

NORTH CAROLINA LAWS FOR PSYCHOLOGISTS

PURPOSE

Benefiting Psychologists & the Public

The primary purpose of this document is to provide psychologists who are PSYPACT® authorization holders with a survey of laws and related resources relevant to the practice of psychology in our state.^{1,2} We aim to help our fellow psychologists learn about North Carolina statutes, regulations, and case law, as well as North Carolina Psychology Board policies, to enhance understanding and promote compliance. We trust this improved understanding will facilitate safer and more effective psychological services for North Carolina's citizens.

Why Is this Important?

A 2023 journal article explained that although PSYPACT is "an improvement over a patchwork of state laws regarding practice ... it places an unrealistic burden on professionals to know, address, and act under complex legal mandates" because a psychologist practicing into a another state must abide by all of the receiving state's relevant health and safety laws, e.g., mandatory reporting, informed consent, duty to warn or protect, involuntary commitment, and more.³

The article's authors argue that national licensure might be the best long-term solution to overcoming this burden, but they acknowledge that this would require the U.S. Congress to pass legislation superseding state licensing laws, a highly unlikely prospect soon. They suggest that an interim solution "would be for the PSYPACT Commission or a similarly situated professional organization to develop a plain-language online database, accessible and easily usable by psychologists throughout the nation, describing the essential health and safety laws of each jurisdiction."⁴

However, to date neither the PSYPACT Commission nor the Association of State and Provincial Psychology Boards (ASPPB) has developed such a database.

Finding Another State's Relevant Laws Is Difficult

- A jurisdiction's laws consist of statutes, regulations, case law, and psychology board policies.

¹ The Psychology Interjurisdictional Compact (PSYPACT®) is an interstate agreement that facilitates the provision of telepsychological services and the temporary in-person, face-to-face practice of psychology across state lines.

² PSYPACT [Rule 2.1\(E\)](#) defines *Authorization Holder* as a licensed psychologist who has been granted Authority to Practice Interjurisdictional Telepsychology (APIT) or Temporary Authorization to Practice (TAP) under the Psychology Interjurisdictional Compact.

³ Daniel O. Taube et al., *Problems with the Interjurisdictional Regulation of Psychological Practice*, 54 PRO. PSYCH. RSCH. & PRAC. 389, 394 (2023), <https://doi.org/10.1037/pro0000536>

⁴ *Id.* at 395.

- A state's psychology board website will list many important laws, but *not* all of them.
- Statutes relevant to the practice of psychology appear in several different chapters, parts, and sections of state statutes and regulations, e.g.,
 - criminal law.
 - health and social services.
 - juvenile law.
 - mandatory reporting of child abuse and neglect.
 - organization of a state's public mental health and substance abuse services.
 - involuntary commitment provisions.
- Even if a psychologist locates a relevant statute, the psychologist might not know how the state's appellate courts have interpreted the statute.

We therefore decided to help psychologists from other states by compiling a reference document that highlights some of the statutes, regulations, case law, and psychology board policies relevant to the practice of psychology in North Carolina.

PROVISO

Detailed, Complex, and Potentially Confusing Laws

State laws often involve historical layering over time as statutes and regulations are added, repealed, and amended. This fact highlights the *complexity* of navigating the ethical and legal contours of psychological practice in North Carolina (and other states).

With that complexity in mind, please treat this paper as a good start, but not the last word, and remember the following important points:

- Nothing in this paper constitutes legal advice or an opinion about best practice in a particular case.
- This paper is written for all psychologists practicing in North Carolina, but especially for those practicing into North Carolina from other jurisdictions, so we emphasize information that is specific to North Carolina.
- This paper cannot, and does not, contain all the potentially relevant information that psychologists practicing in North Carolina – physically or remotely – should know.
- This paper might contain errors, including unintended omissions.⁵
- This paper addresses only laws and other authorities *specific to psychologists*. North Carolina laws, regulations, and licensing board policies governing other mental health professionals might differ from those governing the practice of psychology.

⁵ We try to keep this information current, but readers are responsible for compliance with state law.

- Clinicians who are licensed as psychologists and as mental health counselors, marriage and family therapists, clinical social workers, and others should also consult the laws, regulations, and policies for their other licenses.⁶

With the limitations of this paper in mind, all psychologists should:

- **Seek *legal counsel* about your obligations in a specific case.** Most liability insurance carriers offer free time-limited legal consultation to policyholders.
- Know that the [North Carolina Psychology Board](#) staff may offer informal counsel, particularly on matters of Board policy, although we advise giving them sufficient time to respond to a request, as the Board is a busy state agency with many important responsibilities.

