Two people locked in closets

Keeping them alive with the right questions

Violence risk management
The top 5 claims

- Sexual misconduct
- Suicide malpractice
- Violent acts
- Medication errors
- Employment practices
How do we know?

- 40+ year database of claims
  - Negley Associates
  - Mental Health Risk Retention Group
  - Thousands of cases
Directions to the office

• Call the office
• 125
Lost on the way?

- Ask directions from gas station?
  - a collateral source
Make decisions with complete information

- 2 paths to incomplete information
  - Not enough questions
  - Not consulting collateral sources
A complex task

- Predicting the future
- About 130 identified risk factors
- Different contributions to risk
1..2..3..4..5..6

• Ask more questions
• Ask the right questions
• Talk to more people
• Read more records
• Structure analysis and planning
• Write it all down
Program design

• In consultation with Dr. Paul Appelbaum
  – Columbia University professor of psychiatry
When are you exposed?

- Patient assaults a 3rd party outside the center
- Patient assaults another patient or staff at the center
  - More frequent claims
Standard of care allegations

• No explicit or adequate violence risk assessment
• Failure to gather reasonably available information needed for the risk assessment
Standard of care allegations

• Choices are not reasonable given risk?
  – Placement
  – Follow up
  – Medication & therapy
Standard of care allegations

• No reassessment or plan to reassess
  – No identification of red flags
Vermont Supreme Court duty to inform

• Adult male patient discharged from hospital to outpatient treatment and the care of his parents
• Assaulted a third-party working at the grandparent’s building
Vermont Supreme Court
duty to inform

• Commitment to hospital
  – danger to others
    • Especially when off medication
  – grossly psychotic – auditory hallucinations
  – Probably paranoid
Vermont Supreme Court
duty to inform

• Parents thought
  – patient was going through a phase
  – mental health status was due to a breakup with his girlfriend

• mother told Dr. the patient stopped taking medication
  – “[patient] had to decide to take care of himself.”
Vermont Supreme Court
duty to inform

• Duty to:
  – evaluate risk & when you knew or should have known
  – use reasonable care to protect 3rd parties
    • citing Tarasoff
Vermont Supreme Court
duty to inform

• Duty extends to
  – identified people
  – reasonably identifiable people
  – people within a zone of danger

• The duty does not extend to the general public
Vermont Supreme Court duty to inform

• The parents constant physical proximity to the patient placed them in an obvious zone of danger
Vermont Supreme Court duty to inform

• The providers had a duty to inform parents
  – warn them of the risk of violence
  – advise on how to manage the patient’s conduct
Vermont Supreme Court
duty to inform

• Duty to inform
  – “A complete warning of the effect of … [the patient] discontinuing the medication may have affected the parents degree of involvement in ensuring… [he] took his medication.”
Vermont Supreme Court duty to inform

• Rejected arguments
  – Can’t predict the future of violent behavior
  – no specific threats against the parents
  – Confidentiality prohibits disclosure

• Exceptions apply:
  – Imminent threat
  – Incapacitated
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
What if the Vt case does not apply to me?

- What is your main goal?
A typical hypothetical example

• Typical of amount of information in charts
John

- 27-year-old male patient
- Diagnosis
  - schizophrenia, paranoid type
  - Alcohol abuse
John

- Lives at home with his older sister
- ER visit at age 26 following discontinuing medication secondary to feeling okay
  - Sister called the police who transported
  - Locked sister in the closet
  - Police found a shotgun in the home
  - Agitation, insomnia
John

• Referred by primary care
  – Following de-compensation 2 weeks after discontinuing medication, agitation, insomnia
  – rescheduled appointments often
John

• Brought to intake appointment by his sister
• John denies homicidal thoughts & intent and says he does not need medication
• No relationships or employment
• Abruptly leaves the interview room after 30 minutes
Summary

• Risk factors & mental disorder
• Document details in a narrative
• Be detectives
• Always use checklists
• Use these checklists
  – Screening checklist
  – HCR 20 version 3
  – Danger signs
• Engage collateral sources
Risk factors & mental disorder

