

MENTAL HEALTH CODE (EXCERPT)
Act 258 of 1974

330.1946 Threat of physical violence against third person; duties.

Sec. 946. (1) If a patient communicates to a mental health professional who is treating the patient a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as prescribed in subsection (2). Except as provided in this section, a mental health professional does not have a duty to warn a third person of a threat as described in this subsection or to protect the third person.

(2) A mental health professional has discharged the duty created under subsection (1) if the mental health professional, subsequent to the threat, does 1 or more of the following in a timely manner:

(a) Hospitalizes the patient or initiates proceedings to hospitalize the patient under chapter 4 or 4a.

(b) Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides, or to the state police.

(c) If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth in subdivision (b) and communicates the threat to the department of social services in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate in the best interests of the third person.

(3) If a patient described in subsection (1) is being treated through team treatment in a hospital, and if the individual in charge of the patient's treatment decides to discharge the duty created in subsection (1) by a means described in subsection (2)(b) or (c), the hospital shall designate an individual to communicate the threat to the necessary persons.

(4) A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws. A psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18237 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18237 of the Michigan Compiled Laws. A certified social worker, social worker, or social worker technician who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1610 of the Michigan Compiled Laws. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18117 of the Michigan Compiled Laws. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1509 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1509 of the Michigan Compiled Laws. A music therapist who determines in good faith that a particular situation presents a duty under this section and who complies with this duty does not violate section 4.11 of the professional code of ethics of the national association for music therapy, inc., or the clinical relationships section of the code of ethics of the certification board for music therapists.

(5) This section does not affect a duty a mental health professional may have under any other section of law.

History: Add. 1989, Act 123, Eff. Sept. 1, 1989;—Am. 1994, Act 259, Imd. Eff. July 5, 1994;—Am. 1995, Act 290, Eff. Mar. 28, 1996.