With this introduction in mind, let us begin our survey with the key concepts of *confidentiality* and *privilege*.

Confidentiality & Privilege

As a matter of professional ethics, communications between a psychologist and a client or patient for purposes of treatment are strictly confidential.⁷ This ethical duty becomes a legal duty in North Carolina because the APA Ethical Code is incorporated by reference into the North Carolina Psychology Practice Act.⁸ It also becomes a legal duty for psychologists whose practices are HIPAA covered entities; they and their business associates may not use or disclose protected health information except as permitted by HIPAA.⁹

Legal privilege constitutes a distinct and more robust safeguard than mere confidentiality. While confidentiality is an ethical obligation inherent to the professional relationship, privilege provides an additional layer of statutory protection for disclosures made by clients or patients to licensed professionals, such as psychologists, physicians, and attorneys. Consequently, a psychologist is not only ethically bound to maintain secrecy but is also legally shielded from being compelled to testify or disclose such information in judicial proceedings. Because the privilege vests in the client or patient, the protected information remains inadmissible as evidence unless the holder explicitly waives their rights, or the privilege is superseded by specific legal exceptions or the broader interests of justice.

⁶ The North Carolina courts have held that a dual licensee may choose to practice under one license but not the other by making it clear to the public that he or she is doing that. (*See Trayford v. N.C. Psychology Board*, 174 N.C. App. 118, 619 S.E.2d 862 [2005]).

⁷ APA Code of Conduct, Ethical Standard 4.01.

⁸ N.C. Gen. Stat. § 90-270.148(a)(10).

⁹ 45 C.F.R. 164.502(a).

The Psychologist-Patient Privilege Statute, N.C.G.S. § 8-53.3.¹⁰

The psychologist's privilege statute states:

No person, duly authorized as a licensed psychologist or licensed psychological associate, nor any of his or her employees or associates, *shall be required to disclose any information which he or she may have acquired in the practice of psychology and which information was necessary to enable him or her to practice psychology.* Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6,¹¹ compel disclosure, either at the trial or prior thereto, if in his or her opinion *disclosure is necessary to a proper administration of justice . . .* (emphasis added).

Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for failure to report suspected child abuse or neglect to the appropriate county department of social services, or for failure to report a disabled adult suspected to be in need of protective services to the appropriate county department of social services. Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for excluding evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding related to [such] report

Note these four points.

1. The privileged information must be “acquired in” and “necessary” to the practice of psychology.
2. A judge (but not a lawyer, clerk of court, or law enforcement officer) can order the disclosure of privileged information that is “necessary to a proper administration of justice.” Courts often order psychologists to produce records and to testify in court or at depositions over their objections and their client's objections, especially in family law matters and personal injury cases. But the court must determine that the disclosure is necessary for the proper administration of justice.

¹⁰ Other medical and mental health care professionals have similar statutes.

¹¹ This statute says that psychologists and other licensed professionals who render counseling to one or both members of a married couple may not testify in a divorce or alimony case about information acquired while rendering such counseling.

3. The psychologist must invoke the privilege on behalf of the patient, but the psychologist cannot waive the privilege for the patient.
4. The privilege does not permit a psychologist to refuse to report or to testify about the specified reportable matters. For a further discussion, see below.

REPORTING LAWS

Having discussed confidentiality and privilege and noted that both obligations are subordinate to certain reporting laws, let us turn to the reporting laws themselves.

First, there is a distinction between *mandatory reporting* and *permissive reporting*. North Carolina's child abuse reporting law¹² is one example of a mandatory reporting law. So is the law that requires that persons to report their suspicion of disabled adults who need services. Permissive reports are reports that do not have to be made but may be made without violating a legal obligation or a professional ethical obligation to maintain confidentiality. Reporting a patient who poses a risk of harm to another person is an example of a permissive report in North Carolina.¹³

We begin with reporting child abuse, neglect, and dependency.

CHILD ABUSE, NEGLECT & DEPENDENCY

N.C.G.S. 7B-301(a) is the primary statute regarding mandatory reporting of suspected child *abuse, neglect, or dependency*:

Any person or institution who has cause to suspect that any *juvenile* is *abused, neglected, or dependent*, as defined by N.C.G.S. 7B-101, or has *died as the result of maltreatment*, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found.

To fully understand this, you must review the “definitions” section of the statute,¹⁴ where each of the italicized words above, except *maltreatment*, is defined. We will take them in order.

¹² [N.C. Gen. Stat. § 7B-101](#), et seq.

¹³ North Carolina is not a *Tarasoff* state.

¹⁴ G.S. § 7B-101.

Juvenile, N.C.G.S. § 7B-101(14)

North Carolina defines a *juvenile* as “a person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States.”

