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Mental Health Professionals’ Duty to Warn

3/16/2022

Most states have laws that either require or permit mental health professionals to disclose information about patients who may become violent. Those laws are receiving increased attention following recent mass shootings, such as those in Aurora, Colo., and Newtown, Conn. A New York law enacted Jan. 15, 2013, moves that state's law from a permissive to a mandatory duty for mental health professionals to report when they believe patients may pose a danger to themselves or others but protects therapists from both civil and criminal liability for failure to report if they act "in good faith." New York's new law also allows law enforcement to remove firearms owned by patients reported to be likely to be dangerous. (Note: Please see chart below for update.)

Under ethical standards tracing back to the [Roman Hippocratic Oath](#), doctors and mental health professionals usually must maintain the confidentiality of information disclosed to them by patients in the course of the doctor-patient relationship. With some exceptions codified in state and federal law, health professionals can be legally liable for breaching confidentiality. One exception springs from an effort to protect potential victims from a patient’s violent behavior. California courts imposed a legal duty on psychotherapists to warn third parties of patients’ threats to their safety in 1976 in [Tarasoff v. The Regents of the University of California](#). This case triggered passage of “duty to warn” or “duty to protect” laws in almost every state as summarized in the map and, in more detail, in the chart below.

Opinions about the laws vary. The American Psychological

Legend:

- Duty to Protect/Warn - Mandatory
- Duty to Protect/Warn - Permissive
- No Duty to Protect/Warn
- Other

States included in the legend:

- RI, CT, VT, NH, NJ, MA, DE, MD, DC

States shown at the bottom of the slide:

- AS, GU, MP, **PR**, VI

The box allows you to conduct a full text search or type the state name.

State	Relevant Statutes	Duty Yes/No	Mandatory Permissive	Applicable
Alabama		Yes	Mandatory	Counseling license psychologist psychiatrist

Sources: NCSL Staff Research; Edwards, Griffin Sims. [Database of State Tarasoff Laws](#), February 2010; Soulier, M., et al. "Status of the Psychiatric Duty to Protect, Circa 2006." *J Am Acad Psychiatry Law* 38:457-73, 2010.

Additional Resources

- [Mental Health Professionals' Duty to Warn](#) (LegisBrief, January 2013)
- [Health Program](#)
- [Mental Health and Substance Abuse](#)



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