

**Mental Health Professional Disclosure School Safety Act (HB16-1063)
Rep. Foote and Rep. Duran / Sen. Scheffel and Sen. Cadman**

Summary: As amended, HB 16-1063 will allow a mental health professional to disclose limited information about a client to school district and law enforcement if, in the professional's opinion, there is "articulable and significant threat" to a school or the occupants thereof. The bill applies the standard set forth in the Family Education Rights and Privacy Act (FERPA) instead of the Health Insurance Portability and Accountability Act (HIPAA) to communications.

1. Revision necessary to C.R.S. 12-43-218, Disclosure of Confidential Communications. Under the existing statute there is a broad prohibition against sharing confidential information without client consent:

"(1) A licensee, registrant, or certificate holder shall not disclose, without the consent of the client, any confidential communications made by the client, or advice given to the client, in the course of professional employment. ..."

2. Subsection (2) of the statute allows for exceptions. The Mental Health Disclosure School Safety Act would add an exception for school safety.

Draft language in italics:

(2) Subsection (1) of this section does not apply when: ...

(d) A client, regardless of age:

(I) Makes an articulable and significant threat against a school or the occupants of a school; or

(II) Exhibits behaviors that, in the reasonable judgment of the licensee, registrant, or certificate holder, create an articulable and significant threat to the health or safety of students, teachers, administrators, or other school personnel.

3. Additionally:
 - a. Applies to P-12 and Higher Education.
 - b. Mental health professionals do not incur additional liability.
 - c. Does not revise the "Duty to Warn" – Allows professionals to use their judgment in collaborating with law enforcement and schools.
 - d. Only applies if the Colorado receives a HIPAA waiver.