• Some of the most significant factors of 130
• Studies vary
  – populations studied
Risk factors & mental disorder

• No gender differences in rates of violence for more symptomatic patients
  – counterintuitive
• Age (late teens and early 20s) is a factor in the mentally ill

Risk factors & mental disorder

• History of violent behavior is the best predictor of future violence in acutely ill
  – Violent episode in the week before hospitalization – 9 times more likely within two weeks of discharge
  – First violent act prior to age 12
  – Risk increases linearly with the number of past violent acts
Risk factors & mental disorder

• History of child abuse or witnessing domestic violence
• Family history of violence is predictive of violent behavior
• Physically assaultive adult inpatients - a higher prevalence of school truancy and foster home placement
Risk factors & mental disorder

• Substance abuse or dependence alone – 14 times more likely
• Female & male substance abusers equally violent
• History of alcohol abuse – strongest predictor of injury from domestic assault
**Risk factors & mental disorder**

- Antisocial personality disorder combined with alcoholism
  - increases the risk of women committing homicide by 40 to 50 times
- Combination of substance use disorder and personality disorders
  - Patients 240% more likely to commit violent acts
Risk factors & mental disorder

• Psychotic symptomatology
  – Schizophrenia with perceptions of threat or control
  – Command hallucinations to commit a violent act
    • especially if the voice is familiar and consistent with a coexisting delusion
Risk factors & mental disorder

- Mentally ill who believe they are at risk of harm by others
- Impulsivity, irritability and impaired judgment associated with manic episodes
Risk factors & mental disorder

• Anger and agitation
• Acute psychiatric patients who threatened others
  – But victims may not be those threatened
Risk factors & mental disorder

• For those violent prior to hospitalization
  – often attack same victims on discharge
Risk factors & mental disorder

• Victims are often known to the patient
  – Mothers living with adult children with schizophrenia and co-occurring substance abuse at significant increased risk
  – Persons with mental disorder more likely to engage in violence in their homes
Risk factors & mental disorder

• Medical conditions
  – Brain injury secondary to blunt trauma
  – Systemic infections
  – Complex partial seizures
  – Hyper or hypoglycemia can manifest as aggression, confusion and irritability
HOW LONG DOES IT TAKE A SOCIAL WORKER TO CHANGE A LIGHTBULB?

10 SECONDS TO DO IT, THEN 3 HOURS WRITING THE CASENOTES AND ASSESSMENT JUSTIFYING THE NEED FOR INTERVENTION
Document for you and others

• Checks your completeness
• Enhances your thought process
• Information resource for the next evaluator
• The less the better?
  – Little documentation creates the wrong impression
  – Limited documentation doesn't help the next evaluator
What is “detail”? 
• History of problems with psychotic disorder
  – Included acute positive symptoms
    • Hallucinations
    • Delusions
  – Included agitation, irritability or hostility during psychotic episodes
Document details - example

• History of problems with psychotic disorder
  – Included distress (fear, stress) associated with psychotic symptoms
  – Included symptoms with themes of violence or aggression
Document details - examples

• Violent incidents
  – **Precipitants**
  – Weapons
  – Threats
  – Injury
  – Instigator
  – Planned or reactive
  – Motivation
  – (John – 2 closet incidents & a bar fight)
Document for you and others

• Explain your reasoning
  – Why is the plan reasonable?
  – Why is the placement reasonable?
  – Why is the therapy/medication reasonable?

