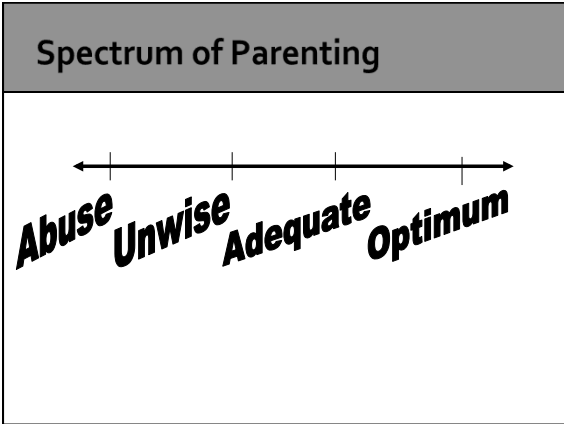
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### Classification Systems

Adams JA. Journal of Child Sexual Abuse, 20:588–605, 2011

- Normal variants
  - Medical conditions
  - Mistaken for abuse
- Indeterminate
- Diagnostic
  - Acute, Residual, Blunt Force Trauma
  - Infection
  - Evidence

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### Most Common Abusive Fractures

**Specificity of Radiologic Findings**

**High specificity**

- Classic metaphyseal lesions
- Rib fractures, especially posterior
- Scapular fractures
- Sternal process fractures
- Sternal fractures

**Moderate specificity**

- Multiple fractures, especially bilateral
- Fractures of different ages
- Epiphyseal separations
- Vertebral body fractures and subluxations
- Dental fractures
- Cranial skull fractures

**Common but low specificity**

- Subperiosteal new bone formation
- Claudication fractures
- Long bone shaft fractures
- Linear skull fractures

Higher specificity applies to infants.

- The most common fractures in abused children involve the skull, long bones and ribs. The numbers vary (relatively) depending on the series studied (detail of radiologic imaging), age of the children and whether the studied populations included fatalities.

Kleinman PK. Diagnostic imaging in infant abuse. A/R Am J Roentgenol. 1990 Oct;155(4):703-12. Review.

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### Scale for Interpreting Physical Abuse

Lindberg DM, Lindsell CJ, Shapiro RA. Pediatrics. Variability in expert assessments of child physical abuse likelihood. 2008 Apr;121(4):e945-53. doi: 10.1542/peds.2007-2485.

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### General Principles

- Is the history consistent with the mechanism of trauma?
- Is the child developmentally able to self-inflict the injury?
- Is there another medical explanation for the finding?
- Is corroborative information available?

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### Appropriate Documentation

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## Keys to Documentation

- Accurate
- Complete
- Legible
- Components:
  - History
  - Physical
  - Lab
  - Imaging
  - Summary

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Toddler falls off stool

### Truth or "Fib"ula?



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## Long Bone Fractures

- "Is the fracture morphology consistent with the direction, magnitude and rate of loading described by the mechanism?"
- What are the child's developmental capabilities and could the child have generated the necessary energy, independent of the "outside" forces, to cause the observed injury?"
- Did the event generate enough energy to cause this fracture?"
- Were there structural factors of the bone itself that contributed to the likelihood of fracture?"

Pierce, et al. Evaluating long bone fractures in children: A biomechanical approach with illustrative cases. Child Abuse and Neglect 28 (2004): 504-524.

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### What to Document After a Fall

- Fall height
- Weight of the child
- Surface on which the child landed
- Way in which they landed

Maguire. Arch Dis Child Educ Pract Ed. 2010  
Dec;95(6):170-7.

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### Documentation of the History

<http://childabusemd.com/documentation/documenting-history.shtml>

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### Medical Record Documentation of Disclosures

- Who is in the room
- What questions were asked prior to disclosure
- Use quotes only if really a quote

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### Physician Testimony

- Hearsay (Federal Rule 802)
  - Exception---statements for purposes of medical diagnosis or treatment
- Crawford v. Washington
  - Any statement deemed testimonial is not admissible
  - Statements made where an objective witness would reasonably believe that the statement would be available for use at a later trial

<http://www.law.cornell.edu/supct/html/02-9410.ZO.html>

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### Documentation of the Physical Findings

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### How would you describe a rash?

