

HEALTHWEST

Policy and Procedure

No. 04-004

Prepared by:
The Office of Recipient Rights

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Approved by:

Subject: Duty to Warn

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I. POLICY

It is the policy of Community Mental Health Services (CMHS) of Muskegon County to warn potential victims if an individual has communicated an actual and foreseeable threat of violence by specific means. It is also the policy of CMHS of Muskegon County to take reasonable precautions to provide protection from such violent behavior.

II. PURPOSE

To ensure the safety of individuals receiving services and the general public.

III. APPLICATION

All employees, volunteers, student interns, and persons under contract with Community Mental Health Services of Muskegon County.

IV. DEFINITION

Duty to Warn: Duty to warn takes effect when there is a threat against a clearly identified or reasonably identified victim or specific class of people (family, bosses, etc.) and serious intent with foreseeable peril is present as assessed by: (1) the specificity of the plan – clarity, severity, imminence; (2) capability of the recipient; (3) opportunity and availability of the means; and (4) the recipient's history of known violent behavior (if history is available).

V. PROCEDURE

A. If a threat of physical violence against a third person occurs, the Mental Health Code (Section 946) requires one or more of the following occur in a timely manner:

1. Hospitalize the recipient or initiate proceedings to hospitalize.
 2. Make a reasonable attempt to communicate the threat to a third person and communicate the threat to the local police or sheriff's departments or the state police.
- B. The law further states that if the person threatened is a minor or is incompetent by other than age, you must do all of the following:
1. Contact the local police, sheriff, or state police (as above).
 2. Communicate the threat to the Department of Human Services (DHS), Protective Services, in the county where the minor resides.
 3. Communicate the threat to the minor's custodial or non-custodial parent or legal guardian.
- C. Once evidence of a clear threat to specific person(s) is identified, the following will occur:
1. If possible, contact the recipient (by phone or in person) and get more information and express your duty to warn and intention to warn others. If direct contact is not possible in a short time, proceed with further steps.
 2. Notify and consult with your Program Manager. If he/she is unavailable, contact the Chief Operating Officer, Director of Clinical Services, Director of Program Evaluation & Best Practices, or an available staff psychiatrist. Do not attempt to deal with the crisis alone.
 3. If after consultation, the decision is made that the duty to warn is required, the Recipient Rights Officer will be notified and apprised of the situation.
 4. Evaluate for involuntary (or voluntary) hospitalization and implement this if appropriate as a first choice.
 5. If hospitalization does not occur or the threat to a third person still exists, directly notify the potential victim(s) of the threat to harm. Be as specific as possible about the details of the threat and indicate the appraisal of the degree of dangerousness. Do not otherwise divulge the mental status of the recipient or therapeutic content of the case.
 6. Notify appropriate police or sheriff authorities and parents/guardians if applicable.
 7. If the recipient is not hospitalized, continue treatment and consider the following:
 - a. Psychiatric consultation, reassess medication, diagnosis, mental status.
 - b. Psychological testing.
 - c. Evaluating relationship with therapist/supports coordinator and/or team.

- d. Increase recipient level of observation and supervision.
 - e. Enrolling recipient in more structured programs.
 - f. Contracting with recipient to notify therapist before acting.
8. Finally, **document everything**. This included specific findings regarding the threat and its elements (see above); who was contacted inside and outside the agency and what was discussed with them; interventions considered and which ones were implemented and their outcomes.
9. An Incident Report ([C260](#)) will be filed every time the Duty to Warn is discharged.

VI. REFERENCES

MCL330.1946,330.748
[C260](#) Incident Report Form

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