

## Mandatory Abuse Reporting for Oregon Lawyers



**Wednesday, March 11, 2026,  
Noon–1:00 p.m.**

**Live Webcast**

**1 Abuse Reporting credit**

**MCLE ID 130114**

- [MCLE Recordkeeping Form \(for your files\)](#)

### **Schedule**

**Wednesday, March 11**

**12:00** [Mandatory Abuse Reporting for Oregon Lawyers](#)

- Linda Kruschke, *Oregon State Bar, Tigard*

**1:00** **Adjourn**

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# **Mandatory Abuse Reporting for Oregon Lawyers**

**OSB CLE Webcast  
March 11, 2026**

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**LINDA KRUSCHKE**

**ASST GENERAL COUNSEL  
OREGON STATE BAR**

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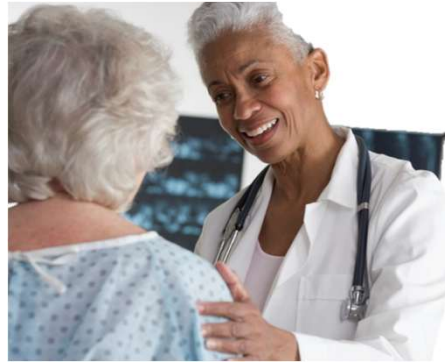
**▶ Why is mandatory abuse  
reporting so important?**

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## Legislative Purpose

[example: elder abuse reporting]

“The Legislative Assembly finds that for the purpose of **preventing abuse, safeguarding and enhancing the welfare of elderly persons**, it is necessary and in the **public interest to require mandatory reports** and investigations of allegedly abused elderly persons.”



ORS 124.055

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## The Battered Child Syndrome

- ▶ C. H. Kempe, Frederic N. Silverman, Brandt F. Steele, William Droegemuller & Henry K. Silver, *The Battered Child Syndrome*, 181 J Am Med Ass'n 17 (1962).

Foundation  
of child  
abuse as a  
diagnosis.

Also called  
Tardieu's syndrome;  
Caffey-Kempe  
syndrome.

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- Alcoholism and Alcohol Abuse
- Chronic Obstructive Pulmonary Disease (COPD)
- Depression
- Fetal Death
- Health-related Quality of Life
- Illicit Drug Use
- Ischemic Heart Disease (IHD)
- Liver Disease
- Risk for Intimate Partner Violence
- Multiple Sexual Partners
- Sexually Transmitted Diseases (STDs)
- Smoking
- Suicide Attempts
- Unintended Pregnancies
- Early Initiation of Smoking
- Early Initiation of Sexual Activity
- Adolescent Pregnancy
- Psychotropic Medications Prescribed

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Almost 80% of child abuse reports come from mandatory reporters.

Source	Percentage
Police	17%
School	20%
Medical	10%
Other mandated	30%
Parent/Self	6%
Other voluntary	17%
<b>All voluntary</b>	<b>23%</b>

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Oregon  
State  
Bar

▶ **Why is Bar counsel  
here to talk about  
abuse reporting?**

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“Public or private  
officials” are  
Mandatory Abuse  
Reporters

Elder abuse  
ORS 124.050(9)

Child abuse  
ORS 419B.005(6)

- ▶ Medical Professionals
- ▶ Audiologists and Therapists
- ▶ Police Officers, Firefighters, EMTs
- ▶ School and College Employees
- ▶ Health and Human Services Workers
- ▶ Care Providers and Legal Custodians
- ▶ Clergy and Mental Health Professionals
- ▶ Physical, Speech, and Occupational Therapists
- ▶ Members of the Legislative Assembly
- ▶ **Attorneys**

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## Oregon State Bar

### 9.114 Mandatory training on duties relating to reporting child abuse and abuse of elderly persons:

The Oregon State Bar shall adopt rules to establish minimum training requirements for all active attorney members of the bar relating to the duties of attorneys under ORS 124.060 and 419B.010. Rules adopted under this section are subject to review and approval by the Supreme Court.

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## Attorneys' Abuse Reporting Duties



**ELDERS**  
[ORS 124.060]



**CHILDREN**  
[ORS 419B.010]



**MENTAL ILLNESS/  
DEVELOPMENTAL DISABILITY**  
[ORS 430.765]



**LONG-TERM CARE RESIDENT**  
[ORS 441.640]

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- ▶ What is the mandatory reporting duty?
- ▶ When is a report mandatory (unless an exception applies)?



