148B.391 DUTY TO WARN.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Other person" means an immediate family member or someone who personally knows the client and has reason to believe the client is capable of and will carry out the serious, specific threat of harm to a specific, clearly identified or identifiable victim.

(c) "Reasonable efforts" means communicating the serious, specific threat to the potential victim and if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim or the client.

(d) For purposes of this section, "licensee" includes students or interns practicing marriage and family therapy under qualified supervision as part of an accredited educational program or under a supervised postgraduate experience in marriage and family therapy required for licensure.

Subd. 2. **Duty to warn.** The duty to predict, warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the licensee a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the licensee if reasonable efforts are made to communicate the threat.

Subd. 3. **Liability standard.** If no duty to warn exists under subdivision 2, then no monetary liability and no cause of action may arise against a licensee for failure to predict, warn of, or take reasonable precautions to provide protection from, a client's violent behavior.

Subd. 4. **Disclosure of confidences.** Good faith compliance with the duty to warn shall not constitute a breach of confidence and shall not result in monetary liability or cause of action against the licensee.

Subd. 5. **Continuity of care.** Nothing in subdivision 2 shall be construed to authorize a licensee to terminate treatment of a client as a direct result of a client's violent behavior or threat of physical violence unless the client is referred to another practitioner or appropriate health care facility.

Subd. 6. **Exception.** This section does not apply to a threat to commit suicide or other threats by a client to harm the client, or to a threat by a client who is adjudicated mentally ill and dangerous under chapter 253B.

Subd. 7. **Optional disclosure.** Nothing in this section shall be construed to prohibit a licensee from disclosing confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat to commit suicide for which a duty to warn does not arise.

Subd. 8. **Limitation on liability.** No monetary liability and no cause of action, or disciplinary action by the board may arise against a licensee 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 for which a duty to warn does not arise.

History: *2019 c 52 s 18*