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DUTY TO WARN

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HISTORY – TARASOFF V. REGENTS OF UNIVERSITY OF CALIFORNIA

- On October 27, 1969 Tatiana Tarasoff was killed by Prosenjit Poddar.
- Poddar had been treated by Dr. Lawrence Moore, a psychologist with Cowell Memorial Hospital at the University of California, Berkeley
- Two months prior to Tarasoff's death, Poddar had endorsed thoughts and plan to kill Tarasoff.
- Poddar was diagnosed with a “paranoid schizophrenic reaction.”
- Police were called and Poddar was detained for only a short time and evaluated by 2 psychiatrists.

HISTORY – TARASOFF V. REGENTS OF UNIVERSITY OF CALIFORNIA

- After Poddar's release, Moore's superiors instructed him to take no further action in detaining Poddar.
- Poddar plead not guilty by reason of insanity at his criminal trial
- He was charged with second degree murder, but this was changed to manslaughter by the Court of Appeals. His conviction was later reversed by the California Supreme Court

HISTORY – TARASOFF V. REGENTS OF UNIVERSITY OF CALIFORNIA

- Tarasoff's family sued the psychiatrists and police claiming that there was a "failure to detain a dangerous patient,"; "failure to warn on a dangerous patient,"; "abandonment of a Dangerous Patient,"; and "Breach of Primary Duty to Patient and the Public."
- They also claimed that the therapists failed to protect Tatiana.
- This set up for the Tarasoff Rule and Duty to Warn for other states.
- There is no federal law to direct duty to warn, but is determined by individual states.

NEVADA'S VERSION: NRS 629.550

- **DUTY OF MENTAL HEALTH PROFESSIONALS CONCERNING CERTAIN THREATS**
- **“NRS 629.550 Duty to apply for emergency admission to mental health facility of patient who communicates certain threats or to make reasonable effort to timely communicate threats to certain persons; civil or criminal liability or disciplinary action.”**

NRS 629.550

- “1. If a patient communicates to a mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable person and, in the judgment of the mental health professional, the patient has the intent and ability to carry out the threat, the mental health professional shall apply for the emergency admission of the patient to a mental health facility pursuant to NRS 433A.160 or make a reasonable effort to communicate the threat in a timely manner to:
 - (a) The person who is the subject of the threat;
 - (b) The law enforcement agency with the closest physical location to the residence of the person; and
 - (c) If the person is a minor, the parent or guardian of the person. “

NRS 629.550

- “2. A mental health professional shall be deemed to have made a reasonable effort to communicate a threat pursuant to subsection 1 if:
 - (a) The mental health professional actually communicates the threat in a timely manner; or
 - (b) The mental health professional makes a good faith attempt to communicate the threat in a timely manner and the failure to actually communicate the threat in a timely manner does not result from the negligence or recklessness of the mental health professional.”

NRS 629.550

- “3. A mental health professional who exercises reasonable care in determining that he or she:
 - (a) Has a duty to take an action described in subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information.
 - (b) Does not have a duty to take an action described in subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for any damages caused by the actions of a patient.”

NRS 629.550

- “4. The provisions of this section do not:
- (a) Limit or affect the duty of the mental health professional to report child abuse or neglect pursuant to [NRS 432B.220](#); or
- (b) Modify any duty of a mental health professional to take precautions to prevent harm by a patient:
 - (1) Who is in the custody of a hospital or other facility where the mental health professional is employed; or
 - (2) Who is being discharged from such a facility.”

NRS 629.550

- “5. As used in this section, “mental health professional” includes:
- (a) A physician or psychiatrist licensed to practice medicine in this State pursuant to [chapter 630](#) or [633](#) of NRS;
- (b) A psychologist who is licensed to practice psychology pursuant to [chapter 641](#) of NRS;
- (c) A social worker who:
 - (1) Holds a master’s degree in social work;
 - (2) Is licensed as a clinical social worker pursuant to [chapter 641B](#) of NRS; and
 - (3) Is employed by the Division of Public and Behavioral Health of the Department of Health and Human Services;”

NRS 629.550

- “(d) A registered nurse who:
 - (1) Is licensed to practice professional nursing pursuant to [chapter 632](#) of NRS; and
 - (2) Holds a master’s degree in psychiatric nursing or a related field;
- (e) A marriage and family therapist licensed pursuant to [chapter 641A](#) of NRS;
- (f) A clinical professional counselor licensed pursuant to [chapter 641A](#) of NRS; and”

NRS 629.550

- “(g) A person who is working in this State within the scope of his or her employment by the Federal Government, including, without limitation, employment with the Department of Veterans Affairs, the military or the Indian Health Service, and is:
 - (1) Licensed or certified as a physician, psychologist, marriage and family therapist, clinical professional counselor, alcohol and drug abuse counselor or clinical alcohol and drug abuse counselor in another state;
 - (2) Licensed as a social worker in another state and holds a master’s degree in social work; or
 - (3) Licensed to practice professional nursing in another state and holds a master’s degree in psychiatric nursing or a related field.
- (Added to NRS by [2015, 1551, 1817](#)) “

REFERENCES

- SCOCAL, *Tarasoff v. Regents of University of California* , 17 Cal.3d 425 available at: (<http://scocal.stanford.edu/opinion/tarasoff-v-regents-university-california-30278>) (last visited Tuesday September 5, 2017).
- The Impact of Social Science Evidence in Predicting Dangerousness and establishing a Duty to warn, Cornell University Law School: available at: (https://courses2.cit.cornell.edu/sociallaw/student_projects/DutytoWarn.html) (last visited Tuesday September 5, 2017)
- Nevada Revised Statues, CHAPTER 629 - HEALING ARTS GENERALLY, available at: (<https://www.leg.state.nv.us/NRS/NRS-629.html#NRS629Sec550>) (last visited Tuesday September 5, 2017)