

---

# 10 THINGS ABOUT: REPORTING OBLIGATIONS

---

1. Despite a physician's obligation to maintain patient confidentiality, there are those instances in which he or she may have a legal obligation to breach confidentiality due to safety concerns about the patients or others. When a physician is required by law to report (in other words is a "mandated" reporter), there is typically immunity so long as the report was made in good faith. As such, the physician cannot be sued for breach of confidentiality or for damages a patient or other individual might have incurred as a result of the physician's reporting. Additionally, such reporting is permissive under the HIPAA Privacy Rule and therefore not a violation of that law. Depending on the subject matter of the report, *failure* to make a required reporting may be a crime in your state and may also subject you to actions by your licensing board. Note also that you may still have a duty to make a report, even if you know that someone else has already reported the matter and there is an active investigation.
2. All states as well as the District of Columbia have laws requiring physicians to report suspected child abuse or neglect. The CDC defines child abuse and neglect as "any act or series of acts of commission or omission by a parent or other caregiver (e.g., clergy, coach, teacher) that results in harm, the potential for harm, or the threat of harm to a child." Abuse may be physical, sexual, or psychological. Neglect may be physical, emotional, deprivation of medical and dental care, educational neglect, inadequate supervision or exposure to violent environments. States vary, however, as to how they define child abuse, and when physicians are required to report. For example, there may be a requirement that the psychiatrist gain knowledge of the situation in a treatment relationship with the child or the abuser. Surprisingly, some states do require that abuse be reported even if the psychiatrist learns of the abuse after the child has reached the age of majority (18).
3. Although the laws vary, in most states physicians are required to make a reporting when they suspect elder abuse which is defined by the CDC as "an intentional act, or failure to act, by a caregiver or another person involving an expectation of trust that causes or creates a risk of harm to an older adult." (Someone age 60 or older.) There are five types of abuse that are typically recognized. Physical abuse comprises acts carried out with the intent to cause physical pain or injury. This may also include inappropriate use of drugs, restraints, or punishment. Psychological or verbal abuse refers to acts carried out with intent to cause emotional pain or injury. This may include insults, threats, humiliation, and harassment and may stem from both verbal and non-verbal acts. Sexual abuse is nonconsensual contact of any kind to include exposure and nudity. Financial exploitation is the misappropriation of money or property. Lastly, neglect is the failure of a designated caregiver to meet the needs of a dependent older person.
4. Similar to elder abuse reporting, is the reporting of abuse of vulnerable adults. A vulnerable adult is someone over the age of 18 who, due to physical or mental disability is or may be unable to care for him or herself or is unable to protect him or herself from significant harm or exploitation. The forms of abuse are the same as those considered in elder abuse reporting.
5. Some states are now requiring the reporting of intimate partner violence (also called domestic abuse or violence) which the CDC describes as "physical violence, sexual violence, stalking and psychological aggression (including

coercive acts) by a current or former intimate partner.” Bear in mind, however, that many states still take the position that is unethical and a breach of confidentiality to report suspected domestic violence without the consent of the patient.

6. Most if not all states require physicians to report other physicians whom they know to have committed acts of professional misconduct. Professional misconduct may take many forms but most frequently reporting is triggered by knowledge of another physician’s inability to practice competently due to mental or physical conditions or dependence on drugs or alcohol, repeated acts of negligence, and inappropriate physician-patient relationships. Failure to report another physician under these circumstances may itself be an act of professional negligence. Take note, however, that some states waive this requirement if the physician gained knowledge of the other physician’s misconduct through a treatment relationship.
7. Many psychiatrists have encountered situations involving patients who have altered or forged prescriptions. Oftentimes, this is discovered after a call from a pharmacist who has been presented with a prescription that they have refused to fill. Pharmacists will sometimes suggest to the psychiatrist that he or she call the police to report the patient. Unless your state’s laws specifically require this, you should NOT report your patient. You must maintain confidentiality and should instead deal with the matter clinically and then determine whether to keep this patient in your practice. If the pharmacist should report the matter and you are contacted by the police, you may provide minimal information, e.g., that you did not write a particular prescription.
8. Through their treatment relationship, psychiatrists will sometimes learn that patients have committed criminal acts. While you may have an obligation to report a planned future crime (see number 9 below), physicians are typically not required to report completed crimes regardless of the type of crime committed. Unless you in some way aided in or concealed the crime (e.g., you agreed to hang on to the murder weapon) you are not in violation of the law by failing to report your patient.
9. Since the Tarasoff decision in 1976, many states have enacted laws either requiring or permitting psychiatrists and other mental health professionals to warn an identifiable victim of a patient’s serious threat of violence toward them. Typically, a serious threat presupposes that the patient has access to the victim, the means to carry out the threat, and that the intended violence is imminent. Failure to report may create liability on the part of the psychiatrist if the intended act is carried out. State laws vary greatly on a psychiatrist’s duty to warn so you may wish to consult your risk manager or an attorney to assist in determining whether a report is required.
10. Psychiatrists diagnose and treat many conditions that can potentially impair a patient’s ability to drive safely. In addition to psychiatric disorders, other medical conditions, treatments/medications or changes incident to aging can affect one’s ability to drive. Because patients may present with numerous impairments to driving that put their safety – as well as that of others – at risk, psychiatrists must be prepared to address this issue with their patients. They must also be aware of their potential obligation to report impaired drivers to their state’s licensing agency.

Compliments of:



Call (800) 245-3333  
Email [TheProgram@prms.com](mailto:TheProgram@prms.com)  
Visit [PRMS.com](http://PRMS.com)  
Twitter [@PRMS](https://twitter.com/PRMS)  
Facebook [Facebook.com/ PRMSprograms](https://www.facebook.com/PRMSprograms)  
LinkedIn [LinkedIn.com/company/PRMSprograms](https://www.linkedin.com/company/PRMSprograms)

*The content of this article ("Content") is for informational purposes only. The Content is not intended to be a substitute for professional legal advice or judgment, or for other professional advice. Always seek the advice of your attorney with any questions you may have regarding the Content. Never disregard professional legal advice or delay in seeking it because of the Content.*

©2020 Professional Risk Management Services (PRMS). All rights reserved.