- Morphology (shape of the lesion)
- Configuration (arrangement of lesions)
- Distribution (which body site)

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<b>Describe</b>	
<p>Morphology: Round, punched out, halo</p> <p>Configuration: Symmetrical, individual</p> <p>Distribution: Dorsum of feet</p>	

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<b>Interpret</b>	
<p><b>CIGARETTE BURNS</b> - Suspicious for abuse - Consistent with inflicted injury</p> <p><b>ECTHYMA</b> <b>INSECT BITES</b> <b>PYODERMA</b> <b>FRICTION BLISTERS</b></p>	

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<b>What do you see?</b>


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Describe and Interpret	
<p><b>Morphology:</b> Flat, irregular shaped to oval shaped</p> <p><b>Configuration:</b> Symmetrical, both ears</p> <p><b>Distribution:</b> Backs of ears and inside auricles</p> <p><b>BRUISES</b></p> <ul style="list-style-type: none"><li>- Suspicious for abuse</li><li>- Consistent with pinching</li></ul>	

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<b>Describe Subtle Grab Marks</b>


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<b>Subtle Findings</b>


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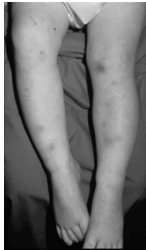
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### Don't forget to describe normal findings.

Document findings objectively, presence and absence.



(C) American Academy of Pediatrics

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### Pitfalls of Documentation

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### Case

- A 5 month old baby presents to the office with "red eyes"
- Full term (40 week gestation) G1P1 24 year old
- Chief complaint---red eyes
- PMH--work-up for FTT beginning at 2 months, breast fed baby

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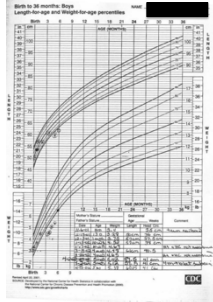
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## Growth Curve

<http://www.childabusemd.com/laboratory/failure-to-thrive.shtml>



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## Physical Examination

Blank area for physical examination notes.

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## Social History

- Parents are together, although previously the mother had been living in a shelter because of domestic violence concerns.
- Father has been looking for steady work.

Blank area for social history notes.

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### Further History

- Appeared suddenly
- Was sleeping in parent's bed and noticed the eyes in the morning
- No illnesses at home

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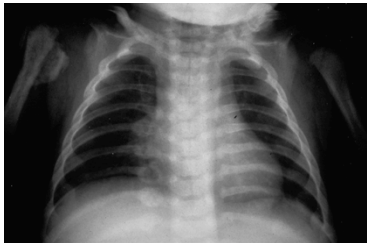
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### Rib Fractures



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### Rib Fractures

- The most common type of rib fracture resulting from child abuse is a posterior rib fracture.
- Rib fractures are usually asymptomatic and are not associated with external bruising.
- Rib fractures are usually not displaced and therefore may not be detected initially on plain films.
  - Callus formation occurs 7-10 days after the injury.
- Birth injury rarely causes rib fractures.

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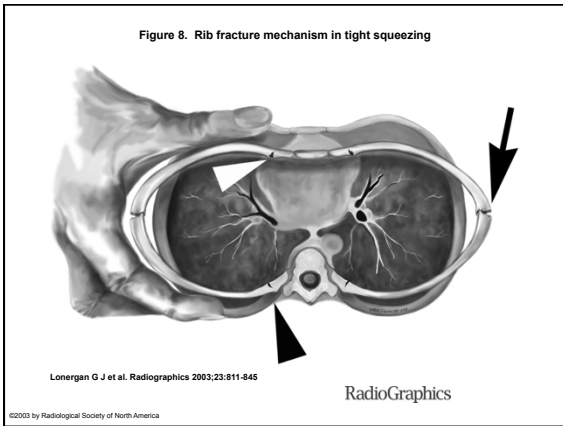
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**How do you put this information together?**

- Describe the eye
- Describe the growth curve
- Describe the history
- Describe the rib fractures
- Interpret *all* findings

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**Pitfalls**

- Neglecting record review
- Interpreting one finding at a time (eye might be normal)
- Forgetting to document the LACK of history to account for findings
- Over-interpreting findings (eg. rib fractures are not from birth)

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**Over Interpretation**  
Less is sometimes more.

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**Poor Documentation**  
It's a legal record!!!

