Managing Stressed Clients
Tools, Warning Signs, and Ethics

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Who am I?

- Board Certified Forensic Psychiatrist
- Tulane Assistant Professor of Psychiatry
- Formerly
  - NOPD Psychiatrist
  - FACT team psychiatrist
- Lakeview, Jesuit, River Ridge, etc
Managing Stressed Clients
Tools, Warning Signs, and Ethics

- Assessment
  - Signs of Stress
  - Active Listening
  - Self-Care
- Suicide
  - Myths
  - Risk Factors
- Ethics
  - Medical Ethics
  - Legal Ethics
Stress

• emotional strain or tension resulting from adverse or difficult circumstances

• a condition or feeling experienced when a person perceives that demands exceed the personal and social resources the individual is able to mobilize

• stress vs traumatic stress
Lessons from a rat...
Lessons from a rat...

- Perceptions of controllability reduce stress
- Predictability is important
- Action reduces the effects of stress
Stress...It’s all in your head
Amygdala

- Detects Danger
- Mobilizes body and brain to respond to danger
  - “Fight or flight” nervous system
- Overrides the system and takes over cognition
- Designed for acute, life threatening stress to increase probability of survival
What the amygdala is NOT designed for

- Chronic Stress
- Uncontrollable Stress
- Extended Environmental Uncertainty

- In the face of chronic stress, both body and brain can be changed
Stress...It’s all in your head
THE HUMAN FUNCTION CURVE

Good stress  Distress

THE HUMP

Arousal stress

Performance

Health tension

Comfort zone

Fatigue

Exhaustion

Ill health

Breakdown

“First, take your own pulse”

- Self-care
- Watch in yourself for symptoms of burnout
- **Emotional exhaustion:** People affected feel drained and exhausted, overloaded, tired and low, and do not have enough energy. Physical symptoms include pain or problems with the stomach or bowel.
- **Alienation from (job-related) activities:** People affected find their jobs increasingly negative and frustrating. They may develop a cynical attitude towards their work environment and their colleagues. They may, at the same time, increasingly distance themselves emotionally, and disengage themselves from their work.
- **Reduced performance:** Burnout mainly affects everyday tasks at work, at home or when caring for family members. People with burnout regard their activities very negatively, find it hard to concentrate, are listless and experience a lack of creativity.
Secondary traumatic stress in attorneys and their administrative support staff working with trauma-exposed clients.

- Examined secondary trauma among attorneys exposed to clients' traumatic experiences.
- Wisconsin State Public Defender Office.
- Attorney participants demonstrated significantly higher levels of posttraumatic stress disorder symptoms, depression, secondary traumatic stress, burnout, and functional impairment compared with the administrative support staff. This difference was mediated by attorneys' longer work hours and greater contact with clients who had experienced or had been directly involved with trauma.
- Sex, age, years on the job, office size, and personal history of trauma did not predict symptoms.
Compassion Fatigue/Secondary Trauma

• Compassion fatigue is the cumulative physical, emotional and psychological effect of exposure to traumatic stories or events when working in a helping capacity, combined with the strain and stress of everyday life.

• Common among individuals that work directly with victims of trauma.

• Sufferers often have symptoms such as hopelessness, isolation, irritability, sleeplessness, stress, anxiety, pessimism and decreased experiences of pleasure.
Compassion Fatigue Risk Factors (ABA)

- Attorneys and judges with high capacity for empathy are most at-risk;
- Attorneys and judges who work in criminal, family, or juvenile law;
- High caseloads and caseloads involving human-induced trauma;
- Lack of education about the potential impact of ongoing exposure to traumatic material and events
- Lack of peer support and opportunities to debrief cases involving traumatic material
- Inadequate resources to meet professional responsibilities and demands
- Limited job recognition.
Compassion Fatigue/Secondary Trauma

• Don’t waste time complaining. Instead, look for more constructive ways to share your feelings.

• Talk regularly to another attorney who is supportive and who can help you process your feelings and create a plan to deal with stressful clients.

• Recharge your batteries (eating healthy, getting enough sleep, exercising and setting aside quiet time for yourself on a regular basis)

• Develop interests outside of your law practice

• Celebrate victories and personal accomplishments, even the little things.

• Avoid self-medicating with drugs or alcohol, and get professional help if needed.

