

Elder Abuse Reporting

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An interesting question that arises from time to time occurs when an elder tells a mandated reporter that he or she has suffered from some form of abuse – for instance, physical abuse or financial abuse – but the therapist or counselor does not believe the client. Must a report be made? As I often write, the answer to this question depends upon the nuances of state law. Does the state law require reporting only if the therapist or counselor has “knowledge” of the abuse or has a “reasonable suspicion” of abuse? Is there some other standard for reporting? Does the state law specify that a report must be made if the elder says that he or she was abused – regardless of what the therapist or counselor may believe or determine? The answers to these questions, among others, are critical.

In one state, for example, the law specifies that a report of elder abuse must be made if the psychotherapist, while acting in his or her professional capacity or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, financial abuse, neglect or other specified forms of elder abuse, or reasonably suspects such abuse. That state’s law, however, provides that psychotherapists (and other specified health care providers) are not required to report an incident where all of the following conditions exist: 1) the psychotherapist is told by the elder that he or she has experienced behavior constituting physical, financial or the other kinds of abuse; 2) the psychotherapist is not aware of any independent evidence that corroborates the statement that the abuse has occurred; 3) the elder has been diagnosed with a mental illness or dementia, or is the subject of a court ordered conservatorship because of a mental illness or dementia, and 4) in the exercise of clinical judgment, the psychotherapist reasonably believes that the abuse did not occur.

What are the answers to the questions posed above according to the law in your state?