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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **3620**

February 28, 2008

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to marriage; family therapists; imposing duty to warn of violent patient
1.3 behavior; limiting liability; proposing coding for new law in Minnesota Statutes,
1.4 chapter 148B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[148B.195] DUTY TO WARN; LIMITATION ON LIABILITY;**
1.7 **VIOLENT BEHAVIOR OF PATIENT.**

1.8 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
1.9 section.

1.10 (b) "Other person" means an immediate family member or someone who personally
1.11 knows the client and has reason to believe the client is capable of and will carry out the
1.12 serious, specific threat of harm to a specific, clearly identified or identifiable victim.

1.13 (c) "Reasonable efforts" means communicating the serious, specific threat to the
1.14 potential victim and, if unable to make contact with the potential victim, communicating
1.15 the serious, specific threat to the law enforcement agency closest to the potential victim or
1.16 the client.

1.17 Subd. 2. **Duty to warn.** The duty to predict, warn, or take reasonable precautions to
1.18 provide protection from violent behavior arises only when a client or other person has
1.19 communicated to the licensee a specific, serious threat of physical violence against a
1.20 specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty
1.21 is discharged by the licensee if reasonable efforts, as defined in subdivision 1, paragraph
1.22 (c), are made to communicate the threat.

2.1 Subd. 3. **Liability standard.** If no duty to warn exists under subdivision 2, then no
2.2 monetary liability and no cause of action may arise against a licensee for failure to predict,
2.3 warn, or take reasonable precautions to provide protection from a client's violent behavior.

2.4 Subd. 4. **Disclosure of confidences.** Good faith compliance with the duty to warn
2.5 shall not constitute a breach of confidence and shall not result in monetary liability or a
2.6 cause of action against the licensee.

2.7 Subd. 5. **Continuity of care.** Nothing in subdivision 2 may be construed to
2.8 authorize a licensee to terminate treatment of a client as a direct result of a client's violent
2.9 behavior or threat of physical violence unless the client is referred to another practitioner
2.10 or appropriate health care facility.

2.11 Subd. 6. **Exception.** This section does not apply to a threat to commit suicide or
2.12 other threats by a client to harm the client, or to a threat by a client who is adjudicated
2.13 mentally ill and dangerous under chapter 253B.

2.14 Subd. 7. **Optional disclosure.** Nothing in this section may be construed to prohibit
2.15 a licensee from disclosing confidences to third parties in a good-faith effort to warn
2.16 against or take precautions against a client's violent behavior or threat to commit suicide
2.17 for which a duty to warn does not arise.

2.18 Subd. 8. **Limitation on liability.** No monetary liability and no cause of action, or
2.19 disciplinary action by the board may arise against a licensee for disclosure of confidences
2.20 to third parties, for failure to disclose confidences to third parties, or for erroneous
2.21 disclosure of confidences to third parties in a good-faith effort to warn against or take
2.22 precautions against a client's violent behavior or threat of suicide for which a duty to
2.23 warn does not arise.