Abused Juvenile, N.C.G.S. § 7B-101(1)

An *abused* juvenile is defined as follows.

Abused juveniles. - Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under N.C.G.S. 14-43.15 or (ii) whose *parent, guardian, custodian, or caretaker*:

- a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means.
- b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
- d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree forcible rape, as provided in N.C.G.S. 14-27.21 ... [*the remainder of this subsection consists of an additional 22 crimes—see the statute for the complete list*]
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others;
- f. Encourages, directs, or approves of delinquent acts involving moral turpitude¹⁵ committed by the juvenile; or
- g. Commits or allows to be committed an offense under N.C.G.S. 14-43.11 (human trafficking), N.C.G.S. 14-43.12 (involuntary servitude), or N.C.G.S. 14-43.13 (sexual servitude) against the child.

Neglected Juvenile, N.C.G.S. § 7B-101(15)

¹⁵ A *crime of moral turpitude* is defined in North Carolina case law as “act[s] of baseness, vileness, or depravity in the private and social duties that a man owes to his fellow man or to society in general,” *Dew v. State ex. rel. North Carolina Dept. of Motor Vehicles*, 127 N.C. App. 309 (1997) (quoting *Jones v. Brinkley*, 174 N.C. 23, 27 (1917)); see UNC SCH. OF GOV'T, PUB. DEF. EDUC., Collateral Consequences Assessment Tool (C-CAT), <https://ccat.sog.unc.edu/about-c-cat/explanation-of-common-terms-in-c-cat/> (last visited Aug., 7, 2025).

A *neglected* juvenile is defined as follows.

Neglected juvenile. - Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under N.C.G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker does any of the following:

- a. Does not provide proper care, supervision, or discipline.
- b. Has abandoned the juvenile, except where that juvenile is a safely surrendered infant as defined in this Subchapter.
- c. Has not provided or arranged for the provision of necessary medical or remedial care.
- d. Or whose parent, guardian, or custodian has refused to follow the recommendations of the Juvenile and Family Team made pursuant to Article 27A of this Chapter.
- e. Creates or allows to be created a living environment that is injurious to the juvenile's welfare.
- f. Has participated or attempted to participate in the unlawful transfer of custody of the juvenile under N.C.G.S.14-321.2.
- g. Has placed the juvenile for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.

Dependent Juvenile, N.C.G.S. § 7B-101(9)

Dependent juvenile is defined as follows.

Dependent juvenile. - A juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or (ii) the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement.

Persons Whose Mistreatment of Juveniles is Reportable

Next, let us turn to the *four caregivers* who are listed in the definitions of abused, neglected, and dependent juveniles.

Parent

A *parent* is not a defined term in the statute. Therefore, the word has its ordinary meaning, including adoptive parents. It excludes stepparents, but they are covered in the definition of *caretakers*.

Guardian A *guardian* is not defined in the statute, but it means a legally appointed guardian.

Custodian, N.C.G.S. § 7B8-101(8)

A *custodian* is defined as “The person or agency that has been awarded legal custody of a juvenile by a court.”

Caretaker, N.C.G.S. § 7B-101(3)

A *caretaker* is defined as:

Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent; foster parent; an adult member of the juvenile's household; an adult entrusted with the juvenile's care; a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department; any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility; or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only.¹⁶

What to Make of these Definitions

We quote these lengthy sections to emphasize the statute's *specificity* and *detail*. But even with this detail and specificity, questions remain.

- If a child stays with an adult neighbor while the parent runs an errand, is the neighbor a caretaker?
- What if the child stays with the neighbor every day after school until the parent comes home from work? What if the parent pays the neighbor for this?
- Does discipline constitute *neglect* but not *abuse*? Can lack of discipline constitute neglect?
- What distinguishes *necessary* medical care from *optional* medical care?

These are tough questions. A practical approach to these sorts of questions is to ask for guidance from *social services*, legal counsel, or a colleague with specialized knowledge about these issues.

¹⁶ G.S. § 7B-101(3), *see also* [G.S. § 7B-2101\(e\)](#) concerning juvenile interrogations, which was updated in 2024 to make it consistent with the definition in § 7B-101(3).

The Psychologist's Role: Clinical Practitioner vs. Investigator

It is critical to distinguish the role of the psychologist from that of an investigator. Neither the State nor the Licensing Board expects clinicians to conduct inquiries that exceed their professional mandate; the duty is limited to reporting suspicions held in good faith.

Transgressing these clinical boundaries to assume the persona of a protective services investigator can invite Board complaints regarding bias and prohibited dual role – risks that are particularly acute when navigating high-conflict family dynamics.

