

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 211 - L.D. 287

An Act To Impose on Mental Health Professionals a Duty To Warn and Protect

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §2600-D is enacted to read:

§2600-D. Duty to warn and protect

1. Duty. An osteopathic physician licensed under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the osteopathic physician has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the osteopathic physician to take any action that in the reasonable professional judgment of the osteopathic physician would endanger the osteopathic physician or increase the threat of danger to a potential victim.

2. Discharge of duty. An osteopathic physician subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the osteopathic physician makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against an osteopathic physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 2. 32 MRSA §3300-G is enacted to read:

§3300-G. Duty to warn and protect

1. Duty. A physician licensed under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the

physician has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the physician to take any action that in the reasonable professional judgment of the physician would endanger the physician or increase the threat of danger to a potential victim.

2. Discharge of duty. A physician subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the physician makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a physician licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 3. 32 MRSA §3820 is enacted to read:

§3820. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a patient's violent behavior if the licensee has a reasonable belief based on communications with the patient that the patient is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the patient under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning patient privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 4. 32 MRSA §6207-C is enacted to read:

§6207-C. Duty to warn and protect

1. Duty. A certified alcohol and drug counselor or a licensed alcohol and drug counselor has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the counselor has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the counselor to take any action that in the reasonable

professional judgment of the counselor would endanger the counselor or increase the threat of danger to a potential victim.

2. Discharge of duty. A certified alcohol and drug counselor or a licensed alcohol and drug counselor subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the counselor makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against an alcohol and drug counselor certified or licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 5. 32 MRSA §7006 is enacted to read:

§7006. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the licensee has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

Sec. 6. 32 MRSA §13866 is enacted to read:

§13866. Duty to warn and protect

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the licensee has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim.

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to

communicate the threat to a potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.