

Identity of the Reporter

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... Child abuse reporting laws in the various states are similar in many respects, although there are differences. Much of the focus of practitioners usually involves questions regarding whether something is required to be reported, or whether a report is permissible rather than mandated. I was recently made aware of another issue related to child abuse reporting that should be important to practitioners who are mandated reporters of child abuse and neglect. That issue is – what is the extent of the protection a mandated reporter has with respect to the confidentiality of his or her identity? Will the perpetrator be able to find out who made the report? Could the mandated reporter be endangered if confidentiality is not strictly adhered to? If the patient or client's confidentiality is breached in some way, and the identity of the mandated reporter is thereby revealed, what is the remedy for the mandated reporter?

Typically, a mandated reporter must include his or her name in the child abuse report. In most states, if not all, there are protections written into the law for the mandated reporter – one of which is that the identity of the mandated reporter shall be treated as confidential by those agencies that receive mandated reports. Further, state laws may specify how that confidential information may be shared with other agencies involved with the investigation or the later prosecution of the case. I have heard sporadic complaints over the years that the identity of the reporter was inappropriately shared, perhaps by a child protective services worker, with the alleged abuser or others. Sometimes this is hard to prove, but at other times, proof may not be difficult.

Therapists or counselors may have one or more remedies, depending upon state law. California law, for example, makes it a crime for the identity of the mandated reporter to be shared, other than to other agencies responsible for the investigation or prosecution of child abuse. State laws may allow for a civil remedy, such as permitting a lawsuit for damages against those who wrongfully disclose the confidential information and thereby endanger the mandated reporter. This issue (protecting the identity of the mandated reporter) is rather complex, and reference to applicable state laws is necessary. These state laws, however, may not be entirely clear as to the extent of the “privacy” protections given to mandated reporters. You may want to review the child abuse reporting laws in your state with respect to this issue.