



PROGRAM MATERIALS
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Legal Liability Management on the College Campus, in the Workplace and Beyond

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LEGAL LIABILITY MANAGEMENT ON THE COLLEGE CAMPUS, IN THE WORKPLACE AND BEYOND

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OVERVIEW

- This CLE program will cover the issue of the legal liability of the college/university or workplace for a student or employee suicide including an analysis of the “special relationship” requirement using case studies and recent case law.
- We will examine a recent wrongful death case, where the highest Court in the State of Massachusetts held that MIT was not liable for the student’s suicide but suggested that there are limited circumstances in which universities could bear some responsibility for protecting their students.
- We will also discuss caselaw relevant to suicide in the workplace.

OVERVIEW (Cont'd)

- As suicide rates are rising it is more important than ever to ensure that the college campus, workplace and its members are aware of their role and responsibilities when it comes to suicide.
- We will explore the role of Behavioral Intervention Teams in both settings and review relevant legislation (Affordable Care Act, ADA, FERPA, HIPAA, etc.).
- Lastly, we will review risk management practices such as notification to next-of-kin and suicide prevention protocols.

OUTLINE

I. Student Suicide

- Statistics
- Risk Factors/Protective Factors
- Tort Liability (Special Relationship)

II. Suicide in the Workplace

- Statistics
- Risk Factors
- Employee Assistance Programs

III. Federal and State Laws

IV. Risk Management

- Behavioral Intervention Teams

I. STUDENT SUICIDE



STUDENT SUICIDE: STATISTICS

- ▶ Suicide is the **3rd leading cause** of death for 15-24 year olds in the United States – nearly **4,000** people aged 15-24 die by suicide each year.
- ▶ Estimated 1,100 suicides on college campuses per year.
- ▶ **1 in every 12** U.S. college students make a suicide plan.

STUDENT SUICIDE: STATISTICS

- ▶ “A substantial number of young people in the age bracket of undergraduate students are highly susceptible to the kinds of mental health issues that can lead to suicidal ideation and actual attempts.”
- ▶ Anxiety and depression are now the most common mental health diagnoses among college students.
- ▶ Student death can profoundly impact the campus community and student affairs professionals must play a critical role in responding.

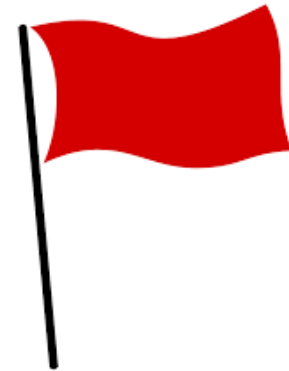
Risk Factors vs. Protective Factors

Risk Factors

- Mental health problems
- Substance use/abuse
- Barriers to accessing care
- Social isolation, or limited/lacking social support
- Financial problems
- Access to lethal means

Protective Factors

- Social support
- Counseling/Therapy
- Religiosity



WARNING SIGNS



- Withdrawing or isolating self from friends or activities.
- Extreme changes in behavior or personality.
- Drastic change in grades – failing classes.
- Communicating feelings about hopelessness or feeling as if they are a burden to others.
- Obsessing about death.
- Taking unnecessary risks and engaging in reckless behavior.
- Communicating about suffering or death through social media.
- Neglect of appearance and hygiene.

QUESTIONS TO KEEP IN MIND

- ▶ What should a university do if they suspect a student is a threat to themselves? Can the student be forced to take a leave of absence or must they be permitted to stay on campus?
- ▶ What should an employer or coworker do if they suspect an employee/colleague is a threat to themselves? Can the employee be fired or forced to take a leave of absence?

TORT LIABILITY FOR NEGLIGENCE

- There are four elements: duty of care, breach, causation, damages/injury.
- Under traditional tort law, courts deemed the suicidal person to be the sole cause of his/her own death, and the law did not impose affirmative duties on others to prevent foreseeable harm.

TORT LIABILITY FOR NEGLIGENCE (CONT'D)

- Typically, courts do not recognize a duty to exercise reasonable care to protect another from harm.
- However, there are several types of *special relationships* that give rise to such a duty.
 - Section 314A of the Restatement (Second) of Torts.

“SPECIAL RELATIONSHIP”

- Certain “special relationships” give rise to a duty by one party to “take reasonable action” to protect the other “against unreasonable risk of physical harm”.
 - The duty is only one to exercise **reasonable care under the circumstances**.

Restatement (Second) of Torts § 314A.

