DUTY TO WARN & MANDATED REPORTING OF ELDER ABUSE AND ABUSE OF VULNERABLE ADULTS

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Overview of Presentation

• Introduction of Presenters
• Workshop Objectives
• Quick Review of Professional Ethics
• Topic 1: Duty to Warn (Tarasoff/Emerich)
• Topic 2: Mandated Reporting for Elder & Vulnerable Adult Abuse (E&VA)
• Wrap-Up Q&A
Introduction of Presenters

Will Koehler, LCSW
- Member of Social Work faculty at Edinboro University
- 8 years clinical practice with CEV, Adult MH, & TLGB/HIV+ populations
- Current areas of research include suicide prevention and Anti-TLGB bullying and violence
- Lives in Erie with boy friend, 16 year old daughter, two cats, one dog, one cockatiel and a saltwater aquarium

Dr. Hilary Copp, LSW
- Member of Social Work faculty and BSW Program Director at Edinboro University
- Practice experience includes general outpatient, college counseling center, TLGB people, older adults, and Holocaust survivors
- Current areas of research include TLGB issues and campus climate
- Lives in Erie with spouse and two spoiled cats
Workshop Objectives

• Review Duty to Warn elements as they apply in clinical practice settings
• Review Mandated Reporting (E&VA) elements as they apply in clinical practice settings
• Familiarize participants with implementing above policies
• Review documentation of actions in Duty to Warn and Mandated Reporting situations
• Discuss and address general ethical questions as they arise
PLEASE NOTE!
This workshop is NOT a substitute for legal counsel and does not purport to be nor constitutes such legal counsel.
Okay, since this is an Ethics presentation, let’s ground ourselves

- Core ethical principles of NASW, ACA, and APA share common themes
  - Worth and dignity
    - Self-determination/autonomy
  - Integrity
  - Confidentiality
  - Social justice
  - Nonmaleficence/competence
  - Beneficence/service
DUTY TO WARN

TARASOFF/EMERICH VS. CLINICAL CARE
Duty to Warn (Tarasoff I & II)

Does anyone know the circumstances that originated the “duty to warn” mandate or the Tarasoff v. Regents of U of CA (1976)?

- Tatiana Tarasoff
- Prosenjit Poddar
- Alex Tarasoff
- Dr. Lawrence Moore
- Dr. Harvey Powelson
- University of California at Berkley Police
Duty to Warn (Tarasoff I & II)

What the Tarasoff II stated:
“When a therapist determines pursuant to the standards of his profession should determine, that his patient presents a serious danger of violence to another, he **incurs an obligation** to use reasonable care to protect the intended victim against such danger.”
Duty to Warn (Tarasoff I & II)

What the Tarasoff II California Court Decision left unstated:

• How do you know when a patient is dangerous?
• Who would issue the warning?
• What steps would reasonably discharge the duty?
Duty to Warn (PA’s ‘Tarasoff’ Case)


• Joseph Gad
• Theresa Hausler
• PA had not adopted Tarasoff v. Regents of the University of California (1976)
Duty to Warn (Emerich 1998))

The Supreme Court of Pennsylvania followed Tarasoff II in this case and held that:

“pursuant to the special relationship between a mental health professional and his patient, the mental health professional has a duty to warn a third party of potential harm by his patient.”
Duty to Warn (Emerich (1998))

In PA, resulting from Emerich (1998)

• Mental health professionals have a case law duty to warn third parties of a patient’s threat to harm them.

• Does not mean that mental health professionals can be expected to predict future behavior (duty arises when there is a specific threat of serious injury against a specific victim).
Duty to Warn (No Statutory Standard)

PA does not have statutory provisions, but have established a duty to warn through court decisions.

For further information, see “Social Workers and ‘Duty to Warn’ State Laws” (NASW, February 2008 Legal Issue of the Month)
Duty to Warn (Considerations)

- Is the threatening individual a client?
- Under what circumstances have they disclosed the threat?
- Does the client possess means and capacity?
- Is the threat of harm to a specific individual?
- Does the criteria for involuntary commitment apply?
- Who needs to be warned?
Duty to Warn (Suggested Formula)

- Has a clear threat been made?
- Is the victim identifiable?
- Does the client have the means?
- Is the threat imminent?