• Colleague consultations

• Check boxes - add narrative
Document for you and others

• Data reviewed & salient facts
  – Records
  – People
Document for you and others

• Negatives
  – Items you asked about but were denied
    • Did you think about using a gun?
  – What you tried to do but could not
    • I called the patient's referring physician but she was not available.
Document for you and others

• Repeating entries create the wrong impression
• Be careful with electronic templates
• Don’t change the record or the facts later
  – adding facts creates the wrong impression
Document for you and others

• Word choices & ambiguity
  – Homicidal ideations
    • How is the question perceived?
    • How is the documentation understood?
  – Thoughts about hurting somebody
  – Thoughts about violence
  – (John phrasing)
Document for you and others

• Stop a lawsuit in the first place
Be detectives

• Do people lie?
• Become detectives acting in the patient's best interest
  – Maintain a healthy skepticism
  – Ask many questions
  – Talk to all relevant people
  – Review relevant records
  – Compare everything
Always use checklists

• Checklists address flaws in memory, attention and thoroughness
Always use checklists

- Dr. Atul Gawande – The Checklist Manifesto
  - When faced with extreme complexity
  - Task list
  - Communication list
- Your building
- Your airplane
- Your surgery - 19 step safe surgery checklist
Poll

• Do you ask enough questions to assess the risk of violence?
Proof

“The patient reports that he continues to struggle with psychotic symptoms – auditory hallucinations…”

“The patient has been hearing voices.”
Hallucinations or delusions

• What did they say?
  – Verbatim examples

• When?

• What were you doing?

• Have you heard other voices?

• Where do the voices come from?
  – Inside you or outside?
Hallucinations or delusions

• Have you ever acted on the voices?
• Thought about doing something?
• Do you intend to do something?
• Who are the voices about?
Hallucinations or delusions

• How often do you hear them?
• When was the last time?
• How intense?
Hallucinations or delusions

• Does anything make the voices more frequent?
• Does anything stop the voices?
• Does medicine stop the voices?
• Do you do anything to protect yourself from the voices?
Hallucinations or delusions

• Have you ever thought that people are trying to hurt you?
• Do you have thoughts that others find strange?
Hallucinations or delusions

- What are the thoughts like?
- Have you ever thought of taking action?
Hallucinations or delusions

• Have you done anything to protect yourself?
  – What happened?
  – What did you do?
  – How often?
• Does anything make it better?
• Treatment?
• (What do we know about John’s delusions & auditory hallucinations?)
More proof… We see limited investigation

• Sometimes the issue is ignored
More proof… We see limited investigation

- Homicide potential
  - Homicidal ideations present within the last 24 hours?
  - Homicide risk?
More proof… We see limited investigation

• Assault potential
  – Patient reports difficulty controlling anger?
  – Anger management classes?
  – History of arrest
  – History of attempts – describe
  – Assault risk?
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?
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."
Poll

• Do you use a structured risk assessment such as the HCR-20, the COVR and the VRAG as part of your practice?
Structured risk assessments

• "...but all of... [the literature] suggests that only a minority of mental health professionals routinely employ structured risk assessment."
Structured risk assessments

- HCR-20 version 3
  - Identify & measure risk factors
- COVR
  - Identify, measure and combine risk factors
- VRAG
  - Identify, measure & combine risk factors and evaluate the patient's violence risk
Structured risk assessments

• Sophisticated checklists
  – Researched risk factors
    • The right questions
  – Research backed steps in the assessment process
So...

• Screen everyone for violence risk…then….

• Use the HCR-20 version 3 for patients indicated at some risk
Screening checklist

- Violent behavior – physically hurt someone?
- Violent threats
- Violent thoughts
Screening checklist

• Hospitalizations related to hurting someone?
• Fights?
• Arrests or orders of protection related to threatening or violent behavior?
Screening checklist

• Current or recent thoughts or behaviors that others have interpreted as threatening
• Could someone hurt you?
• Other indications…..
Now what?

