



ILLINOIS FIREARM OWNER IDENTIFICATION (FOID) MENTAL HEALTH REPORTING SYSTEM REQUIREMENTS


PHYSICIANS, CLINICAL PSYCHOLOGISTS, AND QUALIFIED EXAMINERS TRAINING MODULE

Illinois Department of Human Services
(DHS)

April 2014

“THIS INFORMATION IS NOT INTENDED TO PROVIDE LEGAL ADVICE ON P.A.98-63.”

- The Emergency Rules and the Proposed Rules for Title 59, Part 150 were published in the Illinois Register, Vol.38, Issue 3, pages 1971 and 2413 on January 17th, 2014.
- Please check the Department of Human Services (DHS) FOID web site for updated information relative to P.A. 098-0063.



The Firearm Concealed and Carry Act (PA 98-63) identifies mandated reporters as physicians, clinical psychologists, and qualified examiners. This training module is intended for:

- Physicians – any physician licensed under the Medical Practice Act of 1987
- Licensed Clinical Psychologists – psychologists licensed under the Clinical Psychologist Licensing Act
- Qualified Examiners – as defined in the Mental Health and Developmental Disabilities Code

Definitions for Qualified Examiners

- As defined in the Mental Health and Developmentally Disabled Code

- **Clinical Psychologist**

- *A psychologist registered with the Illinois Department of Professional Regulation who meets the following qualifications: (a) has a doctoral degree from a regionally accredited university, college, or professional school, and has two years of supervised experience in health services of which at least one year is postdoctoral and one year is in an organized health service program; or (b) has a graduate degree in psychology from a regionally accredited university or college, and has not less than six years of experience as a psychologist with at least two years of supervised experience in health services. [from 405 ILCS 5/1-103]*

- **Clinical Social Worker**

- *A person who is (1) has a master's or doctoral degree in social work from an accredited graduate school of social work and (2) has at least 3 years of supervised postmaster's clinical social work practice which shall include the provision of mental health services for the evaluation, treatment and prevention of mental and emotional disorders. [from 405 ILCS 5/1-122.1] A social worker shall be a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act. [from 405 ILCS 5/1-122]*

Definitions for Qualified Examiners continued...

- **Clinical Professional Counselor**

- *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 3 years of supervised postmaster's clinical professional counseling experience that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders. [from 405 ILCS 5/1-122]*

- **Registered Nurse**

- A registered nurse with a master's degree in psychiatric nursing who has 3 years of clinical training and experience in the evaluation and treatment of mental illness which has been acquired subsequent to any training and experience which constituted a part of the degree program. [from 405 ILCS 5/1-122]

- **Marriage and Family Therapist**

- A licensed marriage and family therapist with a master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution or a similar master's program or from a program accredited by either the Commission on Accreditation for Marriage and Family Therapy or the Commission on Accreditation for Counseling Related Educational Programs, who has at least 3 years of supervised post-master's experience as a marriage and family therapist that includes the provision of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders. [405 ILCS 5/1-122]

Physicians, licensed psychologists, and qualified examiners are required to report three events regardless of where they practice:

- The Determination that a person is:
 - Clear and Present Danger
 - Developmentally Disabled
 - Intellectually Disabled
 - *All terms as defined in the Firearm Owners Identification Card Act...
- Making a “determination” is not based on simply an observation or anecdotal information. “Determining” indicates the mandated reporter has completed a structured evaluation or assessment that supports the diagnosis.

Definition of “Clear and present danger”

- “Clear and present danger” means a person who:
 - Communicates a serious threat of physical violence against a reasonably identifiable victim or poses a clear and imminent risk of serious physical injury to himself, herself, or another person as determined by a physician, clinical psychologist, or qualified examiner; and/or
 - Demonstrates threatening physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior, as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official. (FOID Act, 430 ILCS 65/1.1)

Definition of “Developmentally Disabled”

- “Developmentally disabled” means a disability which is attributable to any other condition which results in impairment similar to that caused by an intellectual disability and which requires services similar to those required by intellectually disabled persons. The disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap. (FOID Act Sec. 1.1)
- “Intellectually Disabled” means significantly sub average general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years. (FOID Act Sec. 1.1)

Timeliness of the report?

- If a physician, licensed psychologist, or qualified examiner determines a person to be one of the following, the mandated reporter should report the information (event) to the Illinois FOID Mental Health Reporting System **within 24 hours of making the determination** regardless of where they practice:
 - Clear and Present Danger
 - Developmentally Disabled
 - Intellectually Disabled

DHS Reporting System requires the mandated reporter to provide identifying information to enable DHS to verify their credentials.

