

Reporting Child Abuse and Neglect

Learn about psychologists' duties as mandated reporters.



All 50 states and the District of Columbia have child abuse and neglect* reporting laws and policies that specify who is required to make a report as well as reporting procedures. Almost all states specifically mandate that certain types of professionals – including psychologists, physicians, teachers and others – immediately report suspected child abuse or neglect. The details of state laws vary, but the goal is the same: to protect vulnerable children from harm.

This article describes several important issues and professional considerations for practitioners related to child abuse reporting.

Limits to confidentiality

In most situations, legal and ethical duties require psychologists to keep information obtained in the course of psychotherapy confidential. The APA Ethical Principles of

Psychologists and Code of Conduct (“Ethics Code”) Standard 4.01 states: “Psychologists have a primary obligation to protect confidential information...recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship.”

Yet Ethics Code Standard 4.05(b) describes several situations in which disclosure of confidential information is allowed without patient consent, including “where permitted by law for a valid purpose such as to...protect the client/patient, psychologist, or others from harm.” Further, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule specifically permits covered health care providers to disclose reports of child abuse or neglect to public health authorities or other appropriate government authorities (www.apapracticecentral.org/business/hipaa/2009-privacy.pdf).

The crucial need to protect children from abuse and neglect, combined with children's vulnerability, make this one of the few areas in which psychologists are legally mandated to release confidential information. In essence, society has determined that protecting children outweighs the right to confidentiality in these situations.

Varying requirements in child abuse reporting laws

State laws typically require psychologists (and other mandated reporters) to immediately make a report when, in their professional roles, they suspect or have reason to believe a child has been abused or neglected. However, state laws and regulations vary regarding more specific issues such as how abuse and neglect are defined and the procedures for making a report. Therefore, it is important to be knowledgeable about the reporting requirements in your jurisdiction.

The Department of Health and Human Services (DHHS) Child Welfare Information Gateway provides information on how each state defines child abuse and neglect at 1.usa.gov/ZJ7acs. The federal Child Abuse Prevention and Treatment Act defines child abuse and neglect as:

“at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm” (CAPTA Reauthorization Act of 2010, P.L. 111-320, § 3).

State laws generally include similar elements, with some states defining abuse and neglect more broadly than other states. For example, certain states define child abuse to include only those situations in which the alleged perpetrator is a parent or guardian, whereas other states define abuse more broadly to include acts perpetrated by any adult.

States may also differ regarding the reporting of past abuse. Most states' laws or other guidance clearly limit reportable situations to those involving children currently under the age of 18. For example, Washington's statute specifically states: “The reporting requirement...does not apply to the discovery

of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect...the reporting requirement... does apply” (RCW § 26.44.030(f)(2)).

Some states' laws are unclear and could be interpreted as requiring a report even in cases of abuse alleged to have occurred many years ago. If you are unsure about whether to report past abuse of a patient who is now an adult, contact your state board of psychology, state child protective services agency, or your malpractice insurer for guidance. (Please note that the title of the agency charged with child protection in your state may be child welfare, child and family services, or another similar title.)

A potentially complex situation arises when the abuse occurred in another state and/or the abuser now lives in another state. In such cases, contact your state's child protective services agency for advice. Your state's child protective services agency may be able to receive a report and coordinate investigative efforts with the other jurisdiction involved. You are unlikely to be mandated to report across state lines or permitted to release confidential information to another state's child protective services agency without your patient's consent.

Making a report

Information about how to report suspected abuse is generally easily accessible on state government websites. Many states provide detailed online resources for mandated reporters (as well as voluntary reporters) on their websites covering topics such as circumstances that need to be reported and when and how to make a report.

The DHHS Child Welfare Information Gateway is another excellent resource for more detailed information on mandatory reporting of child abuse, including specific state requirements (1.usa.gov/ZlnCQD).

Most child abuse reports are made by calling your state's child abuse reporting hotline. A list of hotline numbers and other relevant contact information is available at 1.usa.gov/13v8rDV.

The hotlines may also be used to obtain guidance, particularly if you are unsure about whether a particular situation triggers a duty to report. You should be able to obtain a consultation from the hotline staff without releasing any identifying information about yourself, the child or the alleged perpetrator.

In addition to an oral report, about 20 states require subsequent submission of a written report. For example, in Iowa, mandated reporters must call the Department of Human Services reporting hotline within 24 hours of becoming aware of suspected abuse and must submit a written report within 48 hours of the initial phone report.

States also vary regarding the specific information that must be provided for an initial report, as well as the types of information that may later need to be released for purposes of any investigation. Before releasing any information beyond what is clearly required for an initial mandated report, be sure that you have legal authority to do so under the child protection laws and regulations, or that you have authorization from the child's legal representative, usually the parent. Of course, obtaining authorization for release of information from the legal representative will only be a reasonable option if the parent or other legal representative is not the alleged perpetrator.

