



American Professional Agency



RISK MANAGEMENT



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**CONSIDER THIS ...**

# Treating Youth at Risk for School Violence: Risk Management Considerations for Psychiatrists

Treating a youth who has increased risk for violent acts can be challenging. Psychiatrists have an important role in the assessment and treatment of at risk youth. While there is no stereotype or profile of the violent youth offender, there are specific areas for heightened concentration when assessing and attempting to determine the potential violent action a young patient may take.

In 75% of youth violence cases, at least one adult expressed behavioral concerns and in 50% of cases, at least two adults had expressed concerns over a youth who ended up becoming an offender.<sup>1</sup> After a youth commits a school violent act, one of the first questions is – "Was that youth receiving behavioral health treatment?". In addition, if so, whether the psychiatrists or other behavioral health providers knew or should have known that the youth was at high risk for such violent acts.

School violence can occur on the way to or from school or at school-sponsored events. A student/young person can be a victim, perpetrator or a witness of school violence. This violence may also involve/impact adults.<sup>2</sup> Youth violence takes on various forms including:

- Bullying;
- Pushing and shoving; and
- In some cases assault with various types of weapons which can result in injury or death.<sup>3</sup>

## Informed Consent

Referrals for a psychiatric consultation for a child or adolescent comes from a variety of sources, such as a school counselor, family, or law enforcement. As with treating patients with any type of issue, informed consent is a vital part of treatment. With respect to informed consent, it is important to:

- Obtain proper informed, written consent from the person with legal authority;
- If there are court documents or legal papers regarding who can consent for the minor and/or receive information, make sure you have a copy of the order for your files;
- Discuss with the parents or legal guardian and other providers what you can and cannot discuss with them regarding treatment; and
- Obtain records from previous and current behavioral health providers and school counselors.

## Documentation

Documentation is critical when treating a youth who may be at high risk for a violent act. The following should be considered in a risk assessment of a potential violent youth offender and documented in the medical record:

- Change in behavior, such as social alienation, increased risk-taking, bizarre or erratic behavior;
- Signs of being bullied or cyberbullied or perpetrating bullying/cyberbullying; Preoccupation with weapons or violent video games;
- Negative social media postings: bullying, "selfies" with weapons, announcing threats or plans for hurting others, cryptic messages;
- Recent loss of status or loss of a relationship - girl/boyfriend, pet, parent;
- Personal failure and poor coping skills;
- Suicidal thoughts or attempts;
- Thoughts of revenge;
- Access to firearms/weapons;
- Changes in or unstable home life;
- Prior history of violence/cruelty to animals; and
- Drug, alcohol or tobacco use.<sup>4</sup>

## Duty to Warn/Protect and Patient Privacy

HIPAA does **not** prevent the ability of behavioral health care providers to warn or report that persons may be at risk of harm.<sup>5</sup> HIPAA allows the provider to advise family, law enforcement and those persons whom the provider believes will lessen the threat. This includes disclosing patient information from the behavioral health record if necessary.<sup>6</sup> HIPAA does permit disclosure for these purposes, but it is important to understand your duty to warn/protect obligations under your individual state laws as they may differ.

The majority of the jurisdictions follow one of three approaches for the obligations of a behavioral health provider to warn/protect third parties:

- Mandatory duty to warn/protect;
- Permissive duty to warn/protect; or
- No duty to warn/protect.

There are differences among the states concerning:

- 1) Whether you must disclose and
- 2) Who you must disclose to in order to meet your obligations.

Various states are examining and may be changing their duty to warn/protect laws as well as firearms access laws. It is important to stay up to date on any pending/enacted legislative changes.

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## Requests for Predictive Information

There may be times where you will be asked to assess the relative dangerousness of an at risk youth. You also may possibly be asked to comment on future predictability of harm. In the event that a patient makes a threat and encounters school difficulties (such as expulsion or suspension), prior to providing a written opinion on whether he/she is at risk or to reinstate him/her, consider consulting a risk management or legal professional. A letter predicting whether a patient is at risk of future harm should be carefully considered.

## Responding to a High Profile School Violent Event

If your patient engages in a high profile school violent act, it is preferable not to communicate with others. Your inclination may be to talk with other treatment providers, family members or even the media. However, prior to doing so, obtain advice on steps to take to ensure you are in compliance with applicable laws in maintaining patient confidentiality. A few tips to keep in mind:

- Notify your insurance company. It may be important to have an attorney assist you. It will be important to know:
  - Where to send correspondence and
  - Refer requests for information
- Segregate patient's record
  - Ensure the record is protected from unlawful access or unpermitted disclosure
- Should you receive a subpoena, court order or a request for patient information:
  - Consult with an attorney and
  - Obtain proper releases
- Do not discuss, other than with your:
  - Attorney and
  - In some states, with your spouse
- Do not communicate with other providers
- Do not communicate with patient/family without first obtaining advice
  - Conversations may be discoverable

## Conclusion

It may be difficult to treat a youth patient who has violent tendencies. It is critical to keep in mind the relationship the violent youth has with adults in his/her life, the relationship between the school and the detection of deviant behavior, institutional trust, the role that social media is playing in his/her life, isolation tendencies, access to firearms or other weapons, as well as available school based support.<sup>7</sup> Remember to document consistently and determine whether communicating your findings to appropriate authorities may be necessary. Do not hesitate to contact your risk management professional or seek legal advice if you have further questions or concerns.

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## RISK MANAGEMENT TIPS:

When treating violent patients, some of the risk management strategies to remember include:

- Complete timely/thorough risk assessments.
- Document. This includes reasons for taking and not taking certain actions.
- Understand your state's law on duty to warn. Be aware of the language in the law on whether you have a mandatory, permissive or no duty to warn/protect.
- Understand your state's laws regarding civil commitment.
- Understand your state's laws regarding disclosure of confidential information and when you can do so.
- Understand your state's laws regarding discussing firearms ownership/possession with patients.
- Should you have questions, consult an attorney or risk management professional.

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Privacy Rule 45 CFR §164.512(j)

## End Notes:

<sup>1</sup> United States Secret Service. (2002). Preventing School Shootings: A Summary of a U.S. Secret Service Safe Schools Initiative Report. NIH Journal, no. 248, 11-15.

<sup>2</sup> CDC. (2016). Understanding School Violence Fact Sheet [www.cdc.gov/violenceprevention](http://www.cdc.gov/violenceprevention)

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> 45 CFR §164.512(j)

<sup>6</sup> Id.

<sup>7</sup> Bushman, B., et al. (2013). Youth Violence What We Need To Know Report of the Subcommittee on Youth Violence of the Advisory Committee to the Social, Behavioral and Economic Sciences Directorate, National Science Foundation, 1-43. [https://www.nsf.gov/sbe/reports/Youth\\_Violence\\_What\\_We\\_Need\\_To\\_Know.pdf](https://www.nsf.gov/sbe/reports/Youth_Violence_What_We_Need_To_Know.pdf)

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