

CHAPTER 109

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 14-1271

BY REPRESENTATIVE(S) Melton, Buckner, Fields, Williams, Exum, Gardner, Ginal, Hamner, Hulinghorst, Humphrey, Kraft-Tharp, Labuda, McCann, Mitsch Bush, Moreno, Pabon, Pettersen, Ryden, Schafer, Singer, Tyler, Young; also SENATOR(S) Newell, Aguilar, Heath, Jones, Kefalas, Kerr, Nicholson, Rivera, Tochtrop, Todd, Carroll.

AN ACT

CONCERNING EXTENDING A MENTAL HEALTH PROVIDER'S DUTY TO WARN TO INCLUDE SPECIFIC ENTITIES THAT, IF PURPOSEFULLY DAMAGED OR ATTACKED AS A RESULT OF A MENTAL HEALTH PATIENT'S VIOLENT BEHAVIOR, WOULD JEOPARDIZE PUBLIC HEALTH AND SAFETY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 13-21-117 as follows:

13-21-117. Civil liability - mental health providers - duty to warn - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "MENTAL HEALTH PROVIDER" MEANS A PHYSICIAN, SOCIAL WORKER, PSYCHIATRIC NURSE, PSYCHOLOGIST, OR OTHER MENTAL HEALTH PROFESSIONAL, OR A MENTAL HEALTH HOSPITAL, COMMUNITY MENTAL HEALTH CENTER OR CLINIC, INSTITUTION, OR THEIR STAFF.

(b) "PSYCHIATRIC NURSE" MEANS A REGISTERED PROFESSIONAL NURSE AS DEFINED IN SECTION 12-38-103 (11), C.R.S., WHO BY VIRTUE OF POSTGRADUATE EDUCATION AND ADDITIONAL NURSING PREPARATION HAS GAINED KNOWLEDGE, JUDGMENT, AND SKILL IN PSYCHIATRIC OR MENTAL HEALTH NURSING.

(2) (a) A MENTAL HEALTH PROVIDER IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR FAILURE TO WARN OR PROTECT A SPECIFIC PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY, AGAINST THE VIOLENT BEHAVIOR OF A PERSON RECEIVING TREATMENT FROM THE MENTAL HEALTH PROVIDER, AND ANY SUCH MENTAL HEALTH PROVIDER

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MUST NOT BE HELD CIVILLY LIABLE FOR FAILURE TO PREDICT SUCH VIOLENT BEHAVIOR EXCEPT WHERE THE PATIENT HAS COMMUNICATED TO THE MENTAL HEALTH PROVIDER A SERIOUS THREAT OF IMMINENT PHYSICAL VIOLENCE AGAINST A SPECIFIC PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY.

(b) WHEN THERE IS A DUTY TO WARN AND PROTECT UNDER THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE MENTAL HEALTH PROVIDER SHALL MAKE REASONABLE AND TIMELY EFFORTS TO NOTIFY THE PERSON OR PERSONS, OR THE PERSON OR PERSONS RESPONSIBLE FOR A SPECIFIC LOCATION OR ENTITY, THAT IS SPECIFICALLY THREATENED, AS WELL AS TO NOTIFY AN APPROPRIATE LAW ENFORCEMENT AGENCY OR TO TAKE OTHER APPROPRIATE ACTION, INCLUDING BUT NOT LIMITED TO HOSPITALIZING THE PATIENT. A MENTAL HEALTH PROVIDER IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR WARNING A SPECIFIC PERSON OR PERSONS, OR A PERSON OR PERSONS RESPONSIBLE FOR A SPECIFIC LOCATION OR ENTITY, AGAINST OR PREDICTING THE VIOLENT BEHAVIOR OF A PERSON RECEIVING TREATMENT FROM THE MENTAL HEALTH PROVIDER.

(c) A MENTAL HEALTH PROVIDER MUST NOT BE SUBJECT TO PROFESSIONAL DISCIPLINE WHEN THERE IS A DUTY TO WARN AND PROTECT PURSUANT TO THIS SECTION.

(3) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE NEGLIGENT RELEASE OF A PATIENT FROM ANY MENTAL HEALTH HOSPITAL OR WARD OR TO THE NEGLIGENT FAILURE TO INITIATE INVOLUNTARY SEVENTY-TWO-HOUR TREATMENT AND EVALUATION AFTER A PERSONAL PATIENT EVALUATION DETERMINING THAT THE PERSON APPEARS TO HAVE A MENTAL ILLNESS AND, AS A RESULT OF THE MENTAL ILLNESS, APPEARS TO BE AN IMMINENT DANGER TO OTHERS.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 2014