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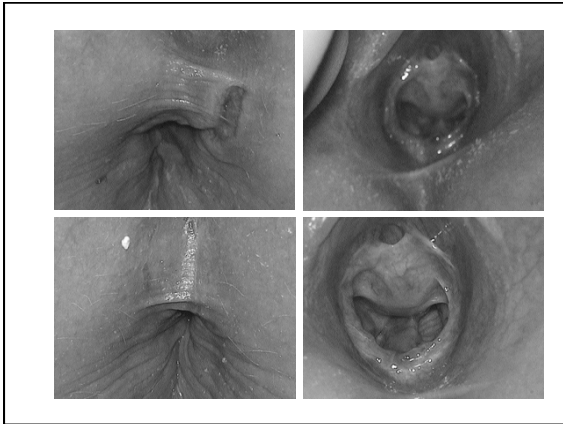
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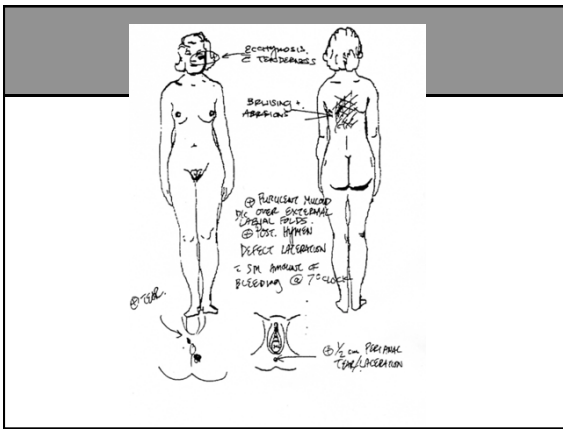
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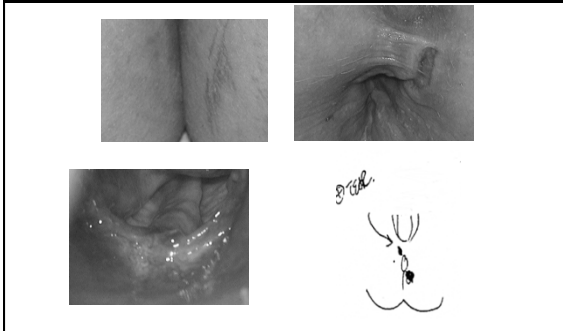
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**3 Days After the Assault**



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**Documentation of the Physical**

<http://childabusemd.com/documentation/documenting-findings.shtml>

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**Photos and X-rays**

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**Social Services Law**

- Social Service Law Article 6, Title 6:416.  
... Any person or official required to report cases of suspected child abuse and maltreatment may take or cause to be taken at public expense photographs of the areas of trauma visible on a child who is subject to a report and, *if medically indicated, cause to be performed a radiological examination on the child.*

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## Parent's Rights

- Van Emrik v. Chemung County Department of Social Services, 911 F.2d 863 (2d Cir. 1990)
- X-rays without the parents' consent or a court order violated the plaintiffs' procedural due-process rights.
- X-rays were not "medically indicated."
- The purpose of the x-rays "was not to provide medical treatment to the child, but to provide investigative assistance to the caseworker."
- X-rays of the child may not be undertaken for investigative purposes at the behest of state officials (w/o parental consent) unless a judicial officer has determined, upon notice to the parents and an opportunity to be heard, that grounds...exist and that the administration of the procedure is reasonable...

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## Analysis of Physician Opinion Statements

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## Writing Your Opinion in a Statement

- A report or letter may be written by a health care provider about a child or children suspected of having been abused.
- Intended to inform future medical care for the child and legal decisions related to the case, including court proceedings.
- May be called by names, such as an impact statement.
- Some use the medical record or report with a separate section for the final statement.

Mian M. Schryer CF, Spafford MM, Joosten J, Lingard L. Current practice in physical child abuse forensic reports: A preliminary exploration. *Child Abuse & Neglect*. 2009. 33: 679-683.

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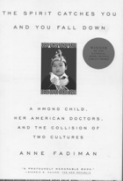
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THE SPIRIT CATCHES YOU  
AND YOU FALL DOWN



A "WILD" CHILD,  
HER AMERICAN DOCTORS,  
AND THE COLLISION OF  
TWO CULTURES  
ANNE FADIMAN

*"..because of poor parental compliance regarding the medication, this case obviously would come under the realm of child abuse, specifically child neglect..."*

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*"Unless there could be some form of compliance with the medication regimen and control of the child's seizure disorder, this child is at risk for status epilepticus which could result in irreversible brain damage and also possibly death. It is my opinion that this child should be placed in (a) foster home placement so that compliance with medication could be assured."*

Anne Fadiman, [The Spirit Catches You and Fall Down](#).  
Copyright: Farrar, Straus and Giroux; 1997

