

Duty To Warn

Question

A patient confided in me that he would like to harm someone in his family. I am not certain he actually would follow through, but the threat seems credible. What should I do?

Answer

The concept of “duty to warn” or “duty to protect” refers to healthcare providers’ responsibility to disclose information about a patient who is potentially violent or dangerous. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) supports “duty to warn” by permitting disclosure of certain limited information based on a reasonable belief that use or disclosure of the protected health information is necessary to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public, if disclosure is consistent with state law.¹

In such situations, consider the following four-step algorithm.

1. Do you believe the individual poses a serious and imminent threat to the health or safety of a person or the public and has the ability to carry out the threat?
2. Are you basing this good faith belief on reliable information?
3. Do you believe that disclosing this threat (to the victim or law enforcement) will reasonably prevent or lessen the threat of harm?
4. If the answers to the above questions are “yes,” warn the victim and/or law enforcement and document this four-step algorithm in the patient’s health record.

Your state’s health regulations also might include a provision for involuntarily admitting the patient to a behavioral health facility.

Resources

- [Disclosing Confidential Information](#) (American Psychological Association)
- [How Should Physicians Make Decisions about Mandatory Reporting When a Patient Might Become Violent?](#) (*AMA Journal of Ethics*)
- [Warning a Potential Victim of a Person's Dangerousness: Clinician's Duty or Victim's Right?](#) (*Journal of the American Academy of Psychiatry and the Law*)
- [Healthcare Providers' Duty to Warn](#) (Medscape)
- [Mental Health Professionals' Duty to Warn](#) (National Conference of State Legislatures)
- [Duty to Warn, Duty to Protect](#) (*The New Social Worker*)
- [Confidentiality and its Exceptions: The Case of Duty to Warn](#) (The Society for the Advancement of Psychotherapy)

¹ HIPAA Privacy and Security Rule, 45 C.F.R. § 164.512.

This document should not be construed as medical or legal advice. Because the facts applicable to your situation may vary, or the laws applicable in your jurisdiction may differ, please contact your attorney or other professional advisors if you have any questions related to your legal or medical obligations or rights, state or federal laws, contract interpretation, or other legal questions.

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