• Counseling
Attorney Assistance

• ABA Commission on Lawyer Assistance Programs
  http://www.americanbar.org/groups/lawyer_assistance.html

• National Helpline for Lawyers
  1-866-LAW-LAPS
  http://www.lsba.org/LAP/

• Lawyers’ Assistance Program Hotline
  1-866-354-9334
Active Listening

• a communication technique used in counselling, training, and conflict resolution
• the listener feeds back what they hear to the speaker, by way of re-stating or paraphrasing what they have heard in their own words
• this confirms what the listener has heard and communicates empathy and non-judgment and understanding
• reflection of emotional content
• external focus
• minimizing distractions
Normally Stressed Clients

- Reassurance/“handholding”/active listening works
- Leave less tense than they enter
- Can focus on the issues at hand after expressing themselves
- Will respond to humor
- Respond to Active Listening and non-judgmental approach
- Able to make decisions
- Able to plan, do “homework”
- Don’t
  - Platiudes, “I know exactly how you feel”
  - Ignore their stress
Abnormally Stressed Clients

• Less responsive to active listening, “handholding”
• More anxious in appointments
• Unreachable
• Unable to make decisions, do “homework”
• Unable to follow agreed plan
• Immobilized or hypervigilant in responding to attorney requests
Abnormally Stressed Clients

• Do
  • ask client if they think they are functioning normally
  • assertively recommend counseling, treatment, even hospitalization
  • encourage mobilization of support system
  • develop network of referrals for treatment
  • Inquire about suicidality/homicidality

• Don’t
  • Ignore signals
  • Play psychiatrist
Suicidal Clients

• Myths
  • Asking about suicide increases their risk of doing so.
    • Suicide is the last step in a thought process characterized by isolation and helplessness. Asking about it strongly implies empathy
  • Those who discuss suicide are the ones who won’t do it.
    • 80% of suicides had discussed this intention to at least one person.
  • Noone can stop those intent on dying
    • The vast majority of suicidal persons are ambivalent about death. Stopping pain is their motivation.
  • Suicidalty is a long term problem
    • Most are time limited phenomena.
Suicide Risk Factors

- Male gender
- Health Problems
- Impulsivity or aggression
- Previous attempts
- Family history of suicidality
- Psychiatric Disorder (especially depression)
- Hopelessness and/or helplessness
- Social Isolation
- Recent loss
- Easy access to means
- Substance abuse
Suicidality/Homicidality exists on a continuum of dangerousness

- Fleeting thoughts
- Plausible alternative
- Active consideration
- Mental Planning (means, timing)
- Preparation
- Rehearsal

ACTION
What to do?

- Be direct. Talk openly and matter-of-factly about suicide.
- Be willing to listen. Allow expressions of feelings. Accept the feelings.
- Be non-judgmental. Don't debate whether suicide is right or wrong, or whether feelings are good or bad. Don't lecture on the value of life.
- Don't dare him or her to do it.
- Don't act shocked.
- Don't be sworn to secrecy. Seek support.
- Offer hope that alternatives are available but do not offer glib reassurance.
- Take action. Remove means, such as guns or stockpiled pills.
- Get help from persons or agencies specializing in crisis intervention and suicide prevention.
Medical Ethics on Suicidality/Violence

- “first do no harm”
- Ethically compelled to act to prevent harm
- Outpatient treatment vs Hospitalization
- Voluntary Basis
- Involuntary Basis
- Clear exception to confidentiality
• 645 So.2d 1301 (1994)

• In re Billy Gene VIVIANO, Applying for Medical Review Panel.
  Billy Gene VIVIANO, et al.
  v.
  Charles E. MOAN, Ph.D and ABC Insurance Company.
  Billy Gene VIVIANO, et al.
  v.
  Dudley M. STEWART, Jr., M.D., et al.
RS 9:2800.2 (Louisiana’s Tarasoff)

• A. When a patient has **communicated a threat of physical violence**, which is **deemed to be significant in the clinical judgment** of the treating psychologist or psychiatrist, or marriage and family therapist, or licensed professional counselor, or social worker, against a **clearly identified victim or victims**, **coupled with the apparent intent and ability to carry out such threat**, the psychologist, licensed under R.S. 37:2351 through 2369, the medical psychologist, licensed under R.S. 37:1360.51 through 1360.72, the psychiatrist, licensed under R.S. 37:1261 through 1291, or the social worker, credentialed under R.S. 37:2701 through 2723, treating such patient and exercising reasonable professional judgment, **shall not be liable for a breach of confidentiality for warning of such threat or taking precautions to provide protection from the patient's violent behavior.**
RS 9:2800.2 (Louisiana’s Tarasoff)

• B. A psychologist's, psychiatrist's, or marriage and family therapist, or licensed professional counselor, or social worker's duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under the circumstance specified in Subsection A of this Section. This duty shall be discharged by the psychologist, psychiatrist, or marriage and family therapist, or licensed professional counselor, or social worker if the treating professional makes a reasonable effort to communicate the threat to the potential victim or victims and to notify law enforcement authorities in the vicinity of the patient's or potential victim's residence.

