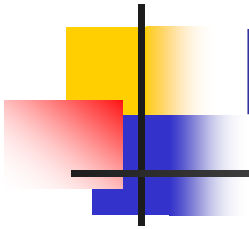
Safety planning

Violence & danger to others risk management

Copyright 2015 MHRRG



Logistics

- Copies of slides
- Questions

The top 5 claims

- Sexual misconduct
- Suicide malpractice
- Violent acts
- Medication errors
- Employment practices

How do we know?

- 50 year database of claims
  - Negley Associates
  - Mental Health Risk Retention Group
  - Thousands of cases

Program design

- In consultation with Dr. Paul Appelbaum
  - Columbia University professor of psychiatry

Safety planning

- Suicide risk - the patient
- Violence risk – the patient & others

Suicide risk safety planning – Stanley & Brown

1. Recognizing warning signs
2. Employing internal coping strategies without needing to contact another person – identifying distractions
3. Socializing with others who may offer support as well as distraction from the crisis

Suicide risk safety planning – Stanley & Brown

4. Contacting family members or friends who may help resolve a crisis
5. Contacting mental health professionals or agencies
6. Reducing the potential for use of lethal means

Safety planning for violence risk

- Identify risks
- Plan for managing the risks identified (or should have identified)

Is trying to predict violence worth the effort?

- We can…
  - Reliably place people in risk groups as low risk or high risk
  - A month to 2 or 3 months out
- But the real gold is…..
  - Identifying treatable risk factors
  - Enhanced planning

2 big decisions

- Who presents a risk?
- What is the plan for identified risk?

A complex task

- Predicting the future
- About 130 identified risk factors
- Different contributions to risk

Deciding who presents a risk

- Who does these?
  - Identify valid risk factors
    - Evidence based
  - Measure risk factors
  - Combine risk factors
  - Estimate violence risk
- The evaluating professional or an instrument?

Clinical risk assessments

- The evaluating professional does all 4 components

Structured risk assessments

- "The... scientific literature is clear that structured risk assessment is superior to unstructured risk assessment in accurately predicting violent behavior."
  - Monahan, *Tarasoff at Thirty: How Developments in Science and Policy Shape the Law*, 75 Univ. of Cincinnati Law Review 497 (2007)

Structured risk assessments

- "...but all of... [the literature] suggests that only a minority of mental health professionals routinely employ structured risk assessment."
  - Monahan, *Tarasoff at Thirty: How Developments in Science and Policy Shape the Law*, 75 Univ. of Cincinnati Law Review 497 (2007)

Structured risk assessments

- HCR-20
  - General violence risk
- SVR-20
  - Sexual violence risk
- SARA
  - Family violence risk
- SAVRY
  - Youth violence risk

Structured risk assessments

- Sophisticated checklists
  - Researched risk factors
    - The right questions
  - Research backed steps in the assessment process

Structured assessment & planning

- Evidence-based steps to guide the professional
  - Gather information
  - Determine risk factors
  - Determine relevance of risk factors
  - Formulate violence risk

Structured assessment & planning

- Evidence-based steps to guide the professional
  - Scenario planning
  - Management plan
    - Monitoring for change
    - Treatment addressing risk factors
    - Victim safety planning

Hypothetical patient - John

- 27-year-old male patient
- Diagnosis
  - schizophrenia, paranoid type
  - Substance use disorder - ETOH

John

- Arrested at age 25 following a fight in a bar
  - Probation on condition that he complete rehab program
  - Probation revoked – 30 days jail

John

- Diagnosed at regional hospital emergency room at age 25
  - Hears voices
  - Prescription for risperidone

John

- Lives at home with his mother
- ER visit 6 months ago following intermittent compliance with medication
  - Brought to the emergency room by the police after a call from his sister
  - Mother called the sister & and told her not to call the police
  - The family home is a single-family residence

John

- Beat up his mother after exhibiting the following symptoms:
  - Accused mother of planning to kill him
  - Standing outside his bedroom door at night
  - Agitation, insomnia
  - Slurring words

John

- Attack occurred 2 weeks after onset of symptoms
- Police found a shotgun in the home