Nevertheless, psychologists must not overlook information for which they "have cause to suspect" harm. Because the reporting statute does not explicitly define "suspect," the term assumes its common lexicographical meaning. The *American Heritage Dictionary* defines "suspect" as: "To consider (something) to be true or probable on little or no evidence." While it is difficult to envision a clinician forming a suspicion in the absolute absence of data, this definition underscores that the threshold for reporting is significantly lower than a formal standard of proof.

Abbreviations for Cumbersome Terminology

We employ the following abbreviations for unwieldy terminology used repeatedly in statute, which we must therefore use often throughout this summary:

- **PGCC** - *parents, guardians, custodians, or caretakers.*
- **Social Services** - *the director of the department of social services in the county in which the juvenile resides or is found, or the director's representative as authorized in G.S. 108A-14.*

Analysis of North Carolina Child Abuse Reporting Requirements

The following overview highlights three critical dimensions of North Carolina's child abuse reporting statutes. Before examining these key points, practitioners are encouraged to review the primary reporting statutes directly.

1. The Scope of Mandatory Reporting

Under North Carolina law, the mandate to report suspected child abuse is generally contingent upon the identity of the perpetrator. With one significant exception, the reporting requirement applies only when the suspected perpetrator is a **PGCC**.

The Human Trafficking Exception: Any juvenile identified as a victim of human trafficking is legally classified as an "abused juvenile," regardless of the trafficker's relationship to the child (N.C.G.S. § 7B-101).

2. Disciplinary Boundaries and Clinical Judgment

When evaluating whether a PGCC's disciplinary actions constitute reportable abuse, practitioners must ensure their assessment aligns with statutory definitions rather than personal or subjective standards. Before filing a report with Social Services, consider whether the disciplinary measure resulted in:

- **Serious Physical Injury:** Actual bodily harm or impairment.
- **Cruel or Grossly Inappropriate Procedures:** Disciplinary methods that exceed reasonable bounds.
- **Behavioral Modification Devices:** The use of cruel or inappropriate physical objects to alter behavior.
- **Serious Emotional Damage:** Conditions evidenced by severe anxiety, depression, withdrawal, or aggressive self-harm/outward aggression.

If clinical uncertainty persists, practitioners are encouraged to contact their local Department of Social Services for a consultation on the specific circumstances or to seek independent legal counsel.

3. Reporting Protocols for Non-PGCC Perpetrators

In instances of abuse, neglect, or dependency caused by a third party who is not a PGCC (e.g., a neighbor, coach, or peer), the mandatory reporting requirements for Social Services are typically *not* triggered. In these cases, the practitioner should:

- **Assess Immediate Safety:** If a third party is the abuser and the PGCC is not willfully or negligently failing to protect the child, the practitioner may need to report the incident to law enforcement and the parents rather than DSS.
- **Balance Confidentiality and Harm:** Determine if the imminent threat of harm legally supersedes the minor patient's right to confidentiality.
- **Collaborative Decision-Making:** Engage the patient in the process, tailored to their age, developmental stage, and cognitive capacity.
 - *Example:* If a 15-year-old patient discloses sexual abuse by a coach, North Carolina law does not mandate a report to DSS (as the coach is not a PGCC). Furthermore, if the disclosure occurred within a privileged psychotherapeutic session, a report to law enforcement may not be mandated under N.C.G.S. § 14-318.6(b) & (h). However, the therapist must still determine if an ethical or legal duty exists to ensure the parents

are informed.

- Context of Discovery:** The duty to report may change based on how the information was obtained. If information regarding harm is acquired outside of a confidential or privileged professional context, the practitioner has the same universal reporting duty as any other adult in the state.

Comparative Analysis: Reporting Duties in North Carolina

The following table distinguishes between reporting mandates based on the perpetrator's relationship to the minor, as defined by North Carolina law.

Feature	Suspected Perpetrator is a PGCC	Suspected Perpetrator is a Third Party (e.g., Neighbor, Coach, Stranger)
Mandatory DSS Report	Yes. Required under N.C.G.S. § 7B-301 abuse, neglect, or dependency is suspected.	No. Unless the PGCC is also providing "at-risk" care or failing to protect the child.
Law Enforcement Report	Often secondary to the DSS report, which initiates a coordinated investigation.	Case-Dependent. May be required if the incident involves specific criminal acts (N.C.G.S. § 14-318.6).
Confidentiality vs. Duty	Statutory mandate to report supersedes professional confidentiality.	Confidentiality/Privilege often remains intact unless there is an imminent threat of serious harm.
Exceptions	None (reporting is universal for all adults).	Human Trafficking: If the child is a victim of trafficking, a report is mandatory regardless of the perpetrator.
Clinical Action	Direct report to the county Department of Social Services where the child resides.	Safety planning, informing parents/guardians, and assessing the ethical duty to warn.