“SPECIAL RELATIONSHIP”

- The general rule is that only defendants who have custody over others (e.g., jails, hospitals), or those with special mental health training (e.g., psychiatrists) and who can take steps to prevent the suicide owe such a duty. *McLaughlin v. Sullivan*, 461 A.2d 123, 125 (N.H. 1983).
- In recent years, however, there have been several claims brought against school officials, districts, colleges and universities, claiming an alleged failure to take steps to prevent a student’s suicide.

“SPECIAL RELATIONSHIP” BETWEEN COLLEGE/UNIV. AND STUDENTS

- In two contexts – violent crime and hazing activities – courts have found that colleges/universities have a “special relationship” with, and a duty to protect, their students.
- Courts have not, however, established a clear rule on the duty to prevent student suicide.

Under the recent case law, whether a “special relationship” exists between a college or university and a student in any given situation depends on several factors:

- “Foreseeability” of the harm.
- Degree of certainty of harm to the individual.
- Burden upon the “defendant” to take reasonable steps to prevent the injury.
- Mutual dependence of plaintiff and defendant upon each other (i.e., financial benefit to the defendant arising from the relationship).
- Moral blameworthiness of defendant’s conduct in failing to act.
- Social policy considerations.

“SPECIAL RELATIONSHIP”: COLLEGE/UNIV. CASELAW

- *Jain v. Iowa*, 617 N.W.2d 293 (Iowa 2000).
- *Schieszler v. Ferrum College, et al.*, 236 F. Supp. 2d 602 (W.D. Va. 2002).
- *Shin, et al. v. Massachusetts Institute of Technology, et al.*, 19 Mass. L. Rptr. 570, (Mass. Super. Ct. 2005).
- *Nguyen v. Massachusetts Institute of Technology*, 96 N.E.3d 128 (2018).

Jain v. Iowa

- Sanjay Jain was a college freshman at the University of Iowa when he began to exhibit suicidal ideations.
- Following his initial attempt to kill himself, members of the university administration were notified that Sanjay had displayed suicidal behaviors.
- Although Sanjay never sought counseling, his hall director consistently encouraged him to speak with someone about his depression.
- He continued to be vocal about his plans to commit suicide and even revealed precisely how he would carry the plans out.
- Sanjay eventually succeeded in his attempt: he poisoned himself with carbon monoxide by running his moped engine in his closed dorm room.

Jain v. Iowa

- The Court held that the University of Iowa had no duty to prevent the suicide of student Sanjay Jain.
- No special relationship existed between the university and a student that gives rise to the affirmative duty to prevent a suicide.
- The act of suicide is considered a deliberate, intentional and intervening act that precludes another's responsibility for the harm.

617 N.W.2d 293 (Iowa 2000).

- Since *Jain v. Iowa*, two cases have led to courts placing greater responsibility on the university and administrators to prevent suicide: *Schieszler v. Ferrum College (2002)* and *Shin v. MIT (2005)*
 - These two court decisions stated that university officials had a special relationship with a student and that the self-harm was **foreseeable**, thereby creating a duty to act or intervene.
 - However, these two decisions are narrowly limited to their particular facts and they were not reviewed on appeal. Both cases settled before any trial.

Schieszler v. Ferrum College (2002)

- Michael Frentzel experienced disciplinary problems during his first semester. He was required to complete anger management classes and then permitted to enroll in the second semester.
- In February 2000, he sent a letter to his girlfriend indicating suicidal intent. She showed the letter to campus police, who visited Frentzel's room, and found him in distress with self-inflicted bruises to the head.
- The campus police reported the incident to the Dean of Student Affairs, who required Frentzel to sign a statement promising that he would not hurt himself.
- Over the next few days, Frentzel sent notes to two friends with cryptic, yet potentially suicidal connotations. The notes were given to the Dean, who took no action.
- Days later, Frentzel was found in his room hanging by his belt.

Schieszler v. Ferrum College (2002)

- In 2002, the Court held that a university owes a duty to protect a student from the danger of self-harm, based on a *special relationship* between the university and the student.

Schieszler v. Ferrum College, et al., 236 F. Supp. 2d 602 (W.D. Va. 2002).

Shin v. MIT (2005)

- When Elizabeth Shin was a nineteen-year-old freshman at MIT she spent a week in the hospital to recover from an intentional overdose.
- When she returned for her sophomore year, she was under the care of numerous campus psychiatrists.
- That spring, Elizabeth confided in her roommates and her dorm supervisor that she intended to kill herself. This information was passed on to MIT deans who met later that same day with campus psychiatrists to discuss the situation. The deans decided to schedule an appointment for Elizabeth at a nearby psychiatric facility.
- That same day Elizabeth set herself on fire in her dorm room resulting in her death.

