

### *Risk Assessment and Protocol for Duty to Warn under Volk*

HIPAA and Washington State privacy laws permit a therapist to disclose a client's health information if the therapist, 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.

The definition of "imminent" under Washington law is: "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(20).

Therefore, a threat could be "imminent" if a client informs a therapist that he is leaving the session to shoot family members. In this circumstance, the therapist is permitted to take steps to protect the foreseeable victims of the serious and imminent, such as notifying law enforcement, the Designated Mental Health Provider (DMHP), or the client's family members who could be targets of the client.

A threat might not be "imminent" if the threat is more hypothetical (e.g. sometime in the future the client might be a threat to family members).

In order to determine imminent threats that might be posed by a client, therapists should engage in a risk assessment similar to the following:

1. *Consultation* - Any case that presents with reckless or dangerous behavior that may involve danger to self or others should be brought for consultation. Even if no specific threat is made to another person, consult as soon as possible with a knowledgeable colleague.
2. *Suicide Risk Assessment* – use accepted measure of suicide risk assessment and thoroughly document (factors to be assessed below).
  - Mental illness
  - Physical illness
  - Previous attempts
  - Family conflict
  - Unemployment
  - Social isolation
  - Suicidal Ideation
  - Substance use
  - Purposelessness
  - Anxiety
  - Feeling Trapped
  - Hopelessness
  - Withdrawal

- Anger
  - Recklessness
  - Mood changes
3. *Homicide Risk Assessment* - Use accepted measure of violence/homicide risk assessment and thoroughly document (factors to be assessed below):
    - History of violence
    - Substance abuse
    - Mental incapacity
    - Organized plan
    - Unavailability of support group
    - Violent environment
    - Mental illness
    - Physical illness
    - Previous attempts
    - Family conflict
    - Unemployment
    - Social isolation
  4. *Documentation* – Once the assessments are complete, document the decision making process, i.e.: “Based on the presence/absence of these risk factors and warning signs, I believe there is/isn’t a serious and imminent threat to harm, and that there are/aren’t any foreseeable victims. I will continue to assess the situation, and if it appears that a serious and imminent threat to foreseeable victims is evident, I will contact those potential victims, the DMHP, and/or the police.”
  5. *Other Professionals Contacted* – Document the names, contact information, and times any other mental health professionals, lawyers, DMHP, police, doctors, etc.
  6. *Foreseeable Victims* – Document any contact to potential victims of a patient. The clinician may contact individuals or entities who are reasonably able to prevent or lessen the serious or imminent risks to potential victims, such as the potential victim(s), DMHP or the police. In making the disclosure of the client’s health information, the clinician should comply with the HIPAA concept of disclosing only the “minimum necessary” amount of information to accomplish the intended purpose. In other words, the clinician should release only the minimum amount of information to victims or police that would allow a foreseeable victim to gain protection. The disclosure might include a description of the client, name, workplace, history of violence, and why the foreseeable victim may be in danger.

Below is a summary of the suicide and homicide risks mentioned above that may be used as a way to identify the risks of a given patient.

*Suicidality and Homicidality Assessment*

Date:

Patient Name:

Date of Birth:

Presenting Problem(s):

History of Suicidality:

History of Homicidality:

*Specific Current Factors Contributing to Suicidality:*

\_\_\_ Physical illness(es)

\_\_\_ Previous attempts (detail)

\_\_\_ Organized Plan

\_\_\_ Family conflict(s)

\_\_\_ Unemployment

\_\_\_ Social isolation

\_\_\_ Suicidal Ideation

\_\_\_ Substance use (detail)

\_\_\_ Anxiety

\_\_\_ Depression

\_\_\_ Feeling Trapped

\_\_\_ Hopelessness/Withdrawal

\_\_\_ Anger

\_\_\_ Recklessness

\_\_\_ Sudden mood changes

Other Factors:

*Specific Current Factors Contributing to Homicidality:*

\_\_\_History of violence

\_\_\_Substance abuse (detail)

\_\_\_Intent to harm

\_\_\_Unavailability of support group

\_\_\_Violent environment

\_\_\_Mental illness(es)

\_\_\_Physical illness(es)

\_\_\_Family conflict

\_\_\_Unemployment

\_\_\_Social isolation

\_\_\_Access to weapons

\_\_\_Target of violence

Other Factors: