

SECTION 6: PROVIDER REQUIREMENTS

CLIENT CONFIDENTIALITY AND HIPAA REQUIREMENTS

All programs must ensure client confidentiality. Agencies must provide safeguards for clients against invasion of personal privacy as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Treat all personal information as privileged communication and divulge only upon the client's written consent, except when necessary to provide treatment to the client, seek reimbursement for services or in compliance with mandatory reporting regulations. Keep all written and verbal exchanges between clients and clinical or clerical staff private. Information may be disclosed in summary or statistical form that does not contain specific client identifiers. Since, contractual personnel are not agency employees, the contracts for these team members must spell out the person's confidentiality responsibilities under HIPAA guidelines. Contract personnel must be trained with HIPAA protocols as an employee of your agency because they are part of the Prenatal Plus team.

HIPAA provides for the rights of individuals to control and access their own medical records. HIPAA applies to the Medicaid program, and to all its providers who collect or receive Medicaid client Protected Health Information (PHI). As a Medicaid provider, Prenatal Plus providers are considered "covered entities" under HIPAA. Therefore, Prenatal Plus providers have obligations to clients to provide access to medical records, and to report any disclosures of information as defined by HIPAA guidelines. All Prenatal Plus providers must have policies and procedures in place that are HIPAA-compliant. Each agency likely has a HIPAA committee or representative who is responsible for ensuring the agency is HIPAA-compliant. Please check with the designated people within the agency to ensure Prenatal Plus is HIPAA-compliant. Please contact the Prenatal Plus Program Director with any questions about HIPAA. For more information on protecting the privacy of client's health information go to <http://www.hhs.gov/news/facts/privacy.html> or <http://www.hhs.gov/ocr/hipaa>.

CLIENT RIGHTS AND SERVICES

No person can be denied participation in the Prenatal Plus Program on the basis of religion, age, sex, race, color, creed, national origin, handicap, number of pregnancies, or marital status. Services are provided without a residency requirement.

Client must sign a consent form acknowledging desire to receive services through the Prenatal Plus Program. Client consent to participate in the Prenatal Plus Program must be voluntary, and individuals must not be subjected to coercion to receive services. Acceptance of services must not be made a prerequisite to eligibility for, or receipt of, any other services, assistance from or participation in any other program.

CLIENTS WITH LIMITED ENGLISH PROFICIENCY

Providers are required under 45 C.F.R. Part 80 to ensure that persons with limited proficiency in English have a meaningful opportunity to apply for, receive or participate in, or benefit from the services offered. Providers of client education must have a mechanism to determine that information given has been understood. Clients should be encouraged to ask questions regarding the visit and all of

the information covered. Agency staff should assess client understanding by utilizing open-ended questions and asking the client to repeat, in her own words, instructions and/or follow-up recommendations.

Sites serving clients for whom English is a second language must provide educational materials and informed consent in a language understood by the patient. Pursuant to Title VI of the Civil Rights Act of 1964, it is the agency's responsibility to assure that persons with limited English proficiency (LEP) have equal access to federally assisted health programs, benefits, and services.

Current materials in the appropriate languages should be readily available to the client. Staff responsible for educational materials must ensure that all necessary forms and educational materials are available in Spanish, and other languages when needed.

Provisions for bilingual educators or interpreters must be made for non/limited English speaking clients. This should be determined when scheduling appointments. The client may choose to provide her own interpreter, however, the agency must inform the client that an interpreter will be provided to the client at no cost if the client requests.

It is always desirable to use a female staff member who is knowledgeable about prenatal care and sensitive to confidentiality. Husbands, children, and inappropriate agency staff should not be used unless there is no other alternative. In an instance where a sister or female friend has come for the express purpose of interpreting and no bilingual staff is available, she may be used, but it must be documented in the client record. Instruct the family member to repeat and interpret all discussions and counseling verbatim to increase the accuracy as much as possible.

When an interpreter is used to help the client understand the consent form(s), the interpreter must also sign the consent form(s) and write interpreter in parentheses.

If a clinic does not serve numbers great enough to warrant recruitment of bilingual staff they must have a listing of appropriate persons who can act as interpreters. Another option is to use a telephone interpreter service, such as the AT&T Language Line for unusual language needs (www.language.com).

For more information about the guidelines surrounding care provided to LEP clients go to: www.hhs.gov/ocr or www.lep.gov.