Decision-Making Framework

To assist in navigating these requirements, the following logic applies when a professional learns of potential harm to a minor:

Professional Considerations

- **Universal Reporting Standard:** If you learn of a crime against a child *outside* of your professional role (e.g., witnessing an incident in a grocery store), you are bound by the same universal reporting duties as any other adult.
- **Consultation:** In "gray area" cases—particularly involving third-party abuse—consulting with a colleague or legal counsel is standard practice to ensure both the child’s safety and the preservation of the patient’s rights.

Punishment for Failing to Report to Social Services Suspected Abuse, Neglect, Dependency, or Death from Maltreatment, N.C.G.S. § 7B-301(b)

Knowing or wanton failure to report suspected abuse, neglect, or dependency to *social services* is a Class 1 misdemeanor. The statute states:

Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section [i.e., N.C.G.S. § 7B-301(a)] or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.

Punishment for Failing to Report to Law Enforcement Certain Suspected Crimes against Juveniles, N.C.G.S. § 14-318.6(b) & (h)

A person who knows or reasonably should know a juvenile was the victim of certain criminal offenses is guilty of a Class 1 misdemeanor if he or she fails to report it. The statute N.C.G.S. § 14-318.6(b) states:

Any person 18 years of age or older who knows or should have reasonably known that a juvenile has been or is the victim of a violent offense, sexual offense or misdemeanor child abuse under N.C.G.S. 14-318.2 shall immediately report the case of the juvenile to the appropriate local law enforcement agency in the county where juvenile resides or is found.

Applying this statute to psychologists can be complicated because, unlike the child abuse reporting statute, this statute does not “trump” N.C.G.S. § 8-53.3, the psychologist’s privilege statute, quoted above. The statute, N.C.G.S. § 14-318.6(h) states:

Nothing in this section shall be construed as to require a person with (i) a privilege under N.C.G.S. § 8-53.3 . . . to report pursuant to this section if that privilege would prevent them from doing so.

Also, it is important to distinguish this situation from the cases of child abuse, neglect, and dependency by parents, guardians, custodians, and caretakers. You must always report suspected abuse, neglect, or dependency to social services for situations covered by N.C. G.S. § 7B-101, et seq. But you may not report violent and sexual crimes or misdemeanor child abuse by others, who are *not* PGCC, if you learned of the crime through a privileged communication unless your patient waives the privilege. However, depending on several factors, e.g., the minor's age, your policy as articulated in an Informed Consent document, and the impact on therapeutic rapport, you might choose to inform the minor's PGCC if the child has been a victim of violent and sexual crimes or misdemeanor child abuse by others.

Good Faith Immunity

Anyone including a psychologist who reports suspected child abuse, neglect, or dependency to social services or who “otherwise participates in the program authorized” by the child protective services program in Article 3 of the Chapter 108B of the General Statutes is immune from civil or criminal liability for their actions, provided their actions were “in good faith,” and “good faith is presumed.”¹⁷

How To Report

North Carolina does *not* offer a statewide phone number for abuse and neglect reporting. You must call Department of Social Services in the country where the child resides or where the abuse, neglect, or dependency has occurred. Consult the [Local DSS Directory](#) to find the phone number.¹⁸

Highly Recommended Resource

We encourage you to review the free UNC School of Government publication, [Reporting Child Abuse and Neglect in North Carolina](#),¹⁹ especially Chapter 7, [Deciding When to Report](#).

PROTECTION OF ABUSED, NEGLECTED, AND DISABLED ADULTS

North Carolina does *not* require reporting of adult abuse or neglect based on a person's age. Rather, North Carolina's mandatory reporting laws concern *disabled adults* who need *protective services*.

Once again, definitions matter. One cannot fully understand the meaning and implications of these laws without understanding how the legislature defined its terms.

¹⁷ G.S. N.C.G.S. § 7B – 309. The statute lists other specific protected actions such as assisting, evaluating, and consulting, but the words “otherwise participates” show the breadth of the statute.

¹⁸ <https://www.ncdhhs.gov/localDSS>

¹⁹ JANET MASON, REPORTING CHILD ABUSE AND NEGLECT IN NORTH CAROLINA (3rd ed. 2013, rev. 2016).

Disabled Adults, G.S. § 108A – 101(d)

(d) The words “disabled adult” shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to an intellectual disability, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.

