

## Chapter 23

## “PATENTLY UNFOUNDED” REPORTS

23-1. Purpose. Patently Unfounded reports are incidents reported in good faith to the Hotline that are subsequently determined to have no basis in fact as demonstrated by compelling evidence which directly refutes the allegation. Patently unfounded closures are distinct and separate from False Reports made for harassment purposes as defined in s. [39.01\(29\)](#), F.S., because with patently unfounded reports the investigator is able to determine or at least understand why the allegation was made in good faith, however, erroneously.

23-2. Criteria for Compelling Evidence.

a. Patently unfounded reports require a higher standard of evidence (i.e., “compelling”) than reports closed with “No Indicator” findings (i.e., “no credible evidence”).

b. The investigator must be able to document that the evidence obtained is “compelling” as demonstrated by all three of the following conditions being met:

(1) The evidence is **readily observable** (e.g., a report alleges a child has a fractured arm but the investigator views or obtains a copy of an X-ray from a physician indicating the arm is not broken and the investigator observes the child using the arm in play with no observable restriction of movement, swelling or discomfort, etc.). This means the allegation must describe conditions or circumstances that are observable by the investigator at the time of the report. Allegations of physical injury in the recent past which are no longer visually observable (i.e., have healed) are not appropriate for patently unfounded closures.

(2) The evidence must be **mutually and collectively corroborated**. All statements or information obtained must be in agreement (e.g., child victim, sibling, parents and family members all report child has never broken a bone or suffered any type of arm injury and the child’s pediatrician provides a similar medical history, etc.).

(3) The evidence must support that the allegation can be fully refuted through direct observation and **findings of fact** (such as through medical or other records, law enforcement reports, CPT findings, relevant professional consultations, etc.). The following are some scenario examples to assist with decision making:

(a) Substance Misuse. Report alleges parent was seen injecting a child with drugs (type unknown). Child was seen acting “loopy and out of it . . . drugged.” The investigator subsequently determined the child’s mother was actually seen administering insulin to her 12 year-old son who had lost his medication while on an all-day school field trip and had missed two injections. His “loopy” behavior was caused by a very high blood sugar level and the administration of his insulin by his mother was critical in preventing more harmful medical complications to her son. Upon reviewing the child’s medical condition and the mother’s actions with CPT medical personnel, the investigator appropriately closed the investigation as patently unfounded.

NOTE: A negative drug screen or history of negative drug screens should never be the sole determinant in assessing allegations of substance misuse.

(b) Environmental Hazards – Inadequate Food. Report alleges two underweight children were seen “begging food from neighbors.” The investigator observed two children in the home with average age-weight status which was subsequently confirmed by CPT (or the children’s pediatrician). The home was also observed with ample food supplies in both the refrigerator and a fully stocked pantry. Upon confirming with the children’s school that students had recently participated in a

food drive canvassing their neighborhoods asking neighbors for donations, the investigator appropriately closed the investigation as patently unfounded.

(c) Burns. Report alleges that a five-year old child appears to have cigarette burns on the backs of both hands. The mother does not smoke but her live-in boyfriend does. Investigator observed child with three and four pencil eraser sized lesions healing on the child's right and left hand, respectively. The child's mother stated that she had recently taken her son to his pediatrician to have several common warts removed. Upon confirming the recent medical treatment with the child's pediatrician (e.g., physician viewed photographs of child's hands taken by investigator), the investigation was appropriately closed as patently unfounded.

c. An absence of evidence is not to be considered compelling evidence. Compelling evidence is a much higher standard which includes all three aspects described in paragraphs 23-2.b.(1) through (3) of this operating procedure. If any of the three prerequisites is missing, then closure as patently unfounded is not appropriate.

### 23-3. Procedures.

a. The investigator must complete a Present Danger Assessment and document that no present danger threats are identified in the home. The identification of any present danger requires the completion of a Family Functioning Assessment and precludes the use of the patently unfounded closure.

b. The investigator must document that no additional maltreatments were disclosed by any subjects of the report or collateral contacts during the course of the investigation.

c. The investigator must document the compelling evidence that is in direct contrast to the allegation by explaining how the evidence is readily observable, mutually and collectively corroborated, is supported through fact finding, and how the report was likely made in good faith.

d. Cessation of investigative activities and closure of the investigation as a patently unfounded report shall only occur with supervisor or Program Administrator approval.

23-4. Exclusions on the Use of Patently Unfounded Closure. The patently unfounded closure may not be used in any report containing:

a. Child fatalities;

b. Sexual abuse allegations unless evidence provided by a medical professional is found to refute the allegation of sexual abuse, and after referral to Child Protection Team for service; or,

c. Physical injury allegations when the investigator observes any form of disfigurement or injury, regardless of how slight, which may potentially be related to the alleged maltreatment. For example: patently unfounded may be used in cases in which a CPT medical exam determines the observed marks are Mongolian Spots.

23-5. Supervisor. Supervisor Consultation will be provided to affirm:

a. That the investigator sufficiently established the standard for compelling evidence to support the use of the Patently Unfounded closure.

b. That the report does not contain any maltreatments that are exempt from being in a report using the patently unfounded closure.

23-6. Documentation.

a. The investigator will document the Present Danger Assessment using FSFN functionality and the compelling evidence and corroborated information in case notes within two business days when justifying the use of the “Patently Unfounded” closure. An FFA-Investigation is not required for investigations closed as “Patently Unfounded”.

b. The supervisor will document the consultation using the “Closure” supervisor consultation module within two business days.