John – now, six months after the incident

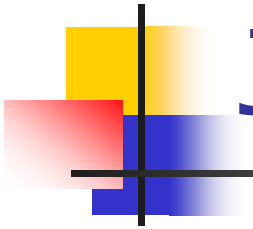
- Referred by primary care
  - Following de-compensation 2 weeks after intermittent compliance with medication
  - Accused mother of planning to kill him
  - Standing outside his bedroom door at night
  - Agitation, insomnia
  - Slurring words

John

- Brought to intake appointment by his sister
- Sister lives 10 miles from mother and John & is worried that her mother is depressed

John

- John denies homicidal thoughts & intent and says he does not need medication
- No relationships or employment
- Abruptly leaves the interview room after 30 minutes



John

- What is the risk?
- What is the plan for managing the risk?
- How do we keep John & his mother safe?

HCR-20 V.3

- Advantages
  - Cost-effective
  - Demonstrated as reliable with substantial world wide research
  - Designed to guide a process that professionals already think they should complete

Is the HCR just for legal risk management?

- The HCR "…is designed to capture what everybody thinks should be done systematically across risk assessments."
  - Stephen Hart, PhD Lecture on Administration of HCR 20

HCR-20 V.3

- Time efficient
- "…you'll be able to incorporate these ideas into your practice, do it a little bit more systematically and it won't cost you much time. This should not be something that complicates your life or makes you spend a lot more time doing a risk assessment…"
  - Stephen Hart Ph.D. Talk on administration of HCR-20 (2013)

HCR-20 V.3

- For all adults, 18+, regardless of
  - History of violence
  - Mental disorder
- For older adolescents, 16-17, not dependent
- SAVRY for younger

HCR-20 V.3

- Steps in the process to guide the professional
  - Gather information
  - Determine risk factors
  - Determine relevance of risk factors
  - Formulate violence risk
  - Scenario planning
  - Management plan

Steps in the process

- Step 1 – gather information reasonably necessary to evaluate risk -
  - Patient interview & observation
  - Past victims
    - (John's mother, sister & bar fight)
  - Collateral sources – family & others
    - (police or court records for John?)

Steps in the process

- Step 1 – gather information reasonably necessary to evaluate risk
  - Criminal justice records
    - (John's probation records)
  - Health care records
    - (ER, rehab program & PCP – John)
  - Education, employment, social service records

Steps in the process

- Step 1 – gather information reasonably necessary to evaluate risk
  - Details of precipitants to violent event

Steps in the process

- Step 2 determine risk factors
  - Consider all 20…. plus others
  - A risk factor is a matter that influences decisions about violence
  - A risk factor is an "area of inquiry"
    - For example : schizophrenia with or without "threat/control override" or differences in substance use

Steps in the process

- Step 2 determine risk factors
  - H (historical) - past up to present
  - C (clinical) - recent 1-6 months
  - R (risk management) - future 6-12 months
  - Present – yes, no, partial, omit

Steps in the process

- Manual contains definitions, indicators & notes
  - ckeck boxes

Risk factors - H

- History of problems with:
  - Violence (John)
  - Other antisocial behavior
  - Relationships (John)
  - Employment (John)
  - Substance use (John)

Risk factors - H

- History of problems with:
  - Major mental disorder
    - (John's psychosis & alcohol dependence)
  - Personality disorder
  - Traumatic experiences
  - Violent attitudes
  - Treatment or supervision response (John)

Risk factors - C

- Recent problems with:
  - Insight
    - (John left abruptly)
  - Violent ideation or intent
  - Symptoms of major mental disorder (John)
  - Instability
  - Treatment or supervision response

Risk factors - R

- Future problems with:
  - Professional services and plans
  - Living situation
    - (John lives with his mother)
  - Personal support
  - Treatment or supervision response
  - Stress or coping

Indicators – an example

- Problems with substance use
  - Started in adolescence or childhood
  - Multiple developmental periods
  - Multiple substances
  - Heavy use
  - Chronic use
  - Use of controlled settings
  - Involvement in drug trade
  - (what do we know about John?)

Indicators – an example

- Problems with substance use
  - Lead to dangerous behavior
  - Affected financial status
  - Interfered with education, vocation, relationships
  - Recent past
  - Problems have escalated
  - (what do we know about John?)

Steps in the process

- Step 3 Determine relevance of risk factor
  - Is the factor relevant to this patient's risk?
    - For example, psychosis may or may not increase risk of violence for a particular patient (control/threat)
  - Is it causal?
    - Motivate (John self-defense?), destabilize (John?), disinhibitor?