Shin v. MIT (2005)

- The decision of the Superior Court of Massachusetts adopted the reasoning of *Ferrum College*:
 - Held that educational institutions have a duty to prevent foreseeable student self-harm.
 - Found that a “special relationship” existed between the MIT administrators and Shin, which imposed a duty on administrators to exercise reasonable care to protect her from harm.
- The Court determined that MIT administrators could reasonably foresee that Shin would hurt herself without proper supervision.

Nguyen v. MIT (2018)

- Han Nguyen was a 25-year-old PhD candidate at MIT.
- He obtained mental health treatment from many professionals in the Boston area, none of whom were affiliated with MIT.
- In 2007, after his first year at MIT, Mr. Nguyen sought assistance for “test-taking anxiety.” He was referred to several different student support offices.
- Mr. Nguyen struggled academically at MIT. Two of the defendants, both professors in his program, were concerned and tried to help. He never informed them that he had any intention or plan to commit suicide, nor were they aware of his prior suicide attempts.
- In the summer of 2009, Mr. Nguyen obtained a summer research position. Mr. Nguyen sent the supervising researcher several aggressive email messages. One of the professors called Mr. Nguyen to advise him on his communication skills.
- Shortly after that call ended, Mr. Nguyen went to the roof of the MIT building in which he was working and jumped to his death.

Nguyen v. MIT

- Nguyen’s parents initiated a lawsuit against MIT, alleging that the Court should find a “special relationship” exists between universities and their students, such that non-clinician employees (in this case, his professors) owe a duty to secure students against self-inflicted harm.
- MIT argued that while at MIT he received care from nine mental health professionals, none of whom were affiliated with the university, and none of whom deemed him an “imminent risk” to himself. He refused help from university officials and repeatedly denied suicidal ideation.

Nguyen v. MIT

Superior Court Decision:

- Found that MIT had no duty to prevent Nguyen's suicide and dismissed the case.

Supreme Court Decision, on appeal:

- In May 2018, Massachusetts's highest court affirmed the ruling, finding that MIT could **not** be held responsible for the 2009 suicide of Han Nguyen.
 - “There is no duty to prevent another from committing suicide”.
 - “Not responsible for monitoring and controlling all aspects of their students' lives”.

Nguyen v. MIT

Supreme Court Decision (continued):

- The court noted that, in certain circumstances, there is a *special relationship*, such as one between a university and its student, that may result in a corresponding duty to take reasonable action to prevent suicide.
- Accordingly, when an institution has “actual knowledge of a student’s suicide attempt that occurred while enrolled at the university or recently before matriculation” or “a student’s stated plans or intentions to commit suicide,” the institution has a duty to take *reasonable measures* under the circumstances to protect the student.

Nguyen v. MIT

Question of legal duty of non-clinician employees (e.g., professors) to secure students against self-inflicted harm.

- Supreme Court held that “non-clinicians are also not expected to discern suicidal tendencies where the student has not stated his or her plans or intentions to commit suicide.”

Nguyen v. MIT

What are “reasonable measures” according to *Nguyen v. MIT*?

- Initiating a suicide prevention protocol.
- The institution (including non-clinicians) must contact the appropriate officials at the university empowered to assist the student in obtaining medical care or, if the student refuses such care, to notify the student’s emergency contact.

Nguyen v. Massachusetts Institute of Technology, 96 N.E.3d at 145.

II. WORKPLACE SUICIDE



WORKPLACE SUICIDE: STATISTICS

- ▶ Workplace suicide occurs most frequently among white males, 35 to 44 years old, among wage and salary workers.
- ▶ The US Bureau of Labor Statistics reports that the rise in workplace suicides is consistent with the rise in the overall number of suicides in the United States.
- ▶ In 2016, workplace suicides occurred most commonly through the use a gun. Ready access to guns and other weapons have a big impact on whether suicidal thoughts turn into actions with fatal outcomes.
 - ▶ With Workplace Suicides Rising, Companies Plan for the Unthinkable, WSJ, Jan. 17, 2018; available at <https://www.wsj.com/articles/with-workplace-suicides-rising-companies-plan-for-the-unthinkable-1516205932>.
 - ▶ Suicide rate rising among U.S. workers; Reuters, Nov. 21, 2018, available at <https://www.reuters.com/article/us-health-suicide-occupation/suicide-rate-rising-among-u-s-workers-idUSKCN1NQ2M6>.