CLIENTS WITH SENSORY IMPAIRMENTS

Agencies must ensure that persons with disabilities, including those with impaired sensory or speaking skills, receive effective notice concerning benefits, services, or written material concerning waivers of rights or consent to treatment. Providers must provide communication aids and interpreters at no cost to the sensory impaired person.

For persons who are deaf or hearing impaired and who use sign language as their primary means of communication, a procedure must be developed and resources identified for obtaining the services of a qualified sign-language interpreter to communicate both verbal and written information. If your agency utilizes a Telecommunication Device for the Deaf (TDD), give a written explanation of where it is located, how to operate it, and the telephone number. If there is an arrangement for sharing a TDD,

give an explanation of the sharing arrangement, the telephone number and the procedures for borrowing the device. If you are using your State Relay Service, give a written explanation of how this is used.

For persons with visual impairments, staff must communicate the content of written materials concerning benefits, services, waivers of rights, and consent to treatment forms by reading them out loud. If other aids such as large print, taped, and Braille materials are used, client should be informed of what aids are available, where they are located, and how they are used.

For persons with speech impairments, writing materials, typewriters, TDD, and/or computers must be available to facilitate communication concerning program services and benefits, waivers of rights, and consent to treatment forms.

CLIENTS WITH DISABILITIES

An agency must be able to provide access to services for clients with disabilities as required by the Americans With Disabilities Act of 1990. The complete text of the federal statute can be found at <http://www.usdoj.gov/crt/ada/statute.html>.

COLORADO REVISED STATUTES AND OTHER LEGAL OBLIGATIONS

Refer to the Colorado Revised Statutes for complete text at <http://www.leg.state.co.us/>.

PARENTAL INVOLVEMENT AND CARE OF MINORS

Minors may consent for care in the following situations outlined in statute. The minor's consent must be obtained, and the provider must document the reason for treating without parental consent.

CRS 13-22-102 Minors – consent for medical care and treatment for addiction to or use of drugs.

- Notwithstanding any other provision of law, any physician licensed to practice in this state, upon consultation by a minor as a patient, with the consent of such minor patient, may examine, prescribe for, and treat such minor patient for addiction to or use of drugs without the consent of or notification to the parent, parents, or legal guardian of such minor patient, or to any other person having custody or decision-making responsibility with respect to the medical care of such minor patient. In any such case the physician or any person acting pursuant to the minor's direction shall incur no civil or criminal liability by reason of having made such examination or prescription or having rendered such treatment, but this immunity shall not apply to any negligent acts or omissions by the physician or any person acting pursuant to the physician's direction.

CRS 13-22-103 Minors – consent for medical, dental, and related care.

- Except as otherwise provided in sections 16-11-311 (4,5), 18-6-101, 25-4-402, and 12-34-103 (1), C.R.S., a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his or her parent, parents, or legal guardian, with or without the consent of his or her parent, parents, or legal guardian, and is managing his or her own financial affairs, regardless of the source of his or her income, or any minor who has contracted

a lawful marriage may give consent to organ or tissue donation or the furnishing of hospital, medical, dental emergency health, and surgical care to himself or herself. Such consent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor shall have the same rights, powers, and obligations as if he or she had obtained majority. Consent to organ or tissue donation may be revoked pursuant to section 12-34-107, C.R.S.

CRS 13-22-103.5 Minors- consent for medical care- pregnancy.

- Notwithstanding any other provision of law, a pregnant minor may authorize prenatal, delivery, and post-delivery medical care for herself related to the intended live birth of a child.

CRS 13-22-105 Minors – birth control services rendered by physicians.

- Except as otherwise provided in part 1 of article 6 of title 18, C.R.S., birth control procedures, supplies, and information may be furnished by physicians licensed under article 36 of title 12, C.R.S., to any minor who is pregnant, or a parent, or married, or who has the consent of his parent or legal guardian, or who has been referred for such services by another physician, a clergyman, a family planning clinic, a school or institution of higher education, or any agency or instrumentality of this state or any subdivision thereof, or who requests and is in need of birth control procedures, supplies, or information.

CRS 13-22-106 Minors – consent – sexual assault.

