PERSPECTIVE:
EXPLORING MULTIPLE SIDES
OF YOUR RELATIONSHIP
WITH SUICIDE: ETHICAL
AND LEGAL ISSUES

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STATISTICS

According to NIMH:
◼ 38,000 people die by suicide each year
◼ More people die each year by suicide than by homicide
◼ Men are more likely to die by suicide than women; women are more likely to attempt
◼ Suicide remains one of the top three leading causes of death for people ages 15-24
◼ White males age 85 or older consistently have the highest suicide rate than any other age and ethnic group

STATISTICS

◼ American Indians and Alaska Natives have the highest suicide rates among ethnicities; followed by non-Hispanic Whites; Hispanics tend to have the lowest rate of suicides; African Americans tend to have the second lowest rates

◼ American Foundation for Suicide Prevention
***It is MOST IMPORTANT to know these 4 things BEFORE you encounter someone experiencing suicidal thoughts...

◼ What are my values surrounding suicide?
◼ What are my obligations as a social worker according to my code of ethics?
◼ What are my obligations as a social worker according to the agency where I am employed?
◼ What are my obligations according to state and/or federal law?

PERSONAL VALUES

⦿ Personal beliefs on suicide
⦿ Risk tolerance

CODE OF ETHICS

1) What is the ethical dilemma? Clearly articulate the professional values that are in conflict. What personal values if any may be influencing my decision making? Is there a conflict between my personal and professional values?

2) What is my immediate reaction or instinct for the best way to address the ethical dilemma?

3) Consult the Code of Ethics and Guidelines for Ethical Practice. Does the Code provide direction and guidance? Identify the sections from the Code of Ethics and Guidelines for Ethical Practice that are applicable to the dilemma.
4) Consult applicable agency policies and best practice standards.

5) Are there legal considerations? Consult relevant legislation where necessary.

6) What are some of the cultural considerations?

7) Was this issue addressed through informed consent?

8) What are some of the available options or choices for resolving the dilemma? Analyze the risk and benefits of each option. What steps do I need to take to minimize risk and not compromise my ethical responsibilities?

9) Consultation with a peer, manager or supervisor can be extremely helpful.

10) Does the context of practice make a difference?

11) Discuss the dilemma with the client where appropriate.

12) Consider the impact on the therapeutic relationship.

13) What other resources might be helpful in my decision-making?
CODE OF ETHICS (CONT)
14) Document the ethical decision-making process.
15) Monitor and evaluate the impact of the decision and modify if necessary.

AGENCY EXPECTATIONS
⦿ One feature of social work agencies that distinguishes them from many other organizations is that social workers are not just employees, but also professionals. Professionals are supposed to have self-determination to make professional decisions. But employees have obligations, and when professionals are employees, conflicts can arise between what they are supposed to do as professionals and what they are obligated to do as employees.
⦿ In other words, protect your license!!
LEGAL OBLIGATIONS

dration it is not enough to look at a statute to find the answer to a legal question - also want to look into how courts have interpreted it in different circumstances.

- Ask “What about the circumstances in this case are different from those I am facing? What facts made the court rule the way it did, and are those facts present in my situation?”

LEGAL OBLIGATIONS (CONT)

- Tarasoff vs. California Supreme Court case. The court’s ruling has no effect on North Carolina law unless:
  - North Carolina court adopts the same reasoning in one of its decisions, OR The North Carolina legislature uses the Tarasoff ruling as a model for a statute.

LEGAL OBLIGATIONS (CONT)

- (North Carolina) Gregory v. Kilbride: No duty to warn third party. However, where clinician has some “control” over client, and clinician knows or should know that patient is likely to cause bodily harm to others, an independent duty arises from the relationship and clinician must exercise control to prevent harm to others.

- Takeaway: knowledge that client might cause harm does not give rise to duty to warn. However, the more control you exercise over a client, the more likely you have a duty to protect by exercising control to prevent harm (not releasing client who poses a foreseeable threat to others)
LEGAL OBLIGATIONS (CONT)

Currie v. US, 4th Circuit: duty to protect when client is under clinician's control, but no duty to commit. Makes it risky to commit for those who will be exercising control. Once client committed, then duty arises.

Just because there is no legal duty to commit does not mean that you should not commit—look to ethics, personal values, well-being of client

LEGAL OBLIGATIONS (CONT)

What is the “rule” on liability for client suicide in North Carolina?

There is no clear black and white rule.

Generally only cases that are appealed have reported opinions. Trial court cases do not set precedent.

How would a court determine liability for client suicide?

Negligence standard: meet the standard of care by acting as a reasonable person would according to the standards of practice among members of the same health care profession with similar experience situated in similar communities

LEGAL OBLIGATIONS (CONT)

Elements:

Duty + Breach of Duty + Causation + Damage

In a civil trial, plaintiff must prove each element by "the preponderance of the evidence" (>50%)
LEGAL OBLIGATIONS (CONT)

Negligence is very fact-dependent, and hard to predict.

Good news: You do not have to be perfect and you do not have to be able to see the future, you just have to act reasonably (and document that you did so)

LEGAL OBLIGATIONS (CONT)

How to protect yourself?
- Liability Insurance
- If in private practice, use corporate form to limit liability (PLLC)
- Follow best practices
- DOCUMENT! Document not just what you do and do not do, but your reasoning
- If you are sued, your defense will largely rely on your documentation to show that you met the standard of care

LEGAL OBLIGATIONS (CONT)

What would lawsuit look like?
- Receive complaint and Summons (contact liability insurance company—NOT board!)
- 30 days to answer
- Discovery: Document requests, Interrogatories, and depositions
- Mediation or trial
- Trial: You will rely on your documentation and likely an expert witness to attest that you met standard of care
- Plaintiff may have own expert
LEGAL OBLIGATIONS (CONT)
Deposition, cross-examination: opposing lawyer’s duty is to be zealous advocate for client. No duty to be fair or polite in questioning.
May try to undermine your credentials, experience, and decision-making
You will want a lawyer to coach you through process
Example cross-examination of expert witness:
https://www.youtube.com/watch?v=sNEhuHgG5U8

MOST COMMON ERRORS...
1. Failure to detect risk (type 1 error)
   Questions become:
   1. Did you ask about suicide
   2. Did you assess risk
   3. Did you manage the risk

MOST COMMON ERRORS...
2. Substandard care (type 2 error)
   1. Treatment didn’t match the level of client’s risk
   2. Chart may say something like “Client thinking about suicide but has no current plan. Client contracts for safety.” Inadequate risk assessment and/or documentation. Need reasoning.
   3. Too little care provided: hospitalization not considered; increased visits not considered; did not make reasonable attempt to get patient’s history; did not consult colleague with expertise on issue

RESOURCE:
APPLICATION
Case study