Anonymity and immunity

The DHHS Child Information Gateway also provides state-specific information on anonymity and immunity (1.usa.gov/ZlnCQD; 1.usa.gov/ZloeFW). According to DHHS, all states have statutory provisions to maintain the confidentiality of abuse and neglect records. In addition, most states permit mandated reports to be made anonymously and specifically protect the reporter's identity from disclosure to the alleged perpetrator. However, release of the reporter's identity may be allowed in some jurisdictions in specific circumstances – for example, by court order when there is a compelling reason.

DHHS also confirms that all states and the District of Columbia provide some form of immunity from liability for individuals who in good faith report suspected child abuse or neglect. Most states provide immunity not only for the initial report, but also for many of the actions that a reporter may take following the filing of a report. One example is assisting

with an investigation or participating in a judicial proceeding based on the alleged maltreatment.

Beyond mandated reporting

Not all reports result in investigations. For example, you may have insufficient information about the alleged perpetrator for an investigation to go forward. The child abuse reporting laws tend to be constructed broadly in order to provide maximum protection for children, so they may capture situations such as those in which you have only minimal information about the abuse or where an investigation is already under way. Keep in mind that as a mandated reporter, you are not responsible for investigating or proving the suspected abuse.

Even if you are not mandated to report child abuse in a particular situation, there may nonetheless be clinical or ethical issues that need to be addressed. For example, if a child you are treating describes inappropriate physical

The child abuse reporting laws tend to be constructed broadly in order to provide maximum protection for children.

contact by a neighbor and mandated reporting in your state is limited to situations in which the alleged abuser is a parent or legal guardian, you will nonetheless want to take action. In this case, you might decide to alert the child's parents and encourage them to take legal and/or other protective actions. You may also be in a unique position to help your patient and your patient's family by continuing therapy with the child and providing resources such as information about support groups to the parents.

Another example of a situation that requires action other than reporting to a child abuse hotline is when you believe your patient or another person is in imminent danger of serious harm. In such cases, you may be permitted or mandated to release confidential information pursuant to Ethics Code Standard 4.05(b) and relevant state laws, including those governing the "duty to protect." (For further information, see "A Matter of Law: Psychologists' Duty to Protect" at www.apapracticecentral.org/business/legal/index.aspx.)


The critical role of informed consent

Thorough informed consent procedures will make it easier for you to work with children and their families if you are later confronted with a reportable situation. Your informed consent procedures should address, preferably both in writing and verbally, exceptions to confidentiality – including the duty to report child abuse or neglect.

Ethics Code Standard 4.02(a) states: “Psychologists discuss with persons (including to the extent feasible persons who are legally incapable of giving informed consent and their legal representative)...the relevant limits of confidentiality.” Especially when working with older children and adolescents, there should be a clear understanding that is documented in your informed consent agreement about the specific types of information that will be considered confidential and the circumstances under which such information may be disclosed.

If you do need to make a report, it may make sense to discuss the situation with your patient and/or a minor patient’s parents, even if you are allowed to make the report anonymously. The advisability of doing so will depend on factors such as the age of your patient, the nature of the family members’ involvement and clinical considerations. Explaining your legal obligations and emphasizing the goal of child protection may help to maintain the family’s trust and enable you to continue in a therapeutic role.

If you have further questions about mandated reporting of suspected child abuse, please contact the APA Practice Legal and Regulatory Affairs Department at praclegal@apa.org or 800-374-2723.

*The terms “abuse” and “abuse or neglect” may be used interchangeably in this article. 

Please note: Legal issues are complex and highly fact specific and require legal expertise that cannot be provided by any single article. In addition, laws change over time and vary by jurisdiction. The information in this article should not be used as a substitute for obtaining personal legal advice and consultation prior to making decisions regarding individual circumstances.



ADDITIONAL REFERENCES AND RESOURCES

American Psychological Association. Understanding and preventing child abuse and neglect. Available at www.apa.org/pi/families/resources/understanding-child-abuse.aspx.

American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. Available at www.apa.org/ethics/code/index.aspx.

APA Insurance Trust. Sample child therapy contracts. Available at apait.org/apait/download.aspx.

American Psychological Association Practice Organization (2011). Working with children. Good Practice. Available at www.apapracticecentral.org/good-practice/index.aspx.

American Psychological Association Practice Organization (2009) HIPAA privacy rule primer. Available at www.apapracticecentral.org/business/hipaa/2009-privacy.pdf.

Behnke, S.H. & Kinscherff, R. (2002). Ethics Rounds: This month’s ‘Ethics Rounds’ offers guidance on psychologists’ ethical obligations. Must a psychologist report past child abuse? *Monitor on Psychology*, 33(5). Available at www.apa.org/monitor/may02/ethics.aspx.

Bennett, B.E., Bricklin, P.M., Harris, E., Knapp, VandeCreek, L., & Younggren, J.N. (2006). Assessing and managing risk in psychological practice. Rockville, MD: The Trust.

Department of Health and Human Services. Child Welfare Information Gateway. Available at <https://www.childwelfare.gov/can/>.

National Conference of State Legislatures. Child Abuse and Neglect Reporting State Statute Overview. Available at bit.ly/11Qj9SO.

Shilling Wolfe, D. (2012). Revisiting child abuse reporting laws. *Social Work Today*, 12(2), 14. Available at www.socialworktoday.com/archive/031912p14.shtml.