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## Oregon Abuse Reporting Duty 125.060 (Elder Abuse) and 419B.010 (Child Abuse)

Lawyers **must** report abuse if we have:

- ☎ **Contact** with an abuser or a victim, and
- ☎ **Reasonable cause** to believe that
- ☎ **A protected person**
- ☎ **Has Been abused,**

➡ **UNLESS** an exception applies.

This duty exists 24 hours a day, 7 days a week!

Following an employer's policy is not enough!

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## What Is Contact?

- “A touching or meeting; association or relationship.”
- Need not be linked to abuse BUT there must be physical or associational contact
- Receiving information in a public meeting about someone is not sufficient (AG opinion)
- Does telephone or email interaction constitute contact?
- Can be before or after the abuse or the disclosure



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## Who Is a Protected Person?

- ORS 419B.005(2) “Child” means an unmarried person who: (a) Is under 18 years of age; or (b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.
- ORS 124.005(3) “Elderly person” means any person 65 years of age or older.



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## What Is Reasonable Cause?

- ▶ Any reasonable suspicion of abuse should be reported.
- ▶ Reasonable suspicion is more than a hunch. It requires an ability to point to articulable facts based on the totality of the circumstances.
- ▶ Your obligation to report does not depend upon whether abuse actually occurred.

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▶ What is abuse?

?

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## CHILD ABUSE



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### Child Abuse Defined—ORS 419B.005

- ▶ Any assault; any injury not caused by accident; any injury at variance with the explanation given for it
- ▶ Any mental injury caused by cruelty
- ▶ Rape, sexual abuse, or sexual exploitation
- ▶ Neglect
- ▶ Threat of harm
- ▶ Child selling
- ▶ Unlawful exposure to controlled substance w/risk of harm; presence where methamphetamines are manufactured

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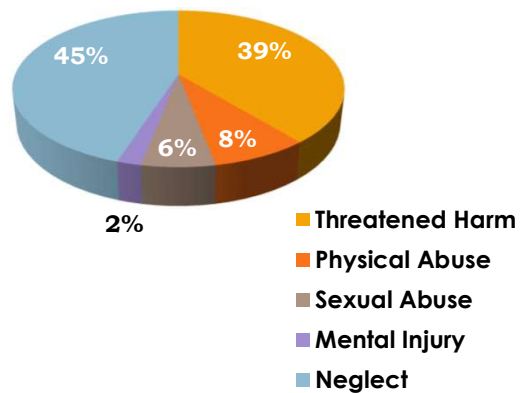
## Warning Signs of Child Abuse

- ▶ Unexplained injury or one that doesn't fit the explanation given for it
- ▶ Injuries in various stages of healing
- ▶ Multiple bruises or bruises on soft tissue; any bruise on a baby
- ▶ Child wary of parents or adults generally
- ▶ Fatigue, listlessness, constant hunger
- ▶ Unusual sexual knowledge
- ▶ Inappropriately adult or infantile



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## Types of Child Abuse Reported



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## ELDER ABUSE

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### **Elder Abuse Defined—ORS 124.050(1)**

- ▶ **Financial Exploitation**
- ▶ **Abandonment or Neglect**
- ▶ **Non-accidental physical injury; any injury at variance with the explanation given for it**
- ▶ **Willful infliction of physical pain or injury**
- ▶ **Sex Abuse**
- ▶ **Verbal Abuse**
- ▶ **Seclusion or Restraint**

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## Warning Signs of Elder Abuse

- ▶ Unexplained injury or one that doesn't fit the explanation given for it
- ▶ Elder not permitted to speak for themselves or without the presence of others
- ▶ Elder extremely withdrawn and non-communicative or non-responsive
- ▶ Unpaid bills, overdue rent, utility shut-off notices



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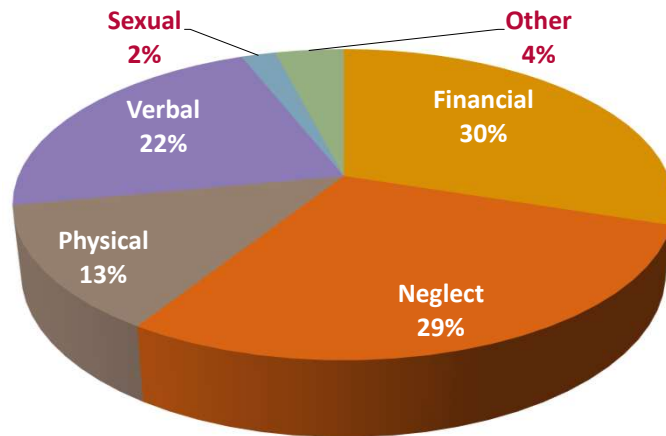
## Where Does Elder Abuse Occur?



