DUTY TO WARN
Direct Care and Treatment

Issue Date: February 3, 2026 Effective Date: March 3, 2026 DCT Policy Number: 215-1045

POLICY:
Direct Care and Treatment (DCT) staff will provide the required notifications if a client makes a threat of serious harm towards another person or presents a significant risk of suicide by possessing a firearm.

AUTHORITY:
42 C.F.R. § 2.13 (Confidentiality of Alcohol and Drug Abuse Client Record)
Minn. Stat. § 245A.04, subd. 14 (Policies and procedures for program administration required and enforceable)
Minn. Stat. § 13.46 (Welfare Data)
Minn. Stat. § 148.975 (Duty to Warn; Limitation on Liability; Violent Behavior of Patient)
Minn. Stat. § 148E.240, subd. 6 (Board of Social Work Reporting Requirements)
Minn. Stat. § 148F.13, subd. 2 (LADC Duty to Warn; Limitation on Liability)
Minn. Stat. § 624.7171, subd. 5 (Extreme Risk Protection Orders; Mental health professionals)
Cairl v. State of Minnesota, 323 N.W.2d 20, 25-26 (Minn. 1982)
N.W. v. Anderson, 478 N.W.2d 542 (Minn. Ct. App. 1991), rev. denied (Minn. Feb. 10, 1992)
Culberson v. Chapman, 496 N.W.2d 821 (Minn. Ct. App. 1993)

APPLICABILITY:
DCT-wide

PURPOSE:
To provide notification processes to be followed when a client has threatened to harm a clearly identified or identifiable individual and is capable of carrying out the threat or when the client presents a significant risk of suicide by possessing a firearm.

DEFINITIONS:
Another Person – for purposes of this policy, an immediate family member or someone who personally knows the client and has reason to believe the client is capable of and will carry out the imminent, serious, specific threat of harm against a clearly identified or identifiable victim.

Duty to Warn – the obligation to predict, warn of, or take reasonable precautions to provide protection from violent behavior when a client or another person has communicated to DCT staff an imminent, specific, serious threat of physical violence against a clearly identified or identifiable potential victim, including staff or other clients, or when a DCT mental health professional determines a client presents a significant risk of suicide by possessing a firearm.

Potential Victim – for purposes of this policy, any person against whom a client has communicated an imminent, specific, serious threat of harm.

Reasonable Effort – communicating the imminent, serious, specific threat to the potential victim and, if unable to make contact with the potential victim, communicating the imminent, serious, specific threat to the law enforcement agency closest to either the potential victim, the client, or both.

Secure Confidential File – for purposes of this policy, a file which contains information related to duty to warn determinations that is confidential and is kept separate from the medical/treatment record.

PROCEDURES:

A. Identification, Notification, and Documentation of Threat or Risk of Self-Harm

1. When a client has communicated to staff an imminent, specific, serious threat of harm that could be carried out against a clearly identified or identifiable person or when another person has reported such a threat to staff:

a) Community Based Services (CBS), Forensic Services (FS), Outpatient Services, Anoka Metro Regional Treatment Center (AMRTC), Community Behavioral Health Hospital (CBHH), Child and Adolescent Behavioral Health Hospital (CABHH), and Minnesota Specialty Health System (MSHS): Staff will immediately notify the program medical director/designee. The medical director/designee determines whether a duty to warn exists, and if it is necessary to notify the potential victim and/or the sheriff of the county where the victim or client resides according to Section A.3 of this policy.

b) Community Addiction Recovery Enterprise (CARE)

(1) If time allows, staff are encouraged to contact the General Counsel's Office.

(2) If the threat against another individual is imminent, staff promptly communicate the threat to the program medical director/designee and work with them to contact the potential victim and sheriff of the appropriate law enforcement agency according to section A.3 of this policy.

(3) When a client has made a threat against another individual, staff must not identify the person making the threat as a client within a chemical dependency treatment program and identify themselves as an employee of DCT.

c) Minnesota Sex Offender Program (MSOP): Staff will immediately verbally notify the Officer of the Day (OD) and write a Level I Incident Report.

(1) If the OD believes there is an immediate threat against another individual, they immediately contact the facility director/designee and the clinical director/designee during business hours, or the administrator-on-call after hours who will notify the facility director/designee.

(2) The facility director/designee determines whether a duty to warn exists, and if it is necessary to notify the potential victim and/or the sheriff of the county where the client resides, according to section A.3 of this policy.

d) Forensic Examination Department

(1) If a client communicates a threat while receiving inpatient treatment in a DCT program, the examiner will immediately notify the program medical director/designee. The medical director/designee determines whether a duty to warn exists, and if it is necessary to notify the potential victim and/or the sheriff of the county where the victim or client resides according to Section A.3 of this policy.

(2) If the client communicates a threat but is not receiving inpatient treatment in a DCT program, the examiner will:

i) notify the potential victim. Notification to the victim cannot include any information beyond what is necessary to inform that a client has made a specific threat against them. If the potential victim cannot be located, the

examiner must notify the closest law enforcement agency to either the potential victim, the client, or both; and

ii) notify the sheriff of the county where the client resides to communicate the threat toward the potential victim and make a recommendation to the sheriff regarding the client's fitness to possess a firearm. Notification to the sheriff in this provision will be made regardless of whether the examiner knows or believes the client possesses a firearm.