Risk Factors / Warning Signs

- Prior suicide attempts.
- Substance or alcohol use/abuse.
- Mental illness.
- Access to lethal drugs, weapons, or other means.
- Sudden unexplained deterioration of work performance or productivity.
- Stigma that discourages employees from asking for help.
- Feelings of isolation due to actual or perceived discrimination related to race, sexual orientation, disability, gender, etc.



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Thank you!

NYPD SUICIDE EPIDEMIC

- An increase in suicides by police officers in the New York Police Department led the commissioner to declare a mental health emergency and highlighted the problem of untreated depression among law enforcement officers nationwide.
- **Risk Factors:**
 - Stressful work environment – psychological toll of police work
 - Access to weapons – All nine officers who killed themselves this year (2019) shot themselves.
 - Stigma - "The essence of the police culture is that you don't ever show weakness."

<https://abcnews.go.com/Health/wireStory/police-departments-confront-epidemic-officer-suicides-64999460>

SUICIDE IN THE WORKPLACE

- The US Bureau of Labor Statistics classifies a workplace suicide as meeting at least one of the following criteria:
 - (1) the death arose at the employee's work premises while he or she was there for work;
 - (2) the employee's death occurred away from the work premises but the employee was engaged in work activity; or
 - (3) the death was related to the employee's work status (e.g., a suicide at home that can be definitively linked back to work).

LIABILITY FOR SUICIDE IN THE WORKPLACE

- Before this century, people were rarely considered legally responsible for the suicide of another.
- There are now several theories for suicide liability in worker's compensation and negligence cases.
- Legal theories of suicide responsibility address questions such as:
 - Did the act or work injury initiate a chain of events that led to the suicide?
 - What type of mental state must the suicidal person be shown to have experienced to relieve them of legal responsibility?

LIABILITY FOR SUICIDE IN THE WORKPLACE

- While an employer might have a duty to exercise reasonable care to assist an employee whom the employer knows is at risk of harm, an employer does not have a duty to take reasonable care to prevent an employee from committing suicide.
 - *See* Rollins v. Wackenhut Servs, Inc., 703 F.3d 122, 128 (D.C. Cir. 2012) (questioning whether employer conducted an adequate background check on employee who died by suicide, but refusing to recognize that a special relationship existed);
 - *See* Olson v. Barrett, No. 6:13-cv-1886-Orl-40KRS, 2015 WL 1277933, at *6 (M.D. Fla. Mar. 20, 2015) (concluding that employer owed no duty to prevent an employee “from later committing suicide” where employer knew of “hateful remarks from co-workers” that allegedly contributed to employee’s vulnerable state of mind).

KEEPING THE WORKPLACE SAFE

- Implement an Employee Assistance Program to provide appropriate support and counseling services.
- Eliminate or reduce stigma so that employees feel safe asking for help.
- Develop an inclusive workplace environment where diversity is welcomed, supported and protected for all employees.
- Offer suicide prevention training.
- Raise awareness of community supports, crisis support lines, mental health agencies, etc.

EMPLOYEE ASSISTANCE PROGRAMS

- An employee benefit program offered by many employers.
- An Employee Assistance Program (EAP) is a voluntary, work-based program that offers free and confidential assessments, short-term counseling, referrals, and follow-up services to employees who have personal and/or work-related problems.
- EAPs address a broad and complex body of issues affecting mental and emotional well-being, such as alcohol and other substance abuse, stress, grief, family problems, and psychological disorders.
- EAP counselors also work in a consultative role with managers and supervisors to address employee and organizational challenges and needs.
- Many EAPs are active in helping organizations prevent and cope with workplace violence, trauma, and other emergency response situations.

DIRECT THREAT TEST

Before taking action...

- The employer's assessment of direct threat must not be based on fears, myths or stereotypes, but on credible and objective evidence.
- The employer must conduct an independent evaluation of the person's ability to safely perform the essential functions of the job.
- The employer should consider whether any reasonable accommodation would reduce or eliminate the risk of harm.

DIRECT THREAT

- The EEOC recommends several factors that the employer must consider in determining whether an individual poses a direct threat:
 - Duration of the risk,
 - Nature and severity of the potential harm;
 - Likelihood that it will occur, and
 - Imminence of the potential harm.



FEDERAL AND STATE LAWS

- While colleges/universities and employers may have a duty to act to protect students/employees or the campus/workplace community, they must carefully consider how to proceed in a manner that does not violate anti-discrimination laws.