- 66% at home
- 34% care facility

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## Substantiated Elder Abuse



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## Elder Abuse: The Case of Brooke Astor

- ▶ Philanthropist
- ▶ Writer
- ▶ NYC Socialite
- ▶ Widow of Vincent Astor
- ▶ \$200 million estate



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## The Brooke Astor Story

- ▶ Mrs. Astor was diagnosed with Alzheimer's and anemia
- ▶ Anthony "Tony" Marshall, her only son, was tasked with her care
- ▶ Anthony earned \$450,000/year to take care of her portfolio



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## Brooke Astor: Reasonable Cause?

- ▶ Phillip Marshall, Mrs. Astor's grandson, sought a change in guardianship
- ▶ Phillip alleged that despite her great wealth Mrs. Astor was living in squalor and his father Anthony had reduced her necessary medication and doctor's visits



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## The Brooke Astor Story: Consequences for Perpetrators

- ▶ The jury convicted Anthony Marshall of one charge of grand larceny and Francis X. Morrissey Jr. of forgery.
- ▶ Both were sentenced to 1-3 years in prison.
- ▶ On February 10, 2010, Francis X. Morrissey Jr. was disbarred



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## Now What?

I've had contact with a potential abuser or victim, the victim is a protected person, and I have reasonable cause to believe abuse has occurred.

- ▶ What else do I need to consider?
- ▶ What are the exceptions to my reporting requirement?

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► **What are we as lawyers  
required to keep confidential?**

?

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## **Core Legal Ethics Consideration = Confidentiality**

### OREGON RPC 1.6 CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal **information relating to the representation of a client** unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal **information relating to the representation of a client** to the extent the lawyer *reasonably believes necessary*: [...]

(5) **to comply with other law**, court order, or as permitted by these Rules [...]

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## Core Legal Ethics Consideration What Is “Confidential”?

### ▶ OREGON RPC 1.0(f)

“**Information relating to the representation of a client**” denotes both information protected by the attorney-client privilege under applicable law, and other information gained in a current or former professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

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## Core Legal Ethics Consideration What Is “Confidential”?

### ▶ ORS 40.225 / RULE 503 Lawyer-client privilege

(b) “Confidential communication” means a communication not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

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## Additional Legal Ethics Consideration

### OREGON RPC 2.1 ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

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▶ **The mandatory reporter law does not eliminate all confidentiality!**



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Following an employer's policy is not enough!

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## Oregon Abuse Reporting Duty Exceptions 419B.010 (Child Abuse)

(1) [...] [an] **attorney** or guardian ad litem appointed under ORS 419B.231 (Appointment) **is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 (Rule 503. Lawyer-client privilege) to 40.295 (Rule 514. Effect on existing privileges) or 419B.234(6) (Qualifications). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.**

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## **Oregon Abuse Reporting Duty Exceptions 125.060 (Elder Abuse)**

- (2) [...] [an] attorney is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 (Rule 503. Lawyer-client privilege) to 40.295 (Rule 514. Effect on existing privileges).**
- (3) An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.**

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**► What are our duties in light of these competing obligations?**

**?**

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## Exception to mandatory reporting duties includes only a subset of confidential information



- ▶ **Attorney-Client Privileged** under ORS 40.225 (OEC 503)
- ▶ **Information communicated during representation that is *detrimental* to client if disclosed (c.f. general RPC 1.6 duties)**

