

## CHILD PROTECTIVE SERVICES

## CHAPTER 705.

## CHILD PROTECTIVE SERVICES.

22 VAC 40-705-30. Types of abuse and neglect.

A. Physical abuse occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon a child a physical injury by other than accidental means or creates a substantial risk of death, disfigurement, or impairment of bodily functions: including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248.

B. Physical neglect occurs when there is the failure to provide food, clothing, shelter, or supervision for a child to the extent that the child's health or safety is endangered. This also includes abandonment and situations where the parent's or caretaker's own incapacitating behavior or absence prevents or severely limits the performing of child caring tasks pursuant to §63.2-100 of the Code of Virginia. In situations where the neglect is the result of family poverty and there are no outside resources available to the family, the parent or caretaker shall not be determined to have neglected the child; however, the local department may provide appropriate services to the family.

## CHILD PROTECTIVE SERVICES

1. Physical neglect may include multiple occurrences or a one-time critical or severe event that results in a threat to health or safety.

2. Physical neglect may include failure to thrive.

a. Failure to thrive occurs as a syndrome of infancy and early childhood which is characterized by growth failure, signs of severe malnutrition, and variable degrees of developmental retardation.

b. Failure to thrive can only be diagnosed by a physician and is caused by nonorganic factors.

C. Medical neglect occurs when there is the failure by the caretaker to obtain or follow through with a complete regimen of medical, mental or dental care for a condition which if untreated could result in illness or developmental delays pursuant to §63.2-100 of the Code of Virginia. Medical neglect also includes withholding of medically indicated treatment.

1. A child who, in good faith, is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination pursuant to §63.2-100 of the Code of Virginia shall not for that reason alone be considered a neglected child.

2. For the purposes of this regulation, "withholding of medically indicated treatment" does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when in the treating physician's or physicians' reasonable medical judgment:

a. The infant is chronically and irreversibly comatose;

CHILD PROTECTIVE SERVICES

b. The infant has a terminal condition and the provision of such treatment would:

- (1) Merely prolong dying;
- (2) Not be effective in ameliorating or correcting all of the infant's life-threatening conditions;
- (3) Otherwise be futile in terms of the survival of the infant; or
- (4) Be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

D. Mental abuse or neglect occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon a child a mental injury by other than accidental means or creates a substantial risk of impairment of mental functions.

Mental abuse or neglect may include failure to thrive.

1. Failure to thrive occurs as a syndrome of infancy and early childhood which is characterized by growth failure, signs of severe malnutrition, and variable degrees of developmental retardation.

2. Failure to thrive can only be diagnosed by a physician and is caused by nonorganic factors.

E. Sexual abuse occurs when there is any act of sexual exploitation or any sexual act upon a child in violation of the law which is committed or allowed to be committed by the child's parents or other persons responsible for the care of the child pursuant to §63.2-100 of the Code of Virginia.

CHILD PROTECTIVE SERVICES

I CERTIFY THAT THIS REGULATION IS FULL, TRUE AND CORRECTLY DATED.

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Julie Christopher, Chair  
State Board of Social Services  
August 18, 2004