APPLICABLE FEDERAL AND STATE LAWS

- Affordable Care Act (ACA/Obamacare)
- HIPAA
- FERPA
- Title II and III of the Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act
- U.S. Department of Education's Office of Civil Rights (OCR)

THE AFFORDABLE CARE ACT

- The ACA and the Mental Health Parity and Addiction Equity Act (MHPEA) requires that most individual and small employer health insurance plans, including all plans offered through the Health Insurance Marketplace, cover mental health and substance use disorder services.
- This expanded mental health and substance use disorder benefits to an estimated **62 million Americans**.

HIPAA

- Health Insurance Portability and Accountability Act.
- Federal privacy law.
- Applies to health care providers, health insurers, and clearinghouses that manage and store health data, and their business associates.
- HIPAA Privacy Rule addresses the use and disclosure of individuals Protected Health Information (“PHI”).
 - Goal is to protect individuals’ health information while also allowing for provision of high quality health care.

HIPAA

- In situations where the patient is given the opportunity and does not object, HIPAA allows the provider to share or discuss the patient's mental health information with family members or other persons involved in the patient's care or payment for care
 - i.e., family meeting at a hospital to discuss discharge planning

HIPAA

- Disclosure or communications to appropriate persons or entities may be permitted or required under certain circumstances.
 - Pursuant to Court Order, Subpoena, Warrant, Summons, etc.
 - Abuse, neglect or domestic violence (pursuant to state laws).
 - Serious threat to health or safety.
 - Disclose PHI if necessary to prevent or lessen a serious and imminent threat to a person or the public (i.e., disclosure to law enforcement).

FERPA

- Family Educational Rights and Privacy Act of 1974.
- Federal privacy law.
- Applies to education records.
- Does not apply to medical records used only for treatment.
- Gives parents certain rights with respect to their children's education records.
- These rights transfer to the student when he/she reaches the age of 18 or attends school beyond the high school level.
 - Rights of disclosure, inspection and consent.

FERPA

- FERPA affords parents the right to:
 - Have access to their children's education records,
 - Seek to have the records amended, and
 - Consent to the disclosure of personally identifiable information from education records, except as provided by law.
- Two important categories of FERPA exceptions:
 - Disclosures to parents
 - Emergency situations

FERPA

Disclosure to Parents:

- FERPA permits disclosure of education record information to the parents of a post-secondary student if:
 - Student is their dependent for federal tax return purposes, OR
 - Student is under age 21 and has violated an institutional rule or policy governing the use or possession of alcohol or a controlled substance.

FERPA

Emergency Exception

- If knowledge of the information is necessary to protect the health and safety of the student or other individual.
- FERPA's emergency exception is discretionary
 - Permits notification but does **NOT** impose a duty of notification.

ADA AND REHABILITATION ACT

Both the ADA and Section 504 of the Rehabilitation Act prohibit discrimination based on disability and provide a framework for decision making in complex cases.

ADA AND REHABILITATION ACT

Both the ADA and Section 504 apply to a suicidal student:

- The ADA entitles students who are otherwise qualified to participate in the programs and activities of college to reasonable accommodations once they seek qualification with the campus disability services office.
- Section 504 of the Rehabilitation Act provides recourse to students who are discriminated against based on a recognized disability.
- Once suicidality is clear to college officials, our obligations under these laws come into effect. We must explore reasonable accommodations and provide support.

ADA AND THE WORKPLACE

- Employers should be vigilant in monitoring their employees, but they must be careful not to discriminate against a mentally ill individual and violate the ADA.
- For example, taking action against an employee based only on the presumption of mental or emotional instability or failing to accommodate a mental illness can subject an employer to liability under the Act.

OFFICE FOR CIVIL RIGHTS (OCR)

- The U.S. Department of Education's Office for Civil Rights (OCR) is a federal agency charged with enforcing Title II of the ADA and Section 504 on college campuses.
- For many years, it was well settled, based on guidance from the OCR that institutions could involuntarily withdraw a disabled student who posed a "direct threat" to him or herself or to others without violating the ADA or Section 504.
- In 2011, the US Department of Justice enacted a new regulation that removes the "threat to self" language, leaving higher education administrators and attorneys to question institutional policies as they relate to students reasonably believed to pose a risk to their own health or safety.

RISK MANAGEMENT

- Behavioral Intervention Teams.
- Suicide Prevention Programs.
- Mental Health Screening Tools.
- Next-of-Kin Notification.
- Referral to Law Enforcement.