Steps in the process

- Step 4 – Formulate violence risk
- Why?
  - Identify primary risk factors and describe their relevance
  - What function does violence serve?
  - Why was the patient violent against these people in these circumstances?
    - (Do we know enough about John?)

Steps in the process

- Step 5 – Scenario planning
  - What worried about if…..
  - Plan

Steps in the process

- Step 5 – Scenario planning
  - Repeat scenario
  - Some change in scenario – evolve
  - Worst case
  - Improvement scenario
- (John scenarios?)

Steps in the process

- Step 6 –What management for specific risks?
  - Monitoring – improvement or worsening of risk factors
  - Treatment – take into account prior treatment effectiveness
  - Supervision – restriction of freedom
  - Involve available supports
  - Victim safety planning
    - Duty to warn?

Steps in the process

- Step 6 –What management for specific risks?
  - Plan for each identified risk

Monitoring

- What type of contact with client and how often
  - Patients with more frequent visits to mental health centers have a reduced risk
  - Missed appointments with treatment providers can be a strong warning sign
  - Partial hospitalization

Medication compliance monitoring plan

- Ask patient
- Involve family or friends
- Review pill containers
- Long-acting injectables
- Increased appointments
- Watch the patient take medication
- Blood tests to determine therapeutic levels

Medication compliance monitoring plan

- Increase supervision – hospitalization
  - Imminent risk?
  - Resolve doubts for safety
- Clear summary sheet to make it easy to determine when medication is missed
- What's the response if medication is missed?

Treatment

- No comprehensive, broadly applicable approach to treatment planning
  - Target particular risk factors (e.g., psychosis, substance abuse, anger) one-by-one….

Hypothetical risk management/safety plan

- Monitoring for change
  - Placement
    - Group home?
    - Hospital?
    - Live with mother?
    - Day treatment?

Hypothetical risk management/safety plan

- Monitoring for change
  - Medication compliance & mental status
    - Mother? (counseling & instructions)
    - Sister?
    - Group home?
    - Day treatment program?
    - Hospital?
    - Appointment intervals?

Hypothetical risk management/safety plan

- Treatment
  - Schizophrenia & substance use?
  - Long-acting injectables?
  - Case management for unemployment?
  - Relationship development?

Victim safety planning

- Assess victim risk and develop a plan
  - Victim vulnerabilities
  - Available resources
- Potential victim instructions & assistance with monitoring
  - Duty to inform?
  - Written instruction sheets

Victim vulnerability factors - 6

- Interact with potential targets for safety planning

Victim vulnerability factors - 6

- Barriers to security
  - Problems with safety related to residence, employment, transportation, or other activities ****(mother - 10 miles from sister – single-family residence)
  - e.g., target lives on the ground floor, workplace open to the general public, commutes to work on isolated roads

Victim vulnerability factors - 6

- Barriers to independence
  - Problems with safety related to the target's employment, finances, physical disability, responsibility for dependents

Victim vulnerability factors - 6

- Interpersonal resources
  - Problems with availability, accessibility, appropriateness, or responsiveness of interpersonal resources such as family, friends
  - e.g., little contact with others, conflictual relationships with others

Victim vulnerability factors - 6

- Community resources
  - Problems with availability, accessibility, appropriateness, or responsiveness of service providers such as law enforcement
  - e.g., target lives in a remote area, services are not offered in target's language

Victim vulnerability factors - 6

- Attitudes or behavior
  - Problems related to emotions, attitudes, or behaviors that interfere with the target's ability, opportunity, motivation for self protection ***(mother told the sister not to call police)
  - e.g., not reporting IPV to police, culturally rooted beliefs that divorce is wrong

Victim vulnerability factors - 6

- Mental health
  - Serious mental health or substance abuse which interferes with self protection ***(sister worried that mother is depressed)
  - e.g., target is hopeless and depressed about the future, symptoms of trauma or PTSD

Hypothetical mother safety planning

- Avoiding contact with John for a period of time
- Evaluate depression
- Evaluate reasons for not calling the police
- Increase social support

Hypothetical mother safety planning

- Instructions on medication compliance monitoring
- Instructions on monitoring John's mental status
- Treatment/Counseling for mother

