

148F.13 PROTECTING CLIENT PRIVACY.

Subdivision 1. **Protecting private information.** The provider shall safeguard private information obtained in the course of the practice of alcohol and drug counseling. Private information may be disclosed to others only according to section 148F.135, or with certain exceptions as specified in subdivisions 2 to 13.

Subd. 2. **Duty to warn; limitation on liability.** (a) Private information may be disclosed without the consent of the client when a duty to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the provider if reasonable efforts are made to communicate the threat to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. No monetary liability and no cause of action or disciplinary action by the board may arise against a provider for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide.

(b) For purposes of this subdivision, "provider" includes alcohol and drug counseling practicum students and individuals who are participating in a postdegree professional practice in alcohol and drug counseling.

Subd. 3. **Services to group clients.** Whenever alcohol and drug counseling services are provided to group clients, the provider shall initially inform each client of the provider's responsibility and each client's individual responsibility to treat any information gained in the course of rendering the services as private information, including any limitations to each client's right to privacy.

Subd. 4. **Obtaining collateral information.** Prior to obtaining collateral information about a client from other individuals, the provider shall obtain consent from the client unless the consent is not required by law or court order, and shall inform the other individuals that the information obtained may become part of the client's records and may therefore be accessed or released by the client, unless prohibited by law. For purposes of this subdivision, "other individual" means any individual, except for credentialed health care providers acting in their professional capacities, who participates adjunctively in the provision of services to a client. Examples of other individuals include, but are not limited to, family members, friends, coworkers, day care workers, guardians ad litem, foster parents, or school personnel.

Subd. 5. **Minor clients.** At the beginning of a professional relationship, the provider shall inform a minor client that the law imposes limitations on the right of privacy of the minor with respect to the minor's communications with the provider. This requirement is waived when the minor cannot reasonably be expected to understand the privacy statement.

Subd. 6. **Limited access to client records.** The provider shall limit access to client records. The provider shall make reasonable efforts to inform individuals associated with the provider's agency or facility, such as staff members, students, volunteers, or community aides, that access to client records, regardless of their format, is limited only to the provider with whom the client has a professional relationship, an individual associated with the agency or facility whose duties require access, or individuals authorized to have access by the written informed consent of the client.

Subd. 7. **Billing statements for services.** The provider shall comply with the privacy wishes of clients regarding to whom and where statements for services are to be sent.

Subd. 8. **Case reports.** The identification of the client shall be reasonably disguised in case reports or other clinical materials used in teaching, presentations, professional meetings, or publications.

Subd. 9. **Observation and recording.** Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with the client's written informed consent.

Subd. 10. **Continued protection of client information.** The provider shall maintain the privacy of client data indefinitely after the professional relationship has ended.

Subd. 11. **Court-ordered or other mandated disclosures.** The proper disclosure of private client data upon a court order or to conform with state or federal law shall not be considered a violation of sections 148F.12 to 148F.205.

Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee must comply with the reporting of maltreatment of minors established in section 626.556 and the reporting of maltreatment of vulnerable adults established in section 626.557.

Subd. 13. **Initial contacts.** When an individual initially contacts a provider regarding alcohol and drug counseling services, the provider or another individual designated by the provider may, with oral consent from the potential client, contact third parties to determine payment or benefits information, arrange for precertification of services when required by the individual's health plan, or acknowledge a referral from another health care professional.

History: 2012 c 197 art 2 s 27; 2016 c 163 art 3 s 4