- Any physician licensed to practice in this state, upon consultation by a minor as a patient who indicates that he or she was the victim of a sexual assault, with the consent of such minor patient, may perform customary and necessary examinations to obtain evidence of the sexual assault and may prescribe for and treat the patient for any immediate condition caused by the sexual assault.
 - Prior to examining or treating a minor pursuant to subsection (1) of this section, a physician shall make a reasonable effort to notify the parent, parents, legal guardian, or any other person having custody or decision-making responsibility with respect to the medical care of such minor of the sexual assault.
 - So long as the minor has consented, the physician may examine and treat the minor as provided for in subsection (1) of this section whether or not the physician has been able to make the notification provided for in paragraph (a) of this subsection (2) and whether or not those notified have given consent, but, if the person having custody or decision-making responsibility with respect to the minor's medical care objects to treatment, then the physician shall proceed under the provisions of part 3 of article 3 of title 19, C.R.S.
- Nothing in this section shall be deemed to relieve any person from the requirements of the provisions of part 3 of article 3 of title 19, C.R.S. concerning child abuse. (CRS 19-3-304 on page 8)

COLORADO PARENTAL NOTIFICATION ACT

12-37.5-104. Notification concerning abortion.

- (1) No abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered... (see full statute text for accepted methods of notification).
- (2) (a) Notwithstanding the provisions of subsection (1) of this section, if the minor is residing with a relative of the minor and not a parent, the written notice of the pending abortion shall be provided to either the relative of the minor or a parent.

12-37.5-105. No notice required - when.

- (1) No notice shall be required pursuant to this article if:
 - The person or persons who may receive notice pursuant to section 12-37.5-104 (1) certify in writing that they have been notified; or
 - The person whom the minor elects to notify pursuant to section 12-37.5-104 (2) certifies in writing that he or she has been notified; or
 - The pregnant minor declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice, as such acts or omissions are defined in "The Child Protection Act of 1987", as set forth in title 19, article 3, of the Colorado Revised Statutes, and any amendments thereto, and the attending physician has reported such child abuse or neglect as required by the said act. When reporting such child abuse or neglect, the physician shall not reveal that he or she learned of the abuse or neglect as the result of the minor seeking an abortion.
 - The attending physician certifies in the pregnant minor's medical record that a medical emergency exists and there is insufficient time to provide notice pursuant to section 12-37.5-104; or
 - A valid court order is issued pursuant to section 12-37.5-107.

12-37.5-107. Judicial bypass.

- (2) (a) If any pregnant minor elects not to allow the notification required pursuant to section 12-37.5-104, any judge of a court of competent jurisdiction shall, upon petition filed by or on behalf of such minor, enter an order dispensing with the notice requirements of this article if the judge determines that the giving of such notice will not be in the best interest of the minor, or if the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to have an abortion. Any such order shall include specific factual findings and legal conclusions in support thereof and a certified copy of such order shall be provided to the attending physician of said minor and the provisions of section 12-37.5-104 (1) and section 12-37.5-106 shall not apply to the physician with respect to such minor. (See full statute text and The Colorado Rules of Civil Procedure-Chapter 23.5 for more information on procedure and limitations.)

MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

CRS 27-10-103 Voluntary applications for mental health services.

- Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-312 (1) (a), C.R.S. a ward, as defined in section 15-14-101 (4), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court that appointed the guardian of the admission.

MANDATORY REPORTING REQUIREMENTS

Prenatal Plus agencies must be compliant with all applicable state laws regarding the mandatory reporting of child abuse, child molestation, sexual abuse, rape, incest, or domestic violence.

Requirements of the Prenatal Plus Program Staff

Program Coordinators must assure that all team members are familiar with Colorado law as summarized on the following pages. At the end of the following excerpts from the Colorado Revised Statutes there are summary tables outlining: who is required to report, to whom the report is made, and what the penalties are for failure to report.

It is an expectation that the Program Coordinator will solicit input from the various agencies and entities involved before writing up a procedure for how the agency will respond to any reportable or potentially reportable situation as outlined in this policy. All Prenatal Plus Program staff must be familiar with the policy and procedures outlined in this section.

CRS 18-3-402 Sexual assault

- Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if:
 - The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or
 - The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
 - The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or
 - At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

- At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim... (see statute for complete text).

CRS 18-6-401 Child abuse

- A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.
- Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris.
- Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).

CRS 19-1-103 Definition of child abuse or neglect

"Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this title, means an act or omission in one of the following categories that threatens the health or welfare of a child:

- Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained; the history given concerning such condition is at variance with the degree or type of such condition or death; or the circumstances indicate that such condition may not be the product of an accidental occurrence;
- Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;
- Any case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take. The requirements of this subparagraph (III) shall be subject to the provisions of section 19-3-103.
- Any case in which a child is subjected to emotional abuse. As used in this subparagraph (IV), "emotional abuse" means an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development.