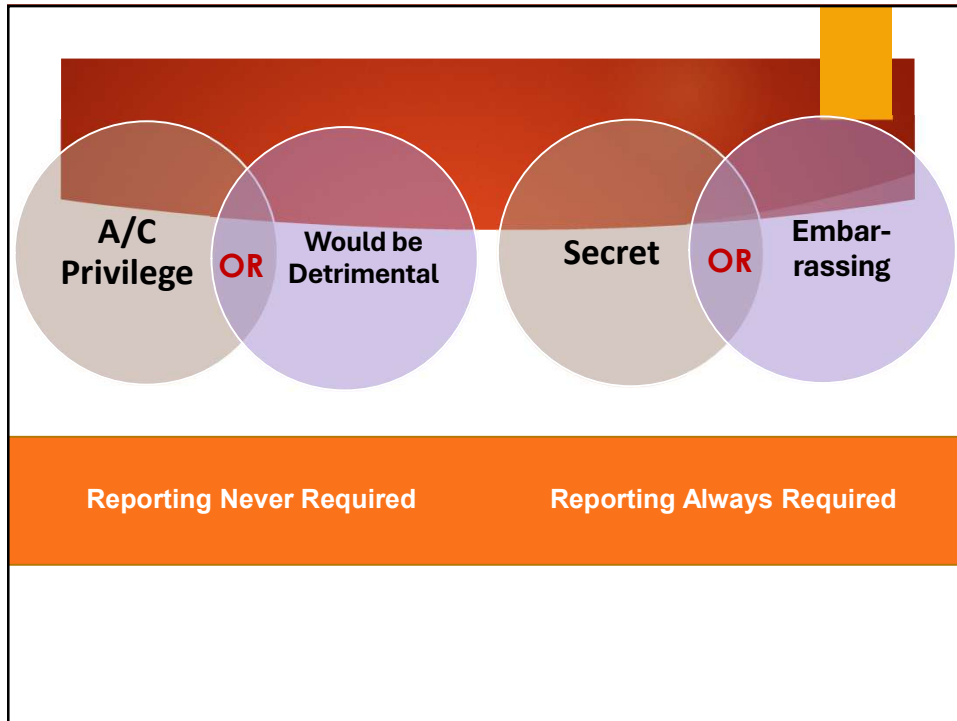
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**Lawyer Confidences—RPC 1.6**  
[information relating to the representation of a client]

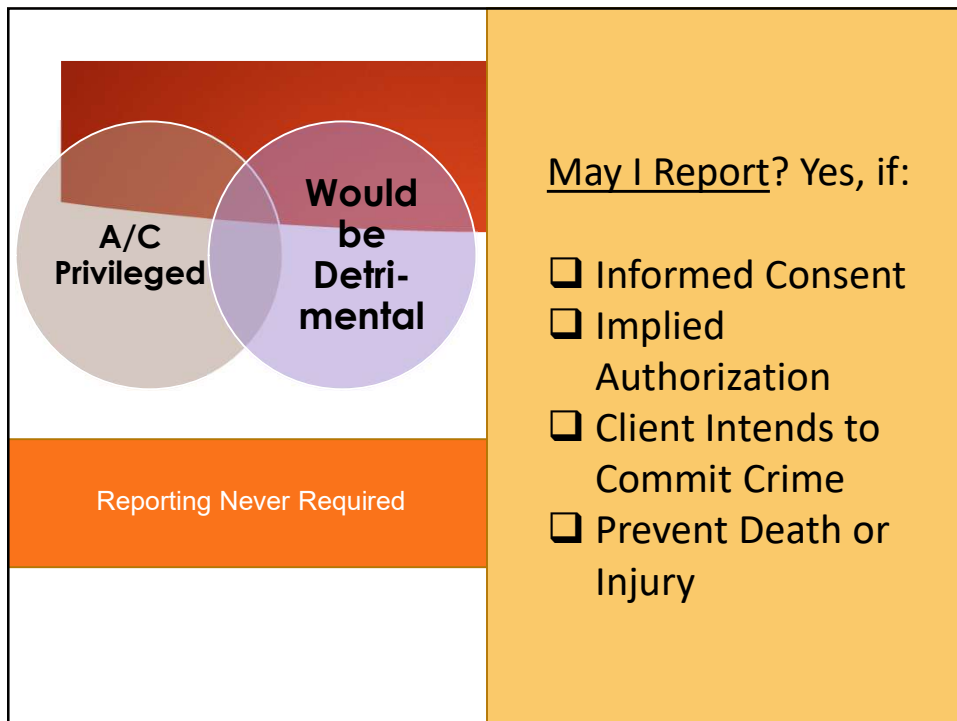
## Factors under RPC 1.6

- ▶ **Attorney–Client Privilege**
- ▶ **Secret of the client**
- ▶ **Would be detrimental to the client**
- ▶ **Would be embarrassing to the client**

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## Oregon Abuse Reporting Duty 125.060 (Elder Abuse) and 419B.010 (Child Abuse)