• C. No liability or cause of action shall arise against any psychologist, psychiatrist, or marriage and family therapist, or licensed professional counselor, or social worker based on an invasion of privacy or breach of confidentiality for any confidence disclosed to a third party in an effort to discharge the duty arising under Subsection A of this Section.
"Dangerous to others" means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

"Dangerous to self" means the condition of a person whose behavior, significant threats or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or severe emotional harm upon his own person.
"Gravely disabled" means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or substance abuse and is unable to survive safely in freedom or protect himself from serious harm; the term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.
Order for Protective Custody (LA RS 28:53.2)

• Any parish coroner or judge of a court of competent jurisdiction may order a person to be taken into protective custody and transported to a treatment facility or the office of the coroner for immediate examination when a peace officer or other credible person executes a statement under private signature specifying that, to the best of his knowledge and belief, the person is mentally ill or suffering from substance abuse and is in need of immediate treatment to protect the person or others from physical harm.
Jefferson Parish Human Services

• Public Mental health provider in JP
• JPHSA clinics
• Jefferson Parish Mobile Crisis Team
  • 504-832-5123
Legal Ethics in Client Suicidality/Violence?
Rule 1.6: Confidentiality of Information

Client-Lawyer Relationship

Rule 1.6 Confidentiality Of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
ANONYMIZED CONSULTATION?

- Document a call with a licensed mental health professional
- De-identify case specific data to best of ability
- Lay out scenario for advice
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3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client’s commission of a crime or fraud in furtherance of which the client has used the lawyer’s services.
“reasonably certain”

- Not a lot of guidance from Rule 1.6 decisions.

- Old cases where “reasonably certain” was plaintiff’s standard of proof.

- Criminal cases – intent
“reasonably certain”

- “...prescribed criminal consequences as reasonably certain to result from his act...”

- Future damages – “reasonably certain to incur”

- Fact specific analysis
- Attorney inquiry for an advisory opinion.

- Facts: criminal client asking questions one would normally expect to be consulted about by a terminally ill patient.

- Attorney believes the client intends to commit suicide before trial.
When an attorney reasonably believes his client is contemplating suicide, he should be permitted to disclose such information as a last resort in a life-or-death situation when the lawyer’s efforts to counsel the client have apparently failed.

- Cites an ABA Informal Opinion

- Does that answer the lawyer’s question?
ABA Informal Opinion

- Client tells the lawyer she is going to commit suicide.

- Ok to disclose the information “as a last resort when the lawyer’s efforts to counsel the client have apparently failed.”
GUIDANCE?

- You have to counsel the client first.

- Ok to disclose confidence as a last resort.

- If a client tells you they are going to commit suicide, then ok to disclose confidence based on ABA opinion.

- If you have a “reasonable belief” that the client will commit suicide, then ok to disclose confidence.

- Same is true for violence to others?
In Re Goebel

- Goebel represented a criminal client.

- His partner represented a guardianship client.

- Guardianship client’s husband was a witness for the prosecution in the criminal client’s case.
In Re Goebel

- Criminal client tells Goebel of his intent to locate and kill the husband of the guardianship client.

- Goebel attempted to dissuade the criminal client.

- Counsel requirement met?
In Re Goebel

- Criminal client appears at law office demanding to know the address of guardianship client.

- Goebel shows criminal client returned mail from the guardianship client marked “No Such Street-NSS”

- Address was 3813 East 300 South
In Re Goebel

- Criminal client copies the address.

- Two days later, criminal client kills the guardianship client’s husband at the guardianship client’s home.

- Address was 3813 South 300 East.

- Criminal client convicted of the murder.
In Re Goebel

- Discipline charges

- Violation of Rule 1.6

- Goebel argues not a violation because information was false and therefore not under the scope of Rule 1.6

- Information provided contained a suggestion of where the client could be located and thus the information was related to the representation.
In Re Goebel

- Opinion states that the lawyer should have notified the police.

- “Reasonably certain” – no analysis

- Public reprimand