Protective Services, N.C.G.S. § 108A – 101(e)

(e) A “disabled adult” shall be “in need of protective services” if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for his essential services.

Duty to Report, N.C.G.S. § 108A – 102(a)

(a) Any person having *reasonable cause to believe* that a disabled adult is in need of protective services shall report such information to [Social Services] (*emphasis added*).

Note that the standard for mandatory reporting a disabled adult in need of protective services – i.e., “reasonable cause to believe” – is somewhat higher than the “cause to suspect” standard for reporting child abuse, neglect, and dependency. The “cause” to report must be reasonable, and the psychologist’s level of certainty needs to rise from suspicion to belief. However, even if there is less legal compulsion to report, there is still strong immunity under the law for a psychologist who does report. See the Good Faith Immunity section below.

Note that *some* disabled adults will need protective services because they are “abused, neglected or exploited,” but others do not. The mandatory duty to report disabled persons to social services depends on their status and their need for services, not on the presence of abuse, neglect, or exploitation alone.

Good Faith Immunity, N.C.G.S. § 108A-102(c)

(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose.

DUTY TO WARN OR PROTECT

The *Tarasoff* Situation

In 1976, the California Supreme Court, in the famous *Tarasoff* case,²⁰ held that mental health professionals in that state have a “duty to warn” if a patient poses a danger of violence to a specific person. Many states follow the *Tarasoff* rule, but North Carolina does not.

A recent *MedPage Today* article summarized the North Carolina appeals court opinion that addressed the issue.

In North Carolina, the Court of Appeals in *Gregory v. Kilbride* (2002)²¹ did not recognize a *Tarasoff*-like duty to warn after a psychiatrist discharged a man from an inpatient psychiatric unit who repeatedly made threats to kill his wife and his child. Tragically, shortly after discharge the man shot and killed his wife. The psychiatrist was sued for negligence in his failure to warn (among other allegations). [The trial judge] dismissed the plaintiff's claim that the psychiatrist had a duty to warn the victim, with the appellate court holding that North Carolina law only recognized "a duty to exercise control over the patient 'with such reasonable care as to prevent harm to others at the hands of the patient,' and not a duty to warn."²²

Thus, in our state a psychologist is not *required* to warn potential victims of danger from the psychologist's patient. But there is no law that specifically *prohibits* a psychologist from doing so.²³ And general ethical principles may permit or even require it, depending on the circumstances.

Duty to Warn within the State's Delivery System

There is a North Carolina statute concerning the state's “mental health, developmental disabilities, and substance abuse services ... delivery system”²⁴ that permits breaking confidentiality in specific threat-of-harm circumstances:

A responsible professional may disclose confidential information when in the responsible professional's opinion there is an imminent danger to the health or safety of the client or another individual or there is a likelihood of the commission of a felony or violent misdemeanor.²⁵

²⁰ *Tarasoff v. Regents of University of California*, 17 Cal. 3d 425, 551 P. 2d 334, 131 Cal. Rptr. 14 (Cal. 1976).

²¹ *Gregory v. Kilbride*, 150 N.C. App. 601, 565 S.E. 2d 685 (2002).

²² Scott R. Polick et al., *Clarifying the 'Duty to Warn' in North Carolina*, MEDPAGE TODAY (Sep. 18, 2023), <https://www.medpagetoday.com/opinion/second-opinions/106381> (last visited June 13, 2025).

²³ Sondra Panico, North Carolina Psychology Board, *Duty to Warn in North Carolina*, 23 PSYCHNEWS 2, 5 (June 2017), <https://perma.cc/B2AS-PE58>

²⁴ G.S. § 122C-2.

²⁵G.S. § 122C-55(d).

Whether the statute applies to psychologists outside state and local government agencies or facilities is debated,²⁶ but since it is a permissive statute, not a mandatory statute, it does not alter the general rule that a clinician may disclose information about an imminent threat but does not have to disclose it.

Dealing with foreseeable danger to third parties is a fraught issue. A clinician who faces this issue should *strongly* consider retaining legal counsel and should not rely solely on his or her understanding of North Carolina's view of the *Tarasoff* decision.

Inform Patients in Advance about Your Policy

Since at the time of writing psychologists have *discretion* regarding a duty to warn, it is important to explain your policy in this regard during your informed consent process.

COUNSELING CHILDREN & ADOLESCENTS

Parental Rights and Children's Rights

Parental Consent Required for Minors Receiving Psychological Services

In North Carolina minors (persons under age 18 who are unemancipated, unmarried, and not in the armed forces) do not have the right to consent to diagnosis or treatment provided by psychologists.