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**"Impact" Statement**

- <http://champprogram.com/question/24.shtml>

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### Components

- Introduction
- Body
- Formulation
- Summary



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### Case

- A seven month old presents to the ED with genital bruising.
- His mother noticed it earlier in the day when she came home from work and states that he was fine when she left in the morning.
- The baby was in the care of the father all day and the father denies any accidental injury. No one else was home except a 4 year old sibling.
- He is brought to the OR for suspected inguinal hernia but the operation reveals only hemorrhage into the scrotal tissues. Forensic evidence was not collected.
- There is a small bruise on his forehead and two small bruises on his chest. Coags were negative but LFTs revealed an SGPT of 98.
- Child Protective Services has talked to the parents and are trying to determine whether he can go home with them.

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**Genital Bruise**  
No history of accidental trauma

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## Introduction

- Baby X is a 7 month old male that I examined in the afternoon on May 4, 2011. He was admitted to the pediatric unit at the GCH for evaluation of bruised genitalia. I was asked to consult because of a concern regarding suspected non-accidental trauma.
- I reviewed the records from the ED as well as his primary care and birth records.

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## Components of the Intro

- Describe how you know the patient.
- State the referral source and when you performed an examination or reviewed records.



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## Body

- Baby X had been well until the day that he presented with the bruises. His examination revealed red and purple bruising over his left scrotum and a dark purple bruise under the scrotum. The genital area was very swollen and tender to touch. ...he was noted to have a very elevated liver function test. This degree of elevation is associated with abdominal trauma. He had bruises on his forehead and chest (approximately 1 cm in diameter and red in color). He was taken to the operating room to determine if he had a hernia and it was determined that there was no hernia. However, an extensive amount of bleeding was observed in the tissues.
- Bruising on this relatively protected area of a diapered baby that is not able to walk, cruise or cause injury to himself and for which there is no history of injury and no medical cause is highly unusual. Bruises to the head and chest of an infant are also suspicious for non-accidental trauma.
- Based on the information from the parents, the injury most likely occurred on the day the child was brought to the ED.

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### Body

- Provide the presenting complaint (brief history), describe the physical findings and define the medical issues. List tests performed, treatment given and what tests are pending. Describe the issues that cause concern.
- For neglect situations, describe specific concerns such as missed medical appointments with provider/specialty clinics, non-compliance with medications, poor dietary intake despite counseling, etc.
- Explain the usual mechanism for an injury and whether the history explains the finding. For neglect, discuss normal growth, development and expected parental responses or other effect, depending on the situation.
- Make a statement regarding time frame since the abuse or since the neglect began.




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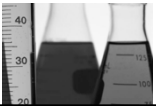
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### Formulation

- In my opinion, the baby has suffered from non-accidental trauma. The combination of bruises, evidence of liver trauma and lack of history of accidental trauma indicate that physical abuse has occurred.




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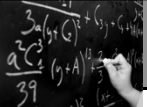
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### Formulation



- Give your opinion regarding the finding or the patient's general well-being.
- Explain what this opinion is based on (if you can say). Balanced objectivity is necessary but should support your opinion.
- Each injury might best be described separately or under separate headings.
- Depending on the context, "suspicious for" is often less convincing than "consistent with" or "indicates." If you are unsure, "suspicious" allows for uncertainty. In the case of abuse, these words can be used, but words like "unusual" to support the fact that an injury is non-accidental, "highly unlikely" to be accidental or "indicates" non-accidental injury are more persuasive.

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### Summary

- Although these bruises were not life-threatening in this case, long term sequelae from genital bruising, such as loss of function of the testes, may occur.
- The findings indicate substantial risk of serious physical injury.
- Since we were unable to do tests for forensic evidence, it remains uncertain regarding the possibility that the finding of bruises to the genital area represent findings from sexual abuse.

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### Summary

- Explain if the finding is severe or life threatening. Describe the risks due to complications.
- For neglect, describe the negative impact of the parent's inability or unwillingness to follow medical treatment for the child. This should include the range of medical risk factors.




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### Statements Should

- Describe the situation and your relationship to the patient.
- Use layman's terms to describe medical issues.
- Clearly define your concerns in terms that are meaningful to the court and child protective services.
- Answer questions that CPS has asked.
- Identify your opinion if you have one, but refrain from outright advocacy if possible.
- Usually outline next steps for medical and/or legal needs.




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As we must account for every idle word, so must we account for every idle silence.  
~ Benjamin Franklin

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