CRS 19-3-304 Persons required to report child abuse or neglect.

- Except as otherwise provided by section 19-3-307 and sections 25-1-122 (4) (d) and 25-4-1404 (1) (d), C.R.S., any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department or local law enforcement agency.
- Persons required to report such abuse or neglect or circumstances or conditions shall include any:
 - (a) Physician or surgeon, including a physician in training;
 - (b) Child health associate;
 - (c) Medical examiner or coroner;
 - (d) Dentist;
 - (e) Osteopath;
 - (f) Optometrist;
 - (g) Chiropractor;
 - (h) Chiropodist or podiatrist;
 - (i) Registered nurse or licensed practical nurse;
 - (j) Hospital personnel engaged in the admission, care, or treatment of patients;
 - (k) Christian science practitioner;
 - (l) Public or private school official or employee;
 - (m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
 - (n) Mental health professional;
 - (o) Dental hygienist;
 - (p) Psychologist;
 - (q) Physical therapist;

- (r) Veterinarian;
- (s) Peace officer as described in section 16-2.5-101, C.R.S.;
- (t) Pharmacist;
- (u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;
- (v) Firefighter as defined in section 18-3-201 (1), C.R.S.;
- (w) Victim's advocate, as defined in section 13-90-107 (1) (k) (II), C.R.S.;
- (x) Licensed professional counselors;
- (y) Licensed marriage and family therapists;
- (z) Unlicensed psychotherapists;
- (aa) (I) Clergy member.

(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.

(III) For purposes of this paragraph

(aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

(bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;

(cc) Worker in the state department of human services.

- Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.

- In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.
- No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.
- Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:
 - (a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;
 - (b) Shall be liable for damages proximately caused thereby.

CRS 19-3-307 Reporting procedures

- Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.
- Such reports, when possible, shall include the following information:
 - (a) The name, address, age, sex, and race of the child;
 - (b) The name and address of the person responsible for the suspected abuse or neglect;
 - (b) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings;
 - (d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;
 - (e) The family composition;
 - (f) The source of the report and the name, address, and occupation of the person making the report;
 - (g) Any action taken by the reporting source;
 - (h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3.

- Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a local department of health or state department of public health and environment who makes a report pursuant to section 25-1-122 (4) (d) or 25-4-1404 (1) (d), C.R.S., shall include only the information described in said sections.
- (a) A copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.
- (b) When the county department reasonably believes a criminal act of abuse or neglect of a child in foster care has occurred, the county department shall transmit immediately a copy of the written report prepared by the county department in accordance with subsection (1) of this section to the district attorney's office and to the local law enforcement agency.
- A written report from persons or officials required by this part 3 to report known or suspected child abuse or neglect shall be admissible as evidence in any proceeding relating to child abuse, subject to the limitations of section 19-1-307.

CRS 19-3-309 Immunity from liability- persons reporting

- Any person, other than the perpetrator, complicitor, coconspirator, or accessory, participating in good faith in the making of a report, in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to section 19-3-405 or otherwise performing his duties or acting pursuant to this part 3 shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.

CRS 12-36-135 Injuries to be reported- penalty for failure to report

- It shall be the duty of every licensee who attends or treats a bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person, or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence, to report such injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located. Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

- As used in subsection (1) of this section, unless the context otherwise requires:
 - (a) "Domestic violence" means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.
 - (b) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.
- Any licensee who, in good faith, makes a report pursuant to subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

Any licensee who makes a report pursuant to subsection (1) of this section shall not be subject to the physician-patient relationship described in section 13-90-107 (1) (d), C.R.S., as to the medical examination and diagnosis. Such licensee may be examined as a witness, but not as to any statements made by the patient that are the subject matter of section 13-90-107 (1) (d), C.R.S.

REPORTING PRENATAL SUBSTANCE ABUSE

As noted above, Prenatal Plus providers are considered mandated reporters in the case of child abuse. Colorado defines a child as someone who has been born, and case law has upheld this determination. Therefore, maternal substance abuse does not fit the definition of child abuse, and there is no mandatory reporting requirement. In Colorado, Social Services agencies cannot act on a report of a pregnant woman using substances prenatally since it is not considered child abuse.