APA Ethical Requirements for Consent

The Psychology Practice Act does not say anything explicit about consent, but because it incorporates the APA Code by reference, the ethical standards in the Code are legal requirements. When dealing with minors who do not have the legal capacity to consent, the Code requires four things: (i) that the psychologist get consent (which the Code calls "permission,") from a "legally authorized person," (ii) that the psychologist "seek . . . assent" from the minor, (iii) that both the minor and the authorized person receive appropriate information, and (iv) that the psychologist consider the minor's preferences and best interests.²⁷

One Parent or Both Required?

It is customary practice for just one parent to give consent for diagnosis and treatment, and it is common for a psychologist to accept that as legally sufficient. It also happens occasionally that one or the other parent later refuses to consent or revokes a consent previously given. In that

²⁶ See, e.g., Sondra Panico, *supra* note 23, at 5 ("this statute may also apply to psychologists who are in sole or group private practice, given the broad definition of facility").

²⁷ G.S. [§ 90-270.148\(a\)\(10\)](#); APA Code ES 3.10(b)

case, the psychologist may need to consult colleagues, the Board, legal counsel, and/or his or her insurer for guidance.

Regardless of whether one parent or both consented to diagnosis and treatment, *both parents* are entitled to copies of the minor's records, unless there is a court order to the contrary.²⁸

The minor's right to confidentiality and privilege can clash with parents' rights to receive information about the child's treatment. How such clashes will be handled can be addressed during intake and within informed consent forms.

Minor's Consent - Mental Health Care from a Physician, N.C.G.S. § 90-21.5

N.C.G.S. § 90-21.5 indicates that a minor may give consent to a physician licensed to practice medicine in North Carolina for treatment of substance abuse and emotional disturbance.²⁹ To emphasize: This statute applies *only* to physicians.

Age of Consent for Sex

Psychologists often encounter issues involving sexual activity between minors. The age of consent for sexual activity in North Carolina is 16. Thus, a minor age 16 or 17 may consent to sexual relations with anyone age 16 or older, provided they possess an adequate capacity to consent, e.g., a 16-year-old with Intellectual Developmental Disorder might not adequately comprehend the potential consequences of engaging in sexual activity with a manipulative adult.

Statutory Sexual Offenses

Question: You are counseling an 18-year-old young man who tells you he is hoping to have sexual intercourse with his 15-year-old girlfriend. Should you warn him that this act would constitute statutory rape?

Answer: No. While there might be other sound reasons for your client to postpone (or not have) sexual intercourse with his girlfriend, statutory rape is not one of them.

In North Carolina, a *statutory* sexual offense, including *statutory rape*, is determined by the ***age difference*** between the minor and the older person.

The following table summarizes the key provisions of North Carolina's statutory sexual offense laws. These laws categorize offenses primarily based on the ***age of the victim***, the ***age of the defendant***, and the ***age gap*** between the two parties.

²⁸ G.S. § 50-13.2(b).

²⁹ G.S. [§ 90-21.5](#).

This summary also organizes the statutes into three categories:

- **Statutory Rape** (vaginal intercourse).
- Statutory Sexual Offense (other sexual acts).
- **Forcible Sexual Offense** (acts involving force or incapacity).

North Carolina Sexual Offense Statutes Summary

Statute (N.C.G.S.)	Offense Type	Act Defined	Victim Age	Defendant Age	Age Gap	Felony Class & Key Penalties
§ 14-27.23	Statutory Rape (Adult)	Vaginal Intercourse	< 13	18+	N/A	Class B1: Min. 300 months; satellite monitoring.
§ 14-27.24	1st Degree Statutory Rape	Vaginal Intercourse	< 13	12+	4+ years	Class B1: Loss of parental/inheritance rights.
§ 14-27.25(a)	Statutory Rape	Vaginal Intercourse	≤ 15	12+	6+ years	Class B1 (Excludes lawful marriage).
§ 14-27.25(b)	Statutory Rape	Vaginal Intercourse	≤ 15	12+	> 4 but < 6	Class C (Excludes lawful marriage).
§ 14-27.28	Statutory Sexual Offense (Adult)	Sexual Act	< 13	18+	N/A	Class B1: Min. 300 months; satellite monitoring.
§ 14-27.29	1st Degree Statutory Sexual Offense	Sexual Act	< 13	12+	4+ years	Class B1
§ 14-27.30(a)	Statutory Sexual Offense	Sexual Act	≤ 15	12+	6+ years	Class B1 (Excludes lawful marriage).
§ 14-27.30(b)	Statutory Sexual Offense	Sexual Act	≤ 15	12+	> 4 but < 6	Class C (Excludes lawful marriage).