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**OTHER  
EXCEPTIONS TO  
MANDATORY  
ABUSE  
REPORTING**



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**Exception: “Reasonable Discipline”**  
**[of a child!]**

- ▶ **“Abuse” does not include reasonable discipline unless the discipline results in one of the conditions [specifically defined to constitute abuse].” ORS 419B.005(1)(b).**

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**Exception: Duplicative Reports**  
**[child abuse only]**

- ▶ **Report already made**  
**OR**
- ▶ **Proceeding already pending**  
**AND**  
**Reasonable belief the information is already known**

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## **Exception: Spiritual Treatment [for an elder!]**

- ▶ **Voluntary**
- ▶ **Through prayer**
- ▶ **Recognized church**
- ▶ **Duly accredited practitioner**
- ▶ **Reconciles “neglect” as not abuse**

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- ▶ **Logistics of the reporting duty  
and hypothetical scenarios.**

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## Let the Experts Decide

- ▶ Our job is not to determine whether abuse occurred.
- ▶ We do not need to investigate.
- ▶ OK to comment on injury or situation and observe.
- ▶ Is there reasonable suspicion of abuse?
- ▶ May also consider making a voluntary report (assuming no confidentiality issue).
- ▶ If the explanation does not fit the injury, report.

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## How to Report?

- ☎ **Immediately = without delay**
- ☎ **To DHS or law enforcement**
- ☎ **Oral report required**
- ☎ **Give as much information as possible**
- ☎ **Explain allegation of abuse**

**Reporting Hotline:**

**1-855-503-SAFE**

**or call DHS Branch Offices**

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## Report Should Include ...

- ▶ Names and addresses
- ▶ Nature and extent of the abuse
- ▶ Explanation given for the abuse
- ▶ Cause of abuse and identity of perpetrator.

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## HYPO #1

- ▶ Lawyer represents person charged with child abuse who admits past acts.
  - ▶ Contact?
  - ▶ Protected person?
  - ▶ Reasonable cause?
  - ▶ Exception?

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## **HYPO #2**

- ▶ **Lawyer represents person charged with child abuse who expresses intention to “pay back” child for speaking with prosecutor.**
  - ▶ **Contact?**
  - ▶ **Protected person?**
  - ▶ **Reasonable cause?**
  - ▶ **Exception?**

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## **HYPO #3**

- ▶ **Lawyer represents woman in employment law matter. Woman tells of physical abuse by husband of their child while meeting lawyer in a crowded restaurant. Lawyer has met the husband.**
  - ▶ **Contact?**
  - ▶ **Protected person?**
  - ▶ **Reasonable cause?**
  - ▶ **Exception?**

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## **HYPO #4**

- ▶ **Lawyer represents court-appointed guardian of elderly person. Lawyer suspects guardian is neglecting elderly person based upon one interaction with protected person.**
  - ▶ **Contact?**
  - ▶ **Protected person?**
  - ▶ **Reasonable cause?**
  - ▶ **Exception?**

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## **HYPO #5**

- ▶ **Lawyer's child regularly has a friend over to play. Lawyer notices bruises and multiple other injuries of the friend over time. Friend's explanation for injuries seems implausible.**
  - ▶ **Contact?**
  - ▶ **Protected person?**
  - ▶ **Reasonable cause?**
  - ▶ **Exception?**

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# Resources

- ▶ *Juvenile Law in Oregon: Dependency* (OSB Legal Pubs 2025), chapter 4 (<https://barbooks.osbar.org/w/osb/JUVDEP-2025>)
- ▶ *2023 Child Welfare Data Book* (October 2024) (<https://www.oregon.gov/odhs/data/cwdata/cw-data-book-2023.pdf>)
- ▶ Oregon Dep't of Human Servs., *What You Can Do about Child Abuse* (2025) (<http://dhsforms.hr.state.or.us/Forms/Served/DE9061.pdf>)
- ▶ *Elder Law* (OSB Legal Pubs 2017), chapter 9 (<https://barbooks.osbar.org/w/osb/ELDER-2017>)
- ▶ Oregon Judicial Department *FAPA and EPPWDAPA Benchbook* (<https://www.courts.oregon.gov/programs/family/domestic-violence/Documents/FAPA-EPPWDAPA.pdf>)
- ▶ *Legal Ethics in Oregon* (OSB Legal Pubs 2025) (<https://barbooks.osbar.org/w/osb/ETHICS-2025>)

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OSB Legal Ethics Helpline

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# Abuse Reporting Flowchart

