

## Reporting clients who are a ‘clear and present danger’

**Question:** A colleague told me that some states are now requiring counselors and other mental health professionals to report certain clients to a designated government agency if they believe that the clients may be a danger to self or others. This seems to go beyond the *Tarasoff*-type reporting (*Tarasoff v. Regents of the University of California*) that has been in effect for years. The colleague told me that the new state laws are designed to prevent potentially dangerous mental health patients and clients from being able to obtain firearms. Is this true?

**Answer:** Some states have passed such laws imposing requirements on certain counselors and other mental health professionals. For example, the state of Illinois now requires mental health facilities, physicians, psychologists and “qualified examiners” to report persons whom they have determined to be a “clear and present danger” to themselves or to their communities. Such reports must be made to the Illinois Department of Human Services Firearm Owners Identification Mental Health Reporting System within 24 hours of the determination.

Additionally, in some circumstances, physicians, licensed clinical psychologists

and qualified examiners who determine a person to be developmentally disabled or intellectually disabled are also obligated to report the person within 24 hours of the determination. Among those included in the definition of *qualified examiner* is “a licensed clinical professional counselor with a master’s or doctoral degree in counseling or psychology or a similar master’s or doctorate program from a regionally accredited institution who has at least three years of supervised post-master’s clinical professional counseling experience, which includes the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders.” (See [dhs.state.il.us/page.aspx?item=69505](http://dhs.state.il.us/page.aspx?item=69505) for further explanation of the law and reporting duties.)

Under the Illinois law, immunity from a lawsuit is provided to the reporter except in cases of willful or wanton misconduct. Additionally, certain school administrators are also subject to reporting requirements, although the mechanics are somewhat different.

New York state was at the forefront of this type of legislation in early 2013, following the Sandy Hook Elementary School shooting in nearby Connecticut. However, the New York law did not

specifically include counselors. Counselors are advised to monitor legislation in their own states to see if similar duties might arise in the future.



The question addressed in this column was developed from a de-identified composite of calls made to the Risk Management Helpline sponsored by the American Counseling Association. This information is presented for educational purposes only. For specific legal advice, please consult your own local attorney. To access additional risk management Q&As, go to [counseling.org/ethics](http://counseling.org/ethics) and scroll to the bottom of the page for the ACA members-only link to the Risk Management section of the website. ♦

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