Forcible Sexual Offenses (Non-Age Dependent)

These statutes apply regardless of the victim's age if specific aggravating factors (force, weapons, or incapacity) are present.

Statute (N.C.G.S.)	Offense Type	Required Conditions	Felony Class
§ 14-27.26	1st Degree Forcible Sexual Offense	Force/Against will AND weapon use, serious injury, or aided/abetted by others.	Class B1
§ 14-27.27	2nd Degree Forcible Sexual Offense	Force/Against will OR victim is mentally disabled, incapacitated, or physically helpless.	Class C

SOME COMMON QUESTIONS

Q: Does North Carolina incorporate the APA Ethics Code in its licensing law?

A: Yes. *See* N.C.G.S. § 90-270.148(a)(10).³⁰

Q: Where is the PSYPACT provision found in North Carolina law?

A: N. C. General Statutes, Chapter 90, Article 18H, beginning with G.S. § 90-270.160.

Q: What does North Carolina law require to be in the psychologist’s case record?

A: N.C.G.S. § 90-270.148(a)(17) requires the case record to document:

- Presenting problems, diagnosis, or purpose of the services.
- Dates of services, fees, and itemized charges.
- *Summary content* of each session, except that which might cause significant harm.
- Test data, results, and findings.
- Copies of all reports.

Q: Does North Carolina have any “red flag” laws to restrict access to firearms for the mentally ill?

A: No.

Q: If I know that someone else has already reported a matter of suspected abuse, etc., to social services, must I also report it?

A: Yes.

Q: If I have reason to suspect abuse, etc., is taking place in another state, must I report it to the proper agency or authorities in that state?

A: Yes, but also check the reporting laws in that state and consider consulting counsel.

³⁰ G.S. [§ 90-270.148\(a\)\(10\)](#); *see also* [21 N.C. Admin. Code 54.1608](#).

NORTH CAROLINA PSYCHOLOGY PRACTICE ACT & RELATED ADMINISTRATIVE CODES

Available from the NC Psychology Board

[NC Psychology Practice Act \(Recodified\)](#) (June 2021) – “This document is a Board produced copy of the North Carolina Psychology Practice Act.”

[NC Psychology Practice Act with *Selected Rules* and Additional Information](#) (October 2020). – “This document is a Board produced copy of the North Carolina Psychology Practice Act; selected rules from Title 21, Chapter 54 of the North Carolina Administrative Code (21 NCAC 54); and additional information related to psychology licensure.”

Note: If you would like to read *all* of Chapter 54 (the document above contains only *selected rules*), read this PDF → https://www.ncpsychologyboard.org/nc-rules-title-21-chapter-54/Board-Rules_0522.pdf

Available from Other Sources

North Carolina General Assembly, [North Carolina General Statutes](#).

North Carolina Office of Administrative Rules, [North Carolina Administrative Code](#).

Cornell Law School, *Legal Information Institute*, [N.C. Admin. Code, Title 21, Chapter 54](#).

NORTH CAROLINA PSYCHOLOGY BOARD PUBLICATIONS

North Carolina Psychology Board *Guidance*

- [Recommending Obtaining Continuing Education in Providing Telepsychological Services](#) (2020).
- [Provision of Services Via Electronic Means](#) (2005).

North Carolina Psychology Board *Newsletter*

The N.C. Psychology Board periodically publishes a **timely** and **helpful** newsletter called [The Bulletin Board](#) (*psychNEWS* prior to 2021). We recommend browsing the contents of recent newsletters for potential topics of interest.

OTHER RESOURCES

Telemental Health Laws App

Epstein Becker Green’s [Telemental Health Laws App](#) contains “state-specific content relating to the regulatory requirements for professional mental/behavioral health practitioners ... seeking to provide telehealth-focused services.”

Laws Regarding Adolescents

For a review of other laws applicable to adolescents, we highly recommend:

- [Minor Consent and Confidentiality: A Compendium of State and Federal Laws—North Carolina](#) (2024).³¹
- For the national compendium, additional state-specific compendia, and periodic **updates**, visit → [TeenHealthLaw.org](#)

Various Topics on Interest to Psychologists

The North Carolina School of Government at UNC Chapel Hill publishes books and papers on many topics related to laws (statutes, regulations, case law) and related matters. The online search engine is easy to use, and the information can be downloaded for free, including entire books and book chapters. Visit → [UNC School of Government](#).

³¹ ABIGAIL ENGLISH & REBECCA GUDEMAN, MINOR CONSENT AND CONFIDENTIALITY: A COMPENDIUM OF STATE AND FEDERAL LAWS (NORTH CAROLINA), National Center for Youth Law (2024), <https://perma.cc/4HZ2-JCMX> [archive link].