A referral may be made prenatally to the county Department of Health and Human Services or to Special Connections, although it is not required. A referral with client consent for a needs assessment is encouraged in order to help the woman get access to counseling and treatment services, but it is not mandated. Special Connections, a drug treatment and counseling program for pregnant women, is an approved entity for needs assessment in addition to the county Department of Health and Human Services.

Once the child is born, action may be taken if there is information of the infant being exposed to substances prenatally. This could be self-admission by the client, urinalysis results in a medical chart, or a test of the meconium at birth that shows the newborn is positive for substances. The health care provider may make a report to county Health and Human Services with any of the above information. It is recommended that a client that is using substances prenatally receive an explanation of this policy as part of the risk education done during her pregnancy.

26-4-508.2 Pregnant women - needs assessment - referral to treatment program.

- (1) The health care practitioner for each pregnant woman who is enrolled for services pursuant to section 26-4-508 or who would be eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996, shall be encouraged to identify as soon as possible after such woman is determined to be pregnant whether such woman is at risk of a poor birth outcome due to substance abuse during the prenatal period and in need of special assistance in order to reduce such risk. If the health care practitioner makes such a determination regarding any pregnant woman, the health care practitioner shall be encouraged to refer such woman to any entity approved and certified by the department of health for the performance of a needs assessment. Any pregnant woman who is eligible for services pursuant to section 26-4-508 or who would be eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996, may refer herself for such needs assessment.
- (2) For the purposes of this section, unless the context otherwise requires, a "needs assessment" means an assessment which is designed to make a determination of what services are needed by a pregnant woman to minimize the occurrence of a poor birth outcome due to substance abuse by such pregnant woman.

19-3-401 Taking children into custody.

- (3) (a) Notwithstanding the provisions of subsections (1) and (1.5) of this section and except as otherwise provided in paragraphs (b) and (c) of this subsection (3), a newborn child, as defined in section 19-1-103 (78.5), who is not in a hospital setting shall not be taken into temporary protective custody for a period of longer than twenty-four hours without an order of the court made pursuant to section 19-3-405 (1), which order includes findings that an emergency situation exists and that the newborn child is seriously endangered as described in paragraph (a) of subsection (1) of this section.

(b) A newborn child, as defined in section 19-1-103 (78.5), who is in a hospital setting shall not be taken into temporary protective custody without an order of the court made pursuant to section 19-3-405 (1), which order includes findings that an emergency situation exists and that the newborn child is seriously endangered as described in paragraph (a) of subsection (1) of this section. A newborn child may be detained in a hospital by a law enforcement officer upon the recommendation of a county department of social services, a physician, a registered nurse, a licensed practical nurse, or a physician's assistant while an order of the court pursuant to section 19-3-405 (1) is being pursued, but the newborn child must be released if a court order pursuant to section 19-3-405 (1) is denied.

(c) The court orders required by paragraphs (a) and (b) of this subsection (3) shall not be required in the following circumstances:

 - (I) When a newborn child is identified by a physician, registered nurse, licensed practical nurse, or physician's assistant engaged in the admission, care, or treatment of patients as being affected by substance abuse or demonstrating withdrawal symptoms resulting from prenatal drug exposure;

MANDATORY REPORTING
Child Abuse
Statute: C.R.S. 19-1-103, 19-3-304,-307,-309

Definition	Required Reporters	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p>19-1-103 Definitions. (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this title, means an act or omission in one of the following categories that threatens the health or welfare of a child:</p> <p>(I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fractures of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained; the history given concerning such condition is at variance with the degree or type of such condition or death; or the circumstances indicate that such condition may not be the product of an accidental occurrence.</p> <p>(II) Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;</p> <p>(III) A case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care or supervision that a prudent parent would take...</p> <p>18-6-401. A person commits child abuse if such person causes injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury of a child.</p>	<p>19-3-304 A physician or surgeon (includes in-training), child health associate; medical examiner or coroner; dentist; osteopath; optometrist; chiropractor; chiropodist or podiatrist; registered nurse or licensed practical nurse; hospital personnel engaged in the admission, care, or treatment of patients; Christian Science practitioner; public or private school official or employee; social worker or worker in a any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.; mental health professional; dental hygienist; psychologist; physical therapist; veterinarian; peace officer; pharmacist; commercial film and photographic print processor; firefighter; victim's advocate; licensed professional counselors; licensed marriage and family therapists; unlicensed psychotherapists; clergy; registered dietician; worker in the state department of human services.</p>	<p>19-3-307 County department of Human services or local law enforcement agency.</p> <p>Report known or suspected child abuse or neglect immediately and follow with a written report</p> <p>Third party abuse (see definition bottom of page) is reported to law enforcement where the crime occurs.</p> <p>Intrafamilial abuse is reported to the department of Human services where the victim lives.</p>	<p>19-3-307 When possible include: Name, address, age, sex, and race of child; name and address of person responsible for suspected abuse or neglect; nature and extent of child's injuries, including previous cases of known or suspected abuse or neglect of the child or the child's siblings; names and addresses of the persons responsible for the suspected abuse or neglect, if known; the family composition, the source of the report and the name, address and occupation of the person making the report; any action taken by the reporting source; any other information the person making the report believes may be helpful.</p>	<p>19-3-309 grants immunity to those persons who have made a report of child abuse or neglect, thereby protecting the reporting person from civil and criminal liability as well as termination of employment...</p> <p>Failure to report constitutes a class 3 misdemeanor.</p> <p>Punishment is up to six months in prison and up to \$750 fine.</p> <p>Additionally, the person shall be liable for damages proximately caused by failure to report.</p>

