Bree Collaborative | Risk of Violence to Others Workgroup
February 21st, 2019 | 3:00-4:30
Foundation for Health Care Quality

Members Present

Kim Moore, MD, Associate Chief Medical Director, CHI Franciscan (Chair)
G. Andrew Benjamin,* JD, PhD, ABPP, Clinical Psychologist, Affiliate Professor of Law, University of Washington
Laura Groshong, LICSW, Private Practitioner, Washington State Society for Clinical Social Work
Ian Harrel,* MSW, Chief Operating Officer, Behavioral Health Resources
Therese Hansen,* Washington State Department of Health (for Neetha Mony)
Mary Ellen O'Keefe,* ARNP, MN, MBA, President Elect, Association of Advanced Psychiatric Nurse Practitioners
Andrea O'Malley Jones,* LICSW, JD, Suicide Prevention Coordinator, US Department of Veteran's Affairs
Jennifer Piel, MD, JD, Psychiatrist, Department of Psychiatry, University of Washington
Julie Rickard,* PhD, Program Director, American Behavioral Health Systems – Parkside
Samantha Slaughter,* PsyD, Member, WA State Psychological Association
Jeffrey Sung, MD, Member, Washington State Psychiatric Association
Amira Whitehill, MFT, Member, Washington Association for Marriage and Family Therapists

Staff and Members of the Public

Peter Dunbar, MB, ChB, MBA, CEO, Foundation for Health Care Quality
Lareina La Flair,* Washington State Department of Health
Joan Miller,* JD, Sr. Policy Analyst, Washington Council for Behavioral Health
Alicia Parris, Bree Collaborative
Jeb Shepard,* Washington State Medical Association
Ginny Weir, MPH, Bree Collaborative

* By phone/web conference

CHAIR REPORT AND APPROVAL OF MINUTES

Kim Moore, MD, Associate Chief Medical Director, CHI Franciscan (Chair) and Ginny Weir, MPH, Bree Collaborative, opened the meeting and those present introduced themselves.

Motion: Approve 1/17/2019 Minutes
Outcome: Passed with unanimous support.

PRESENTATION BY JENNIFER PIEL: DUTY TO PROTECT

Jennifer Piel, MD, JD Assistant Professor, Associate Director, Psychiatry Residency Program, University of Washington shared a presentation "Duty to Protect: Historical Review and Current Considerations" and the group discussed:

- Duty to warn vs. duty to protect
    - Duty to warn is notification of the party at risk or law enforcement
    - Duty to protect encompasses broader set of actions taken by the practitioner to protect the third party from harm such as:
        - Seeking hospitalization
        - Entering patient in substance use treatment program etc.

- Overview of Tarasoff as the first case that established duty to warn victim and/or law enforcement
    - Trends post-Tarasoff
        - Expansions and retractions
    - Some cases cited by the Volk decision
        - Lipari case
        - Stevens case
- APA Model Statute and portions that have been instituted in many jurisdictions
    - Clearly identified or reasonable identifiable victim
        - Terms not well defined
        - Left to tryer of fact/jury to deem if victim is foreseeable
    - Patient has intent and ability to carry out threat
- What constitutes discharging the duty in Washington State
- Wisconsin is only other state other than Washington with a foreseeability standard
- Ohio as a potential model
    - Clearly defines when duty is triggered
    - Threat must be communicated to clinician, not from a third party
    - Intent and ability must be present
    - Defines multiple ways to discharge duty
    - Easy record keeping to document discharge of duty
- Ethics guidelines regarding breach of confidentiality
- State of Washington
    - Medical malpractice vs medical negligence
    - Overview of Peterson v State (WA)
        - Unintentional harm
        - No foreseeable victim
    - Duty is discharged by warning potential victim and police
- Overview of Volk v Demeerleer case
    - Facts shared are as written in the court decision. Some facts about the case are in dispute and there are additional facts that became available after the case but are not included in the record
    - Background and history of Demeerleer
- Holding of Volk v Demeerleer and reasoning
- Result of judgement appears to be a discrepancy between the case law and statutory law

REFINING CHARTER AND SCOPE OF WORK

Group viewed *Draft Charter and Roster* with suggested changes and Dr. Moore shared feedback from the Bree Committee and the group discussed:

- Workgroup title change
    - Group tentatively chose "Risk of Violence"
- Whether to address suicide in recommendations
    - Bree already has existing report on suicide that may be referenced but would not likely be improved
- Changes to *Problem Statement:*
    - Removed first sentence of suicide statistic
    - Removed portion regarding "*expanded the health care provider's duty to warn potential victims of a patient's violence.*"
        - Expansion of duty to warn is subjective
    - Changed end of first statement to "*patients may be reluctant to speak openly with their health care providers about their violence risk. Health care providers may be uncertain about how to meet their legal obligations.*"
    - Removed the following sentence "*The Bree Collaborative has been asked to establish…*"

    - Added sentence, "*Health care providers may also be uncertain about how to meet their legal obligations.*"
- Changes to *Aim:*
    - Edited statement to read "*To recommend clinical best practices for patients with risk of violence.*"
- Changes to *Purpose:*
    - Removed first and second bullet "*Patient confidentiality."* and *"Discharging patients."*
    - Changed third bullet to, "*Identifying risk factors for violence*"
    - Added bullet, "*Weighing the patient right to confidentiality versus duty to protect*"
    - Changed bullet, "*Treating patients…*" to "*Actions to take when there is a concern about an individual's risk for violence including treatment*"
    - Made bullets consistent with language in the problem statement
    - Changed third bullet to "*Weighing the patient right to confidentiality versus duty to warn."*
        - *"Warn"* changed to "*protect*"
    - Bullet four "*propensity"* changed to "*risk"*

NEXT STEPS AND PUBLIC COMMENTS

Dr. Moore and Ms. Weir asked for public comments and thanked all for attending. The meeting adjourned.