Psychiatrist Shoots Patient

written by Richard Leslie | May 24, 2016

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In a recent issue of the Avoiding Liability Bulletin (March 2014), I asked whether it was ever permissible for a mental health practitioner to be physical or violent with a patient, such as pushing, slapping, or striking the patient. My answer was an unequivocal "yes." I wrote that violence sometimes rears its ugly head in a variety of circumstances, sometimes unexpectedly or unpredictably, and that mental health practitioners have a right to protect themselves. I proposed the unlikely circumstance of an angry patient attempting to stab his therapist, and the therapist's right to punch or otherwise strike the patient – or more. A recent news story (July 24, 2014) from Pennsylvania, where a psychiatrist shot a violent/threatening patient in an exchange of gunfire in the psychiatrist's office, illustrates well that violence against a patient is not just a theoretical question.

I was interested to read in the Associated Press story that the health system involved disclosed that the teaching hospital where the violence occurred had a policy barring anyone except on-duty law enforcement officers from carrying weapons on its campus. While this seems like a side issue, the story made me think of some questions/scenarios. For example, did the psychiatrist request or obtain special permission to carry the gun he used because of his general or specific fear of violence? If he did not have permission to carry the gun on campus, would the health system, the employer, the police, or the medical board choose to take action against him? A local police chief commented that the psychiatrist's possession of the gun saved lives. If some kind of action were taken, I would think that under the circumstances the punishment would be minimal.

I have previously written about the situation where a therapist decides to take possession of a patient's gun, with the consent of the patient, after "talking the patient down" from his or her threat to commit imminent and serious violence against a third party. The therapist in such a situation may have instinctively opted to take possession of the gun in order to prevent the imminent violence, and may not have thought about the pros and cons of such a decision, nor had the time to do so. One of the dilemmas resulting from such a decision occurs when some time later the patient asks for return of the gun. If the therapist agrees to return the gun, serious concerns arise regarding use of the gun by the patient and the ensuing liability of the therapist. If the therapist refuses to return the gun, which is usually the case, what does that do to the treatment relationship and will the decision anger the patient? What if possession of the gun was in violation of the employer's policy and in violation of state laws, despite the fact that the therapist acted instinctively and in good faith to protect the patient and others? What is (or should be) the liability of the practitioner?