GLOSSARY: Third Party Abuse is by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent... or any person who is not included in the definition of Intrafamilial abuse. Intrafamilial Abuse occurs within a family context by a child's parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent..or by any other person who resides in the child's home or who is regularly in the child's home for the purpose of exercising authority over or care for the child...except if the person is paid for such care and is not related to the child.

MANDATORY REPORTING
Domestic Violence
Statute: C.R.S. 12-36-135

Definition	Who Reports	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p>12-36-135 Any injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee has reason to believe to have been intentionally inflicted, or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence.</p>	<p>12-36-135 Every licensee who attends or treats any injury that the licensee has reason to believe is the result of domestic violence.</p> <p>When setting your agency's policy, it is our recommendation that you consult with your county District Attorney regarding how broadly to interpret "licensee." It should include anyone licensed to practice such as RN, NP, PA, MD, DO, etc.</p>	<p>12-36-135 Police of the city, town, or city and county or sheriff of the county in which the licensee is located.</p>	<p>12-36-135 Name and address of the victim. Name and address of the perpetrator, if known. Where the crime occurred.</p>	<p>12-36-135 grants immunity from any liability, civil or criminal to any licensee who, in good faith, makes a report...</p> <p>Failure to report constitutes a class 2 petty offense. (Defined in 18-1.3-503)</p> <p>A fine of not more than three hundred dollars and/or imprisonment in the county jail for not more than ninety days.</p>

Glossary: Domestic Violence means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child.

MANDATORY REPORTING
Sexual Assault and Sexual Assault on a Child
Statute: C.R.S. 18-3-402 & -405; C.R.S. 19-3-304,-307,-309

Definition	Who Reports	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p>18-3-402 Sexual contact by someone not the spouse where “..the victim is less than fifteen years old and the actor is at least four years older...” (also contained in 18-3-405, Sexual Assault on a Child) or</p> <p>“...the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim...” (Bold added)</p> <p>This includes sexual contact, sexual intrusion, and sexual penetration as defined in C.R.S. 18-3-401 Definitions.</p>	<p>19-3-304 A physician or surgeon (includes in-training), child health associate; medical examiner or coroner; dentist; osteopath; optometrist; chiropractor; chiropodist or podiatrist; registered nurse or licensed practical nurse; hospital personnel engaged in the admission, care, or treatment of patients; Christian Science practitioner; public or private school official or employee; social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.; mental health professional; dental hygienist; psychologist; physical therapist; veterinarian; peace officer; pharmacist; commercial film and photographic print processor; firefighter; victim's advocate; licensed professional counselors; licensed marriage and family therapists; unlicensed psychotherapists; clergy; registered dietician; worker in the state department of human services.</p>	<p>19-3-307 County department of social services or local law enforcement agency.</p> <p>Third party perpetrators (see definitions at bottom of page) are reported to law enforcement where the crime occurs.</p> <p>Intrafamilial cases are reported to the department of social services where the victim lives.</p>	<p>19-3-307 Name, address, age, sex, and race of child; name and address of person responsible for suspected abuse or neglect; nature and extent of child's injuries, including previous cases of known or suspected abuse or neglect of the child or the child's siblings; names and addresses of the persons responsible for the suspected abuse or negligence, if known; the family composition, the source of the report and the name, address and occupation of the person making the report; any action taken by the reporting source; any other information the person making the report believe may be helpful.</p>	<p>19-3-309 Grants immunity to those persons who have made a report of child abuse or neglect, thereby protecting the reporting person from civil and criminal liability as well as termination of employment...</p> <p>Failure to report constitutes a class 3 misdemeanor.</p> <p>Punishment is up to six months in prison and up to \$750 fine.</p> <p>Additionally, the person shall be liable for damages proximately caused by failure to report.</p>

