

SECTION: 5 CHAPTER: 1400
POLICY: 1406, Duty to Warn

1. PURPOSE:

Any Tribal/Regional Behavioral Health Authority (T/RBHA), mental health provider employed or contracted by a T/RBHA or a subcontracted provider of a mental health provider, having determined that a patient poses a serious danger of violence to others, shall take reasonable actions to protect the potential victim(s) of that danger.

2. TERMS:

Definitions for terms are located online at <http://www.azdhs.gov/bhs/definitions/index.php>. The following terms are referenced in this section:

Mental Health Provider
Patient

3. PROCEDURES:

a. Duty to Protect Potential Victims of Physical Harm

- i. All T/RBHA mental health providers employed or contracted by a T/RBHA, or subcontracted providers of mental health providers have a duty to protect others against the violent conduct of a patient. When a T/RBHA mental health provider employed or contracted by a T/RBHA or a subcontracted provider of a mental health provider determines, or under applicable professional standards, reasonably should have determined that a patient poses a serious danger to others, he/she bears a duty to exercise care to protect the foreseeable victim of that danger. The foreseeable victim need not be specifically identified by the patient, but may be someone who would be the most likely victim of the patient's violent conduct.
- ii. While the discharge of this duty may take various forms, the T/RBHA mental health providers employed or contracted by a T/RBHA or a subcontracted provider of a mental health provider need only exercise that reasonable degree of skill, knowledge and care ordinarily possessed and exercised by members of that professional specialty under similar circumstances. Any duty owed by a T/RBHA mental health provider employed or contracted by a T/RBHA or a subcontracted provider of a mental health provider to take reasonable precautions to prevent harm threatened by a patient can be discharged by any of the following, depending upon the circumstances:
 - (1) Communicating, when possible, the threat to all identifiable victims;
 - (2) Notifying a law enforcement agency in the vicinity where the patient or any potential victim resides;
 - (3) Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate, and in accordance with [Policy 109, Pre-petition Screening, Court Ordered Evaluation and Court Ordered Treatment](#); or
 - (4) Taking any other precautions that a reasonable and prudent mental health provider would take under the circumstances.

- b. The T/RBHA must develop and make available written policies and procedures for behavioral health providers when providers have reason to believe that they have a duty to warn potential victims of harm.

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4. REFERENCES:

[A.R.S. § 36-501](#)

[A.R.S. § 36-517.02](#)

[Tarasoff v. Regents of the University of California, 551 P.2d. 334 \(Cal. 1976\)](#)

Little v. All Phoenix South Community Mental Health Center, Inc., 186 Ariz. 97, 919 P.2d 1368 (Ct. App. 1995)

Hamman v. County of Maricopa, 161 Ariz. 58, 775 P.2d 1122 (1989)

[Policy 109, Pre-Petition Screening, Court Ordered Evaluation and Court Ordered Treatment](#)

[Policy 1401, Confidentiality](#)