BEHAVIORAL INTERVENTION TEAMS

- A BIT is a multi-disciplinary group whose purpose is to meet regularly to support its target audience (students/employees) via an established protocol.
- The team receives reports of disruptive, problematic or concerning behavior or misconduct (from co-workers, fellow students, friends, etc.), conducts an investigation, performs a threat assessment, and determines the best mechanisms for support, intervention, warning/notification and response.
- The team then deploys its resources and coordinates follow up.

BEHAVIORAL INTERVENTION TEAMS

- Receive reports of troubling behavior.
- Facilitate timely communication about behavioral concerns.
 - On college campus – communication between departments, faculty and administration, etc.
 - In workplace – communication between HR, supervisors, staff.
- Gather information from team members and other available resources.
- Evaluate the facts to determine whether individual poses a risk of harm or needs additional assistance.
- Recommend an intervention or strategy to connect the individual to resources and de-escalate any threat.

BEHAVIORAL INTERVENTION TEAMS

- Instead of focusing on assessing a threat that already exists, BITs can focus on preventing the threat and/or crisis before it occurs.
- Focus on a preventive approach to incorporate the employee, workplace community, and family (when appropriate) to support the individual.
- Teams can intervene with specialized knowledge to identify the earliest signs of potential crisis rather than waiting for clear signs of an impending threat and reacting.

BEHAVIORAL INTERVENTION TEAMS

Sample BIT Discussions:

- What is the behavior?
- Where is the behavior occurring?
- How does the behavior affect the community?
- Is the individual in imminent risk of harm?
- Are there any past documented incidents?
- What we know of the individual's job/class performance or mental health history?
- Is there a documented disability?
- What are the legal/ethical issues?
- What systems need to be involved to find out more information and/or respond?

BITS AND DOCUMENTATION

- Concerns about potential liability, FERPA, and record management prevent some teams from documenting their practices, protocols, responses, etc.
- A written record can improve a team's overall functioning and reduce its potential liability exposure.
- Documentation can allow a BIT to monitor/track which intervention strategies are successful.
- Records that are kept consistently and according to a thoughtful system can minimize exposure. Documentation can help the BIT show that it acted reasonably.
- Everyone must understand how to make a report to the BIT.

TRAINING

- Training is valuable to reduce all types of campus/workplace violence or mental health crises, yet there are no standards for training.
- Training for faculty, housing staff and administrators on a college campus is essential. Train HR staff, supervisors, and/or managers to identify at-risk individuals and follow protocols for appropriate responses/interventions.
- Training should include: identifying “red flag” behaviors and risk factors that cause or contribute to violence; understanding the importance of developing rapport and therapeutic alliances; and designing crisis intervention plans.

SUICIDE PREVENTION PROGRAMS

- Leadership to promote mental health and suicide prevention.
- Screening (identify at-risk individuals (students/employees); provide information about MH services (on campus/at work); follow-up with individuals in programs or treatment).
- Crisis management (establish policies and programs to respond to suicide attempts and at-risk behavior).
- Educational programs (train faculty and students, supervisors and employees- see previous slide).
- Life skills development (teach mental health screening tools to recognize and manage triggers or stressors).
- Social Media (reduce isolation and promote feeling of belonging, reduce stigma, encourage help-seeking).

MENTAL HEALTH SCREENING TOOLS

- Help employees self-assess for levels of depression, anxiety, substance abuse, etc.
- Detection and early prevention of common mental health concerns.
- When mental health conditions like these are identified early, they can be treated and prevented from escalating into debilitating and life-threatening problems.
- On the other hand, untreated mental illnesses like depression are often the primary drivers of suicide risk.

NEXT-OF-KIN NOTIFICATION



Benefits of Family Involvement:

- Ability to offer valuable support to student/employee and provide mental health history to BIT/treatment team.

Risks of Communicating with Family:

- Family may be unsupportive or in denial about mental health issues.
- Student/Employee may feel betrayed by school/employer who disclosed information to family.
- Staff have to be careful not to violate FERPA, HIPAA and/or state confidentiality laws.

LEGAL LIABILITY CONCERNS

- Pick your liability!
 - Breach of FERPA/HIPAA vs. wrongful death.
- Consider benefits vs. risks of next-of-kin notification, action vs. inaction.
- Use your judgment and experience.
 - Consult with colleagues when appropriate; use hypothetical or alias.
 - Documentation is critical and the best defense in a legal challenge.

THANK YOU!

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