

Laws Regarding Confidentiality, Mandated Reporting, and Duty to Warn for Mental Health

Professionals Practicing in North Carolina

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This paper will review the legal guidance regarding confidentiality, mandated reporting, and duty to warn for mental health practitioners in North Carolina. The state of North Carolina was chosen because I live in North Carolina and plan to practice here, so I wanted to be better acquainted with the laws prior to my practicum, internship, and eventual licensure in North Carolina.

Confidentiality in North Carolina

North Carolina appears to have no special laws regarding confidentiality in counseling, instead preferring to defer to the ACA Code of Ethics (2014) as the prevailing guidance for counselors. This is determined by NCBLCMHC Board section 21 NCAC 53 .0102, which indicates that the Board of Licensed Clinical Mental Health Counselors has adopted the ACA Code of Ethics as the guidance for counselors. As such, Section B: Confidentiality and Privacy, of the ACA Code would be the main source to follow in the State of North Carolina to ensure compliance with the laws of this state, as well as any other sections that contain any mention of confidentiality secondary to their main subjects.

Mandated Reporting in North Carolina

North Carolina does have a specific law that applies to mandatory reporting of crimes against juveniles. It is N.C.G.S. 14-318.6 and it states that anyone over the age 18 or older who is

aware that a juvenile has been (or is currently) a victim of abuse, or any violent or sexual type of offense must report this to law enforcement in the county where the juvenile either has a permanent residence or the county where the juvenile is currently located. Since North Carolina's statute applies to everyone 18 and older and counselors fit that description, counselors are mandatory reporters by default in this instance.

Duty to Warn in North Carolina

North Carolina does not have a mandated duty to warn/protect statute, such as the ones in some states pursuant to California's *Tarasoff v. Regents of the University of California*. That said, counselors in North Carolina are not forbidden to warn/protect, either. Essentially, the state prefers that counselors make up their own mind based on their ethical and/or professional inclinations on a case-by-case basis.

Implications for Counselors

It appears that in NC, the laws around mandatory reporting are very clear and that is no-doubt reassuring for counselors who practice in North Carolina. The laws around confidentiality are fully aligned with the ACA Code of Ethics, so there aren't really any gray areas there, either. As for the duty to warn, I would think that not having a legal obligation to warn/protect might be murky water for a counselor starting out in the profession and this will be one that I will likely lean on my supervisor and fellow counselors who have more experience as I am starting my career. As a client of a counselor in North Carolina, I would be somewhat reassured that the guidelines are very clear in large part, but I suppose if I was in a challenging situation and my counselor didn't have a duty to warn/protect me, that might be concerning. As a counselor, however, I find the laws clear enough that I'm not so very concerned that they're not thorough enough and/or would not be protective enough of my clients and myself.

Conclusion

In conclusion, I think that researching the laws for the State of North Carolina for counseling professionals has both reassured me and made me better informed about confidentiality, mandatory reporting, and the duty to warn. I can see where I will really need to work on my own professional, ethical opinions around the duty to warn but I cannot say as it is particularly worrisome because I have found so many wonderful people who are counselors in North Carolina who will be colleagues I can consult with if I am ever left with an ethical dilemma and need proper counsel.

References

- 21 NCAC 53 .0102 *Professional Ethics*. <http://reports.oah.state.nc.us/ncac/title%2021%20-%20occupational%20licensing%20boards%20and%20commissions/chapter%2053%20-%20clinical%20mental%20health%20counselors/21%20ncac%2053%20.0102.pdf>
- American Counseling Association. (2014). *2014 ACA Code of Ethics*.
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[https://www.ncblpc.org/Assets/LawsAndCodes/LPC_Practice_Act\(NCGSArticle24\).pdf](https://www.ncblpc.org/Assets/LawsAndCodes/LPC_Practice_Act(NCGSArticle24).pdf)
- N.C.G.S. 14-318.6.
https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-318.6.pdf

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Tables

Table 1

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