

10. Community-Based Mental Health Counselor Considers Sharing with a School Information about an Adolescent Who May Be Violent



A tenth grade student is being treated by a licensed mental health counselor in a community mental health agency. Over time, the counselor has come to understand that the adolescent has a significant mental health disorder and a chaotic home life. The student has mentioned that there are unsecured firearms in his home.

One day the student arrives for a counseling session and is very agitated. He explains that earlier that day, he was expelled for bringing a hunting knife to school and showing it to other students. As he describes what happened, the student becomes even more distressed. He jumps up, yells, "I'm not gonna let them do this to me! I'm gonna kill those *@#&s," and runs out of the office.

Although the youth does not have a history of violence, the counselor fears that he might become dangerous. She wonders whether it would be appropriate for her to call school officials and alert them about the situation.

Who has the information?

The mental health counselor in the community mental health agency.

What information is the individual considering sharing and with whom?

The counselor is considering sharing the information with the school.

Which laws are relevant in this situation?

HIPAA governs disclosure of mental health information. State law may also govern the release of mental health information.

What do the laws permit, and what do they prohibit?

In general, parental consent is required to disclose a minor's protected health information. The person who consents to the treatment typically has the power to release information regarding the treatment to third parties. However, according to HIPAA, HIPAA-covered entities (i.e., health plans, health care clearinghouses, and health care providers) may disclose protected health information that they believe is necessary to prevent or lessen a serious and imminent threat to a person or the public when such disclosure is made to someone they believe can prevent or lessen the threat (including the target of the threat). Covered entities may also

disclose protected health information to law enforcement officials if the information is needed to identify or apprehend an escapee or violent criminal.

How can the mental health counselor proceed legally in this situation?

OBTAIN CONSENT FROM THE YOUTH OR HIS PARENT

The counselor can express her concerns to the youth and seek the youth's consent to share information regarding her concerns with the school. If the student consented to the treatment, he may provide consent for this disclosure. However, if state law authorized the student's parent to consent to the treatment, then only the parent may consent to the release of information.

Under HIPAA, the consent must be signed and dated and must contain the following:

- A specific description of the protected health information to be released
- Who is authorized to disclose the information
- Who is authorized to receive the information
- How long the consent is valid
- A statement of the right to revoke consent and the process to do so
- A statement of the purpose of the disclosure

DISCLOSE INFORMATION BECAUSE OF THE IMMINENT THREAT

Because the counselor has concerns about the safety of those in the school and believes that the youth may be imminently threatening to his peers and/or school staff, she may disclose this information to the police or to the school.