- DHS will ask for basic information about the physician, licensed psychologist or qualified examiner at registration
 - Full Name as it appears on their license (no nicknames please)
 - State License Number (no spaces, hyphens, just the numbers please)
 - Practice name, address, phone number and work email
 - Last four numbers of your social security number
- *The Illinois FOID Mental Health Reporting System automatically verifies the identity and credentials of the mandated reporter with the Illinois Department of Professional and Financial Regulations. If the information does not match exactly DHS personnel will follow up to reconcile any differences.

DHS Reporting System collects certain information about the person or patient being reported

- Identifying Information
 - Last name, first name, middle name, suffix, and Social Security Number. Date of Birth, Address, Gender, Race, Eye Color, Height, and weight.
- Event type (any or all that apply):
 - Clear and Present Danger*
 - Developmentally Disabled
 - Intellectually Disabled
 - Date the determination was made

* For Clear and Present Danger you will be asked to briefly describe in your own words why you believe the patient is a clear and present danger.

Liability

- The physician, clinical psychologist, qualified examiner, law enforcement official, or school administrator making the determination and his or her employer shall not be held criminally, civilly, or professionally liable for making or not making the notification required under this subsection, except for willful or wanton misconduct. [FOID Act, Sec. 8.1(d); MHDD Act, Secs. 6-103.2, 6-103.3]

Special Scenario #1....Alcohol and Substance Abuse Treatment Programs

42 CFR part B prohibits the reporting of person participating in alcohol and/or substance abuse treatment programs. More specifically, facilities providing these programs are not required to report services under the Firearm Concealed and Carry Act.

- P.A. 098-0063 (Firearm Concealed and Carry Act) does require physicians, psychologists, and qualified examiners to report persons who present as a “Clear and present danger”. When making a “clear and present danger” report the physician, psychologist or qualified examiner should not give a diagnosis of alcoholism or substance abuse nor should they identify the program as one for alcoholics or substance abusers.

Special Scenario #2....Community based facilities specializing in services to individuals with Developmental Disabilities

- Developmental disability facilities and their services, typically referred to as “habilitation”, are not clearly identified in the Firearm Concealed and Carry Act and are not considered to be inpatient or outpatient mental health treatment programs.
- Physicians, licensed clinical psychologists, and qualified examiners regardless of where they practice are required to report patients who they determine to be developmentally and/or intellectually disabled.
- “Determined” means a structured assessment or evaluation by the physician, licensed clinical psychologist, or qualified examiner was completed and supports the diagnosis.

Special Scenario #3.....An individual is seen in an emergency room of a hospital:

- An individual after being observed for a time leaves against medical advice without being admitted. Since the individual was not admitted there is nothing for the facility to report. However the mandated reporter may need to report if the person presented as a “clear and present danger”.
- An individual is “observed” in an emergency room for less than 24 hours and eventually leaves without being admitted. The individual requests and/or receives a prescription which is a psychotropic medication. There is no indication of “clear and present danger”. There is nothing to report.

Frequently Asked Questions

- How do we follow HIPPA and comply with the law?
 - *HIPAA contains exceptions for reporting some “personal health information” in accordance with the requirements of state law (e.g.: child abuse, gunshot wounds). The reporting for FOID is required by state law for those facilities, physicians, licensed psychologists, and qualified examiners for which it applies.*
- Is there an age cut off for when I have to report a person?
 - *No. You must report everyone regardless of age.*

More FAQs.....

- Should I report every person that is developmentally disabled that comes through our doors?
 - *No. The determination should be based on a formal structured evaluation or assessment which leads you to believe the individual has a developmental disability.*
 - *A physician, licensed psychologist, or qualified examiner may provide treatment and not be required to report if the mandated reporter does not make the determination of a developmental and/or intellectual disability.*

More FAQ's.....

- Is there a mechanism in place that enables a mandated reporter to know whether or not a person has already been reported to the system?
 - *No. We understand the statute and rule encourage duplicate reporting.*

More FAQs.....

- Which physician, licensed psychologist, or qualified examiner is required to report developmental or intellectual disability? Those making the diagnosis? Those providing primary care?
 - *Any physician, licensed psychologist or qualified examiner MAKING THE DETERMINATION is required to report.*
 - *A physician, licensed psychologist or qualified examiner may provide treatment and not be required to report if the mandated reporter is not making the determination of the DD/ID.*
 - *Mandated reporters only report for what they “determine” not for other professionals.*

More FAQs.....

- Are physicians, licensed psychologists, or qualified examiners working in schools required to report all developmentally/intellectually disabled students to DHS. Also, what timeline is required for reporting?
 - *Not unless the physician, licensed clinical psychologist, or qualified examiner personally “determined” the student to have a developmental and/or intellectual disability. Qualified examiners are required to report the **determination** that a person is developmentally/intellectually disabled within **24 hours of determination**.*

For More Information Visit:

The Illinois FOID

Mental Health Reporting System Website:

<https://foid.dhs.illinois.gov/foidpublic/foid/>

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