

Practice Update

# Healthcare Providers Authorized to Report Potentially Dangerous Persons

January 24, 2013

By Martin R. Dix and Sheryl D. Rosen

The public's concern about mass shootings spiked following the Sandy Hook Elementary School tragedy in December. As the nation searches for ways to prevent future violent acts, the U.S. Department of Health and Human Services ("HHS") recently reminded practitioners that they play a role in the effort too.

On January 15, HHS issued an open letter to healthcare providers, reminding them of their ability to warn authorities when they have reason to believe a patient might be a danger. Specifically, the federal Health Insurance Portability and Accountability Act ("HIPAA"), while safeguarding patient privacy, allows healthcare providers to disclose protected information to family members or law enforcement when the provider believes in good faith that the patient poses a serious and imminent threat to the health or safety of himself or others. 45 CFR § 164.512(j). Under HIPAA, a provider is presumed to be acting in good faith when such belief is premised upon actual knowledge, such as information a provider receives by talking to the patient, or upon "a credible representation by a person with apparent knowledge," such as information a provider receives by talking to the patient's family member. 45 CFR § 164.512(j)(4).

---

## Related People

Martin R. Dix

---

## Related Work

Healthcare

---

## Related Offices

Tallahassee

Likewise, Florida laws also balance the need for confidentiality with public safety by allowing various providers to disclose confidential health information to prevent imminent, serious harm. For instance, when a patient indicates he or she intends to harm another person, the administrator of a mental health facility may disclose sufficient information to provide adequate warning to the person threatened. § 394.4615, Fla. Stat. Additional laws state that when mental health professionals – including psychiatrists, psychologists, clinical social workers, marriage and family therapists, and licensed mental health counselors – learn that a patient poses an imminent harm to himself or another person, the professional may disclose that information to law enforcement and the intended victim in order to avert the harm. §§ 456.059, 490.0147, and 491.0147, Fla. Stat.

Also, although different than a mass shooting or other violent act, Florida law allows healthcare providers to disclose HIV/AIDS test results to sexual and needle-sharing partners in certain limited situations but only in full compliance with the Florida Department of Health's partner notification protocol. § 456.061, Fla. Stat.

Of course, healthcare professionals don't always learn about a person's intention to cause harm. However, when they do, state and federal laws allow providers to help avert the next tragedy.

---

This Akerman Practice Update is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.