

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 19
LIMITATION OF A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN

6-1901. MENTAL HEALTH PROFESSIONAL DEFINED. As used in this chapter "mental health professional" means:

- (1) A physician licensed pursuant to chapter 18, title 54, Idaho Code;
- (2) A professional counselor licensed pursuant to chapter 34, title 54, Idaho Code;
- (3) A psychologist licensed pursuant to chapter 23, title 54, Idaho Code;
- (4) A social worker licensed pursuant to chapter 32, title 54, Idaho Code; or
- (5) A licensed professional nurse licensed pursuant to chapter 14, title 54, Idaho Code.

[6-1901, added 1991, ch. 235, sec. 1, p. 565.]

6-1902. A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN. A mental health professional has a duty to warn a victim if a patient has communicated to the mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such a threat.

[6-1902, added 1991, ch. 235, sec. 1, p. 565.]

6-1903. DISCHARGE OF A MENTAL HEALTH PROFESSIONAL'S DUTY TO WARN. (1) The duty to warn arises only under the limited circumstances specified in section 6-1902, Idaho Code. The duty to warn a clearly identifiable victim shall be discharged when the mental health professional has made a reasonable effort to communicate, in a reasonable timely manner, the threat to the victim and has notified the law enforcement agency closest to the patient's or victim's residence of the threat of violence, and has supplied a requesting law enforcement agency with any information he has concerning the threat of violence. If the victim is a minor, in addition to notifying the appropriate law enforcement agency as required in this subsection, the mental health professional shall make a reasonable effort to communicate the threat to the victim's custodial parent, noncustodial parent, or legal guardian.

(2) The provisions of this section do not limit or affect the mental health professional's duty to report child abuse or neglect in accordance with section 16-1605, Idaho Code.

[6-1903, added 1991, ch. 235, sec. 1, p. 565; am. 2005, ch. 391, sec. 2, p. 1264.]

6-1904. IMMUNITY FROM LIABILITY. (1) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health care professional for failure to predict or take precautions to provide protection from a patient's violent behavior, other than the duty to warn provided in section 6-1902, Idaho Code, unless the mental health care professional failed to exercise that reasonable degree of skill, knowledge, and care ordinarily possessed and exercised by members of his professional specialty under similar circumstances.

(2) No professional disciplinary procedure, no monetary liability and no cause of action may arise against any mental health professional, who has a reasonable basis for believing that he has a duty to warn pursuant to section 6-1902, Idaho Code, for disclosing confidential or privileged information in an effort to discharge such duty.

(3) The provisions of this section do not modify any duty to take precautions to prevent harm by a patient that may arise if the patient is within the custodial responsibility of a hospital or other facility or is being discharged therefrom.

(4) Except as provided in section 6-1902, Idaho Code, the provisions of this section do not modify the provisions of sections 6-1001 through 6-1013, Idaho Code.

[6-1904, added 1991, ch. 235, sec. 1, p. 566; am. 2010, ch. 79, sec. 1, p. 133.]