A review: The New Jersey Duty to Warn Law

The New Jersey Duty to Warn Law, (9P.L.1991, Chapter 270, passed in 1991) requires mental health practitioners to take at least one of five actions if they incur a "duty to warn": that is

"(1) The patient has communicated to that practitioner a threat of imminent, serious physical violence against a readily identifiable individual or against himself and the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out the threat; or

(2) The circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out an act of imminent, serious physical violence against a readily identifiable individual or against himself."

These courses of action are:

"(1) Arranging for the patient to be admitted voluntarily to a psychiatric unit of a general hospital, a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);
(2) Initiating procedures for involuntary commitment of the patient to a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);
(3) Advising a local law enforcement authority of the patient's threat and the identity of the intended victim;
(4) Warning the intended victim of the threat, or, in the case of an intended victim who is under the age of 18, warning the parent or guardian of the intended victim; or
(5) If the patient is under the age of 18 and threatens to commit suicide or bodily injury upon himself, warning the parent or guardian of the patient."

The practitioner who does disclose this confidential information is immune from civil liability in regard to that disclosure.

What has changed?

The new amendment, originating from bill A1181, signed by Governor Phil Murphy *(along with 5 other gun control bills)* on June 13, 2018, adds to the existing duty to warn law by requiring in general that a licensed practitioner notify the chief law enforcement officer or the Superintendent of State Police if the patient resides in a municipality that does not have a full time police department that a duty to warn and protect has been incurred with respect to the patient and shall provide to the chief law enforcement officer or superintendent, as appropriate, the patient's name and other nonclinical identifying information.

The police will then take action with the courts to determine whether to revoke any firearms permit and seek to collect any firearms owned by the patient or that they have access to. There is a process for the patient to seek to reverse these actions once the "duty to warn" situation has passed through a clinical assessment.

The practitioner who does disclose this confidential information is immune from civil liability in regard to that disclosure.

What does this mean for you?

1. In the past, when you felt that there was a "duty to warn" (a threat of imminent, serious physical violence against a readily identifiable individual or against himself), you could choose at least one of the listed options, now you must call law enforcement, as indicate above, as well as take another appropriate course of action (such as arrange for a hospitalization of the patient, notify the victim or their parents, notify the parents of a minor).

2. You should also ensure that any documents you provide to patients where you discuss when you are required to disclose confidential information (such as child abuse reporting, etc) contains this update.