CHAPTER 16 - CONTRACT COMPLIANCE

16.5 – DUTY TO WARN

DUTY TO PROTECT POTENTIAL VICTIMS OF PHYSICAL HARM

All Health Choice Integrated Care healthcare providers have a duty to protect others against the violent conduct of a patient. When a Health Choice Integrated Care healthcare provider determines, or under applicable professional standards, reasonably should have determined that a patient poses a serious danger to others, he/she bears a duty to exercise care to protect the foreseeable victim of that danger. The foreseeable victim need not be specifically identified by the patient, but may be someone who would be the most likely victim of the patient’s violent conduct.

While the discharge of this duty may take various forms, the Health Choice Integrated Care healthcare provider need only exercise that reasonable degree of skill, knowledge and care ordinarily possessed and exercised by members of that professional specialty under similar circumstances. Any duty owed by a Health Choice Integrated Care healthcare provider to take reasonable precautions to prevent harm threatened by a patient can be discharged by any of the following, depending upon the circumstances:

• Communicating, when possible, the threat to all identifiable victims;
• Notifying a law enforcement agency in the vicinity where the patient or any potential victim resides;
• Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate, and in accordance with Chapter 2.8 – Pre-Petition Screening, Court-Ordered Evaluation, and Court-Ordered Treatment; or
• Taking any other precautions that a reasonable and prudent mental health provider would take under the circumstances.