


CHAPTER Service Delivery	CHAPTER 02	SECTION 002	SUBJECT 65
SECTION Records		DESCRIPTION Duty to Warn	
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APPLICATION:

<input checked="" type="checkbox"/> CMH Staff	<input checked="" type="checkbox"/> Board Members	<input checked="" type="checkbox"/> Provider Network	<input checked="" type="checkbox"/> Employment Services Providers
<input checked="" type="checkbox"/> Employment Services Provider Agencies	<input checked="" type="checkbox"/> Independent Contractors	<input checked="" type="checkbox"/> Students	<input checked="" type="checkbox"/> Interns
<input checked="" type="checkbox"/> Volunteers	<input type="checkbox"/> Persons Served		

POLICY:

This policy outlines the requirements for Duty to Warn. The identity of persons served receiving mental health services will be protected and kept confidential to ensure the confidentiality of the person receiving services.

STANDARDS:

LCCMH requires staff to take action when person served communicates a threat of physical violence against a reasonably identifiable third person **and** the person served has the apparent intent **and** ability to carry out the threat in the foreseeable future.

PROCEDURES:

- A. If a Mental Health Professional does one or more of the following in a timely manner, subsequent to the threat, they have discharged the duty created under this law:

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1. Hospitalize the person served or initiate proceedings to hospitalize the person served under chapter 4 or 4a (Michigan Mental Health Code).
2. Make a reasonable attempt to communicate the threat to the third person.
3. Communicate the threat to law enforcement (local police department or county sheriff for the area where the third person resides or for the area where the person served resides or to the state police).
4. If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth in subdivision 3 and communicates the threat to the Michigan Department of Health and Human Services (MDHHS) in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate in the best interests of the third person.

B. If the person served is not hospitalized, the mental health professional will:

1. Make a reasonable attempt to communicate the threat to the third person.
2. Communicate the threat to law enforcement (local police department or county sheriff for the area where the third person resides or for the area where the person served resides or to the state police).
3. If hospitalization does not occur and/or the threat to a third person still exists, document the specific threat, clinician's assessment of intent and the person served ability to carry out the expressed intent and make a reasonable attempt to notify the intended victim and the appropriate authorities and document said contact.

C. When a Duty to Warn action is initiated, staff will:

1. Notify the program supervisor or another administrator **and** the psychiatrist.
2. Consult the Recipient Rights Officer for clarification of any recipient rights issues.

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3. Make an effort to notify the person served by phone or in person of the Duty to Warn and the intention to warn the identified threatened third party.
4. Assess for involuntary (or voluntary) hospitalization and implement this if appropriated as first choice.
5. If hospitalization does not occur and/or the threat to a third person still exists, document the specific threat, clinician's assessment of intent and the person served ability to carry out the expressed intent and make a reasonable attempt to notify the intended victim and the appropriate authorities and document said contact.

D. When communicating the threat to the identified third party:

1. Do not divulge the mental status of the person served or therapeutic content of the case.
2. Be as specific as possible about the details of the threat and indicate the appraisal of the degree of dangerousness.
3. If the intended victim is a child or his/her competence is in question, his/her parent or guardian will be notified. An assessment of the need to inform the intended victim will also occur, taking into account, for example, the age of the intended victim, feasibility of self-protection, and/or potential for trauma if the intended victim is determined not to have sufficient capability for self-protection.
4. When a person served by LCCMH with a co-occurring disorder makes a credible threat against another person, LCCMH staff may still contact law enforcement and the potential victim, but must not state the person served is receiving substance use services.
5. If local law enforcement is contacted and a request is made to meet in person to file a report the staff will comply with law enforcement's request.
6. Complete the Duty to Warn Form #372 and OASIS Incident Report.

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E. A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750.

1. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws.
2. A psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18237 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18237 of the Michigan Compiled Laws.
3. A certified social worker, social worker, or social worker technician who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1610 of the Michigan Compiled Laws.
4. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18117 of the Michigan Compiled Laws.
5. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1509 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1509 of the Michigan Compiled Laws.
6. A music therapist who determines in good faith that a particular situation presents a duty under this section and who complies with this duty does not violate section 4.11 of the professional code of ethics of the national

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association for music therapy, inc., or the clinical relationships section of the code of ethics of the certification board for music therapists.

This section does not affect a duty a Mental Health Professional may have under any other section of law.

DEFINITIONS:

Confidentiality: A quality of private information that is developed with the implicit or explicit promise or with the reasonable expectation, it will not be further disclosed except for the purpose for which it was provided.

Duty to Warn: If a patient communicates to a mental health professional who is treating the patient a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as prescribed in subsection.

REFERENCES/EXHIBITS:

Michigan Mental Health Code
Administrative Rules
45 CFR
Child Protection Law
Adult Protection Law
Duty to Warn Form # 372

LKJ:mgr