Why is the Legal Environment Concerning Mental & Behavioral Health Issues in Emergencies Important?

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“Ready, Willing, and Able”

“poised to respond (infrastructure, systems)”

“having sufficient knowledge, skill, or ability”

“inclined or favorably disposed in mind”

PROBABILITY OF A QUALITY RESPONSE
The Challenge

- Experience in the United States and other countries has shown repeatedly that, following disasters, there is a surge of demand for health services, including mental health.
- Furthermore, these reports have revealed that, following such events, psychological symptoms are much more prevalent than physical injuries.

“Moving Mental Health into the Disaster Preparedness Spotlight”

- “Most major disasters, including the Exxon Valdez spill, Hurricane Katrina, and the 9/11 attacks, have been followed by increases in the prevalence of mental illness, domestic violence, and substance abuse. Emotional distress may manifest in increased rates of driving while intoxicated, theft, domestic violence, and assault. Such consequences may go unrecognized, however, as health officials and the public focus on physical illness, injury, and environmental devastation.”
### The Additional Challenge

- “The nation’s mental health, public health, medical, and emergency public health systems currently are NOT able to meet the psychological needs that result from terrorism.”

- “A broad spectrum of professional responders is necessary to meet psychological needs effectively. Those outside the mental health professions, who may regularly interface with the public, can contribute substantially to community healing.”

- Institute of Medicine, 2003, *Preparing for the Psychological Consequences of Terrorism*
80/20 Rule

- On average, 80% of all casualties post disaster will be mental health related
- At most 20% will be physical casualties
- In some instances, there will be no physical casualties, but the public health system will be functionally incapacitated by the mental health surge
“Vulnerable Populations”

- People with serious and persistent mental illness
- Persons from certain age groups (e.g., children, seniors)
- People from cultural and ethnic groups (e.g., immigrants, non-English speakers, undocumented individuals)
- People from low-visibility groups (e.g., homeless, mobility-impaired, unemployed, mentally challenged)
- People in group facilities (e.g., hospitals, nursing homes, prisons)
- Persons displaced by the emergency
- Public health professionals, healthcare workers, first responders, disaster relief workers, other human service providers

Who is susceptible?

- Those persons with pre-existing mental and behavioral health issues, especially those who have been inadequately managed pre-event and those who have experienced prior traumatic events
- Those persons in whom the emergency itself triggers (short- or long-term) mental and behavioral health issues
- First responders, first receivers, healthcare workers, mental health professionals, and others most involved in response and recovery efforts (an important subset of the second group above)
Mental and Behavioral Health Interventions

<table>
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<th>Time Period</th>
<th>Mental/Behavioral Health Process</th>
<th>Public Health Intervention</th>
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One Possible Intervention: Psychological First Aid

- “In the past decade, there has been a growing movement in the world to develop a concept similar to physical first aid for coping with stressful and traumatic events in life. This strategy has been known by a number of names but is most commonly referred to as psychological first aid (PFA).”
- Institute of Medicine 2003
But Who Will Deliver PFA?

- Mental health professionals
- Public health professionals
- Healthcare professionals
- First responders (police, fire suppression, EMS)
- National Guard
- Educators
- Faith-based community
- Other volunteers

But these people don’t have formal mental health training ...

Nor the necessary legal protections ...

Does the Legal Landscape Help or Hurt?

- It **helps**; for example:
  - Emergency powers that authorize screening, surveillance, and reporting of mental and behavioral health conditions

- It **hurts**; for example:
  - Restriction of individuals’ movement (e.g., via isolation or quarantine or controlled evacuation) may produce mental stress or limit access to appropriate care and medications
Some Critical Legal Issues

- Deployment and use of trained mental health professionals during and after an emergency (e.g., credentialing in other states, liability protections, workers’ compensation)
- Altered standards of care, and entitlement to treatment
- Sources of financing and rapid “qualification” of service recipients/patients

James Hodge, Lainie Rutkow, Aubrey Joy Corcoran, 2010

Some Needed Reforms

- Integrate mental and behavioral health priorities into existing emergency laws and policies
- Improve inter-jurisdictional licensure coordination for mental and behavioral health providers
- Develop comprehensive mental health impact assessments
- Establish clear frameworks for using altered standards of care
- Assure access to psychotropic medications
- Protect against denial-of-coverage/workers’ compensation for mental and behavioral health conditions (e.g., for first responders)
In essence ...

- How do we create an environment that is:
  - **Appropriate**, from an ethical perspective
  - **Protected**, from a legal perspective
  - **Optimal**, from an operational perspective