• Use professional judgment and consider
  – Recency
  – Severity
• Resolve doubt in favor of HCR-20
Screening checklist

• Watch for developments during ongoing contact/treatment
Checklist #2….  
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 “… 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
Violence definition

• A person engaged in an act (or omission)
• with some degree of willfulness that
• caused or had the potential to cause
• physical or serious psychological harm to
• another person or persons
HCR-20 V.3

• 7 step process to guide the professional
  – Gather information
  – Determine risk factors
  – Determine relevance of risk factors
  – Formulate violence risk
  – Scenario planning
  – Management plan
  – Communicate final opinions
7 step 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?)
7 step 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
7 step process

• Step 1 – gather information reasonably necessary to evaluate risk
  – Details of precipitants to violent event
7 step 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
7 step process

• Manual contains definitions, indicators & notes
  – check boxes
Risk factors - H

• History of problems with:
  – Violence (John)
  – Other antisocial behavior
  – Relationships (John)
  – Employment
  – 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
  – Instability
  – Treatment or supervision response
Risk factors - R

• Future problems with:
  – Professional services and plans
  – Living situation
    • (John lives with his sister)
  – 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?)
Ordering the HCR-20

• HCR-20.com
  – Manual: $110
  – Score sheets: free
An insightful comment

• “You cannot ask all these questions of an agitated patient…”
Consult collateral sources

- People
- Records
Collateral sources

• Why?
  – Different and additional information on critical issues
Collateral sources

• Information about the reliability of data
  – Violence is often not observable by the therapist
  – Violent patients easily disclaim their violent propensities
Collateral sources

• Part of the routine
• Not just when by chance you become aware of inconsistencies
Record requests

• Discharge summary
• ER records
• Not just medication instructions
How defend?

• No one asked for reasonably available records documenting extensive prior violence
• No one read the ER nurse's note documenting specific threats
Knock Knock!
-Who's there?
HIPAA!
-HIPAA who?
I can't tell you that.
HIPAA

- "Patient would not sign release of information to speak to mother"
- Prohibits disclosing information to others
- Does **not** prohibit listening
  - Questions without implying identity
“However, HIPAA in no way prevents healthcare providers from listening to family members or other caregivers who may have concerns about the health and well-being of the patient, so the healthcare provider can factor that information into the patient's care.”

– OCR February 20, 2014
HIPAA

• Information from and to other health care providers
  – 45 CFR 164.506 (c) (2) “A covered entity may disclose protected health information for treatment activities of a healthcare provider.”
  – “May” but is not required to disclose
HIPAA

• “The Privacy Rule allows covered healthcare providers to share protected health information for treatment purposes without patient authorization, as long as they use reasonable safeguards when doing so. These treatment communications may occur orally or in writing, by phone, fax, email or otherwise.”

– Office for Civil Rights Guidance 2005
HIPAA

“Generally, the Privacy Rule applies uniformly to all protected health information, without regard to the type of information. One exception to this general rule is for psychotherapy notes, which receive special protections.”

- HIPAA Privacy Rule and Sharing Information Related to Mental Health, OCR Guidance
HIPAA

- “psychotherapy notes” – consent required
  – “notes… by a mental health professional documenting or analyzing the contents of conversation during a private counseling session...”
HIPAA

• “psychotherapy notes” – consent required - Does **not** include
  – medication prescription and monitoring
  – counseling session start and stop times
  – modalities and frequency of treatment,
  – summary of diagnosis, functional status, treatment plan, symptoms, prognosis and progress to date
HIPAA – not present or incapacitated

• “If the patient is not present or is incapacitated, a health care provider may share the patient’s information with family, friends, or others as long as the health care provider determines, based on professional judgment, that it is in the best interest of the patient.”
  – A Healthcare Provider’s Guide to the HIPAA Privacy Rule: Communicating with a Patient’s Family, Friends, or Others Involved in the Patient’s Care, Office for Civil Rights
• Unconscious

• “A health care provider may give information regarding a patient’s drug dosage to the patient’s health aide who calls the provider with questions about the particular prescription.”

  – A Healthcare Provider’s Guide to the HIPAA Privacy Rule: Communicating with a Patient’s Family, Friends, or Others Involved in the Patient’s Care, Office for Civil Rights
HIPAA

• Incapacitated – “based on professional judgment.”
• “the provider believes the patient cannot meaningfully agree or object… due to… current mental state”

– Examples
  • Psychosis
  • Under the influence of drugs or alcohol
HIPAA

• 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
HIPAA

• “...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.”
HIPAA

• 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.”
Poll

• 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
Questions & Comments