

Child Abuse Reporting 5

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin - January 2013

... Each state has a child abuse reporting law where licensed mental health practitioners and others are required to report known or reasonably suspected child abuse. These laws vary from state to state, sometimes in fine nuance. One aspect of the reporting law involves the time frame for making reports, which is usually rather short. Suppose that a pre-licensed person (a/k/a an intern) comes to a supervision session and describes information that was received from a patient four days earlier. Suppose further that the intern has described something that constitutes reportable child abuse, which he or she either missed or delayed beyond the required time frame for reporting in order to discuss the issue in supervision.

Failure to make a required report within the time frame specified usually constitutes a crime and/or unprofessional conduct. Once the supervisor discovers that a report should have been made, the question arises as to whether or not the supervisor must (or should) file a report or whether the supervisor should encourage the intern to make the report forthwith. It has been my view (at least in California) that the supervisor would be required to make the report, since the supervisor is a mandated reporter who found out about the suspected abuse in his or her professional capacity or within the scope of his or her employment.

If the supervisor did not make a report, he or she would arguably have violated the reporting law and be subjected to the applicable penalties and consequences. Moreover, if the supervisor merely encouraged the intern to make the report, albeit late, the supervisor would essentially be encouraging the intern to admit to the commission of a crime. Something about that bothers me, especially when I believe there is a better alternative. When the supervisor makes the report, he or she can explain the fact that the intern was new or inexperienced, or that the need to report was not readily apparent, or that it was arguable as to whether a report was required under the circumstances. Assuming that the child has suffered no injury during the period of time that the report was delayed, it is unlikely that the intern would be prosecuted for a failure to report. Of course, each case is different and there can be no guarantees.