(3) As applicable, the examiner will still provide notification of the threat of harm to the court pursuant to the Rule 20 Examinations and Competency Examinations Under Chapter 611 policies and as required in a report to court under Minn. R. Crim. P. 20 or Minn. Stat. Ch. 611.

2. If the occurrence of the threat against another person, related behaviors, or a client's risk of self-harm by possessing a firearm would normally be documented in the client's medical/treatment record, staff must complete that documentation. However, staff must not document any information related to the duty to warn in the client's medical/treatment record.

3. If a client makes a threat of harm against another person and there is a duty to warn the potential victim, the facility director/designee or medical director/designee must notify:
   a) the potential victim immediately. Notification to the victim cannot include any information beyond what is necessary to inform that a client has made a specific threat against them. If the potential victim cannot be located, the facility director/designee or medical director/designee must notify the closest law enforcement agency to either the potential victim, the client, or both; and

   b) the sheriff of the county where the client resides to communicate the threat toward the potential victim and make a recommendation to the sheriff regarding the client's fitness to possess a firearm. Notification to the sheriff in this provision will be made regardless of whether staff know or believe the client possesses a firearm.

4. If a client presents a significant risk of suicide by possessing a firearm and:
   a) the client is receiving inpatient treatment in a DCT program, staff do not have a duty to notify the sheriff or make a recommendation to the sheriff regarding the client's fitness to possess a firearm.

   b) the client is receiving treatment or services from CBS, Outpatient Services, or the DCT Transitions Team, the facility director/designee or medical director/designee for the respective program or service must notify the sheriff of the county where the client resides to communicate the risk of harm and make a recommendation to the sheriff regarding the client's fitness to possess a firearm. Notification to the sheriff in this provision will be made regardless of whether staff have actual knowledge that the client possesses a firearm.

   c) the client is being examined by the Forensic Evaluation Department but is not receiving inpatient treatment in a DCT program, the examiner must notify the sheriff of the county where the client resides to communicate the risk of harm and make a recommendation to the sheriff regarding the client's fitness to possess a firearm. Notification to the sheriff in this provision will be made regardless of whether the examiner has actual knowledge that

the client possesses a firearm. Notification to the court must also be made as required by the Rule 20 Examinations or Competency Examinations Under Chapter 611 policies and as required in a report to court under Minn. R. Crim. P. 20 or Minn. Stat. Ch. 611.

5. The facility director/designee or medical director/designee must notify the staff person who initially reported the incident giving rise to a duty to warn of the action the facility took in response to the initial report.

6. The facility director/designee or medical director/designee will document the following information in the client's secure confidential file using the Duty to Warn Documentation (215-1045a):
   a) A specific description of the threat, the seriousness of potential harm, the ability of the client to carry out the threat, and a recommendation about the client's fitness to possess a firearm;

   b) the facility's response;

   c) identifying information regarding the person(s) and agencies notified;

   d) name of the staff person making the notification(s);

   e) the date and time of the notification(s); and

   f) that follow up with the initial reporting staff was completed.

B. Determination of No Duty to Warn
   1. The facility director/designee or medical director/designee, upon determining that no duty to warn exists, must document the reasons for the determination in the secure confidential file using the Duty to Warn Documentation (215-1045a).

   2. If the facility director/designee or medical director/designee determines there is no duty to warn, they must reevaluate if new/additional information is provided. The reevaluation of the duty to warn will be done as outlined in Procedures A of this policy and documented on new Duty to Warn Documentation (215-1045a) in the secure confidential file.

C. Termination of Duty to Warn
   1. The duty to warn is discharged if a reasonable effort is made to communicate the threat to the potential victim or law enforcement.

   2. A duty to warn may reoccur if there is a new threat against the same or other clearly identified or identifiable individual.

D. Treatment Considerations - Members of the client's treatment team who are aware of a client's history regarding the duty to warn will consider implications of this history on the client's ongoing treatment and future reductions in custody and consult with the medical/clinical director about any implications, as necessary.

E. Secure Confidential File
   1. Secure confidential files must be accessible to staff 24 hours a day.

2. Each program will make its own determination where secure confidential files will be maintained. The file itself or a copy of the file is transferred with a client's medical/treatment record if the client transfers to another DCT facility.

3. Secure confidential files remain separate from a client's medical/treatment record, even upon a client's discharge or death.

4. The secure confidential file contains private data about a potential victim and is classified as confidential data. Clients do not have access to a secure confidential file without specific legal authorization.

F. Although Minnesota statute excludes clients committed as persons who have a mental illness and are dangerous to the public from the duty to warn provisions, statute does provide for good faith optional disclosures to warn against or take precautions against a client's violent behavior. Whenever it is determined that a threat is foreseeable (capable of being carried out) and is made against a clearly identified or identifiable person, DCT staff will make a good faith disclosure regardless of the client's legal status.

REVIEW:
Biennially

REFERENCES:
DCT Policy 130-1035, "Rule 20 Examinations"
DCT Policy 215-1020, "Competency Examinations Under Chapter 611"
MSOP Policy 215-5260, "Victim Notification"
MSOP Policy 410-5200, "On-Call"
MSOP Policy 410-5300, "Incident Reports"
FS Policy 130-3010, "Victim Notification"
MHSATS Policy 130-4020, "Victim Notification"

ATTACHMENTS:
Duty to Warn Documentation (215-1045a)

SUPERSESSION:
DCT Policy 215-1045, "Duty to Warn", October 1, 2024

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