Duty to warn/protect

Duty to warn/protect

- History of violent behavior is accepted by many as the best predictor of future violence risk in acutely ill
  - Violent episode in the week before hospitalization – 9 times more likely within two weeks of discharge
- Plan for risk after discharge

Duty to warn/protect

- January 15, 2013 letter from the Director of the Office for Civil Rights
- To Our Nation's Healthcare Providers
- In light of tragic and horrific events
  - Newtown, CT
  - Aurora, CO

Duty to warn/protect

- "…HIPAA…does not prevent your ability to disclose necessary information about a patient to law enforcement, family members of the patient, or other persons, when you believe the patient presents a serious danger to himself or other people."

Duty to warn/protect

- 45 CFR Section 164.512 (j)
- "A covered entity **may**… disclose protected health information, if the covered entity, in good faith, believes the use or disclosure… is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and
- Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat." (emphasis added)

Imminent

- Is “imminent” the same as “immediate”?

Imminent

- "… in the near future, that is, in the coming hours to days, or days to weeks…" HCR-20 user manual
- "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote; RCW 71.05.020

Duty to warn/protect

- "HIPAA expressly defers to the professional judgment of health care professionals when they make determinations about the nature and severity of the threat to health or safety. See 45 CFR 164.512 (j) (4)." (emphasis added)
  - OCR, Additional FAQs on Sharing Information Related to Treatment for Mental Health or Substance Use Disorder-Including Opioid Abuse, 12.19.17

Duty to warn/protect

- Voluntary, mandatory, or prohibited disclosure?
  - HIPAA disclosure is voluntary
    - For serious and imminent threats
  - State law?
    - Specific threats?
    - Serious and imminent threats?

The law varies

- There may be no duty
- Duty extends to
  - Identified, identifiable, zone of danger
- Reasonable care to protect options
  - Warn victim
  - Warn police
  - Hospitalization – voluntary/involuntary
  - Inform

Duty to warn/protect

- What triggers the duty?
- To whom is the duty owed?
- How is the duty discharged?

Duty to warn/protect

- Common statute example
- States vary significantly

Example statute

- A mental health provider is not liable for damages in any civil action for failure to warn or protect a specific person or persons, including those identifiable by their association with a specific location or entity, ….except where the patient has communicated to the mental health provider a serious threat of imminent physical violence against a specific person or persons, including those identifiable by their association with a specific location or entity

Example statute

- When there is a duty to warn and protect…the mental health provider shall make reasonable and timely efforts to notify the person or persons, or the person or persons responsible for a specific location or entity, that is specifically threatened, as well as to notify an appropriate law enforcement agency or to take other appropriate action, including but not limited to hospitalizing the patient.

Duty to warn/protect

- What triggers the duty?
  - Communication of a serious threat

Duty to warn/protect

- How is the duty discharged?
  - Notify potential victim,
  - Notify law enforcement, or
  - Seek involuntary hospitalization
  - Other appropriate action

Washington Supreme Court

- Finding the duty to protect applicable in the outpatient setting the court noted,
  - "Steps in the outpatient setting can include closer monitoring of compliance with medication and… the patient's mental state, strong family involvement, and informing the patient that he faces involuntary hospitalization unless he remains compliant."

Ohio Supreme Court

- Finding the duty to protect applicable in the outpatient setting:
  - "[the provider] should have taken aggressive action to persuade [the patient] to continue treatment and have his medication reinstated… Such action should have included, among other things, strong family involvement, making [the patient's] participation in vocational therapy can contingent on continued treatment…"

But what if…..

- Patient diagnosed with schizophrenia attacked mother 6 months ago
  - Agitation
  - Slurred speech
  - Intermittent medication
  - Insomnia
  - Accused mother of controlling him
- Now you see the same symptoms…

Duty to warn/protect

- What if there is a HIPAA "serious and imminent threat"
- **But**
- The patient has not communicated a specific threat?
  - No duty under example statute, but
  - HIPAA allows disclosure

Standard of care liability allegations

- No explicit or adequate violence risk assessment
- Failure to gather reasonably available information needed for the risk assessment

Standard of care liability allegations

- Choices are not reasonable given risk?
  - Placement
  - Follow up
  - Medication & therapy

Standard of care liability allegations

- No reassessment or plan to reassess
  - No identification of red flags

Questions & Comments