Additional considerations:
- Does the client have a hx of violence?
- What is the client’s dx?
- What is the relationship to the identified victim?
Duty to Warn v. Confidentiality

Do you have:

1. Evidence that the client poses a threat of violence to a 3rd party?
2. Evidence that the violent act is foreseeable?
3. Evidence that the violent act is imminent?
4. Sufficient information to identify the probable victim?
Case Study: Rosie & Chanel

Rosie (28)
- Puerto Rican, Female
- Primary client
- “Voluntary”
- PFA issued by Toni (Chanel’s ex-girlfriend) against Rosie
- Hx of IPV w/ Chanel
- Primary Dx: PTSD, BPD
- Primary Goal: Minimize Charges
Case Study: Rosie & Chanel

Chanel (33)
- African American, MTF
- Client in same agency
- Voluntary
- Primary Dx: MDD
- Primary Goal: Improve Relationship
Case Study: Rosie & Chanel

• Session 3: Rosie states that she will “cut” Chanel’s ex-girlfriend if she ever sees her again. She is angry and demonstrative...

• Session 5: Rosie states she suspects Chanel has seen ex recently while Rosie was at work. She has read e-mails & texts and states she won’t confront Chanel until she has more proof.

• Session 9: Rosie states she is going to confront Chanel about affair. She says she won’t get angry unless Chanel denies having seen her ex.
MANDATED REPORTING OF ELDER ABUSE AND ABUSE OF VULNERABLE ADULTS (E&VA)
Seven Types of Elder Abuse (APA, 2010)

- Physical abuse
- Sexual abuse
- Emotional abuse
  - Humiliation, threats of harm or abandonment, isolation, intimidation
- Financial abuse/exploitation
- Neglect
  - Deprivation of basic needs (water, food, housing, clothing, medical care)
- Self-neglect
  - Failure to assure or provide for basic needs and safety
  - Most frequent type of reported abuse in PA (followed by caregiver neglect)
Mandated Reporting of Elder Abuse

• Pennsylvania Older Adult Protective Services Act
  – “Older adult” = 60+

• Employees of the following are mandated reporters: domiciliary care homes, home health care agencies, long-term care nursing facilities, older adult daily living centers, personal care homes, and “an individual, employed by an entity which supplies, arranges for, or refers personnel to provide care to care-dependent persons, who is employed to provide care to care-dependent persons in facilities or their places of residence”
Mandated Reporting of Abuse of Vulnerable Adults

- Pennsylvania Adult Protective Services Act (2010)
  - “A resident of this Commonwealth between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities”
Mandated Reporting of Abuse of Vulnerable Adults cont.

Employees of the following are mandated reporters: assisted living residences, domiciliary care homes, home health care agencies, intermediate care facilities for people with mental retardation, long-term care nursing facilities, older adult daily living centers, personal care homes, residential treatment facilities, organizations or groups of people that use public funds and are paid, in part, to provide care and support to adults in a licensed or unlicensed setting, and “a person who is employed or who enters into a contractual relationship to provide care to an adult for monetary consideration in the adult's place of residence”
Case Study: Ari

- 75 years old
- Korean war veteran
- Hoarder
- Claims to be blind
- Limited physical mobility
- Lives alone in his own home in Macon, GA
- Can’t pay bills, including electric, and house is cold
- Tells many fantastic stories about being a POW
- Claims to be a victim of ongoing government persecution
- Refuses services
Resources

• Special thanks to James Andrews, LCSW, forensic social worker at Forensic Behavioral Associates, Greensburg, PA (www.forensicbehavioral.com)

• Pennsylvania statewide 24-hour elder abuse hotline: 800-490-8505

• Pennsylvania vulnerable adult abuse hotline not yet created

• Erie County Area Agency on Aging: 814-459-4581 (GECAC)