GLOSSARY: Third party abuse is by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent...or any person who is included in the definition of intrafamilial abuse. Intrafamilial abuse occurs within a family context by a child's parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent...or by any other person who is regularly in the child's home for the purpose of exercising authority over or care for the child...except if the person is paid for such care and is not related to the child.

PHYSICIAN BACK-UP REQUIREMENT

Under the rules established for certified health agencies in the Medicaid regulations, local public health agencies that are certified by the Department of Public Health and Environment can bill for Medicaid services without having a physician on-site. However, they must have a physician back-up. A written agreement is required between the agency and the physician. The responsibilities of the physician who permits his or her Medicaid number to be used on the Colorado 1500 Medicaid billing form are as follows:

- The Prenatal Plus staff provides case management, nutrition and counseling services under the authority of their particular licenses, degrees, or employer. Liability for their actions or failure to act lies with the staff and the employing agency, and not with the physician. The physician is neither responsible for nor liable for the quality of these services.
- The physician does not delegate medical functions for the Prenatal Plus staff to carry out.
- The physician will be generally available for consultation as needed by the Prenatal Plus staff. However, it is understood that for the vast majority of situations in which Prenatal Plus staff may seek consultation with a physician, it will be with the client's primary care provider. In the case of emergencies, clients will be sent to a hospital emergency department if their primary care provider cannot immediately attend to these needs.

PROVIDER APPLICATION PROCEDURE

The Prenatal Plus Program is a collaborative effort between the Colorado Department of Public Health and Environment/Women's Health Unit and the Colorado Department of Health Care Policy and Financing/Acute Care Benefits Section. Agencies interested in providing Prenatal Plus services must submit an application to the Prenatal Plus Program at the Colorado Department of Public Health and Environment. See the *Prenatal Plus Provider Application*. If there are questions during the application review process, please contact the Prenatal Plus Program Director at 303-692-2495.

The review process begins upon receipt of an agency application. The Prenatal Plus Program Director will review the application and request additional information as needed. In reviewing applications, the Prenatal Plus Program Director will consider the applicant's ability to demonstrate how they will meet the Prenatal Plus Program requirements, including:

- Enrollment in Colorado Medicaid as a participating provider with a valid Medicaid provider number.
- Identifying pregnant Medicaid-eligible women in the area that will be eligible to receive Prenatal Plus services. The agency must have a minimum of 10 or more Medicaid births per year in the area for which Prenatal Plus services will be appropriate.
- Delivering Prenatal Plus services to Medicaid-eligible pregnant women through the use of a multidisciplinary team, consisting of a care coordinator, registered dietitian and mental health professional.

- Agreeing to comply with all requirements of the Prenatal Plus Program, as outlined in the Prenatal Plus Provider Manual, including the use of all required forms.
- Referring clients to other services as necessary and coordinate with other community agencies.
- Tracking, documenting, and reporting risk resolution and pregnancy outcome information. Agreeing to maintain client records as required by HIPAA, and submitting all the required data in a timely manner.

The Prenatal Plus Program Director will contact the applicant within four weeks of receipt of the application. If additional information is needed, the coordinator will request it at this time. The applicant will have thirty days to respond and will be notified of the status of the application within two weeks of receipt of this response. When the application is approved, a training plan will be developed with the Prenatal Plus Program Director.

If an agency has submitted an application to become a Prenatal Plus provider, and the application has been reviewed and denied, the agency may request reconsideration regarding the Prenatal Plus application. The agency should provide additional information that addresses the concerns/issues that led to the application being denied. This information must be submitted in writing to the Prenatal Plus Program Director within 60 days. The agency may also request a meeting with the Prenatal Plus Program Director and/or the Director of the Women's Health Unit to discuss the concerns and issues related to the application. A final written decision will be sent to the agency within 30 working days of receiving the request for reconsideration. Agencies that have been denied may submit a new application whenever there is new information available.