

COLLABORATIONS and ASSOCIATED RISKS: CITIES, COUNTIES AND MHDDDS IN HARMONY

Collaboration: (*noun*) process of two or more people or organizations working together and sharing resources such as finances, knowledge, and people to complete a task or achieve a mutual goal.

PRESENTERS' OBJECTIVES FOR PARTICIPANTS

Ross Robinson

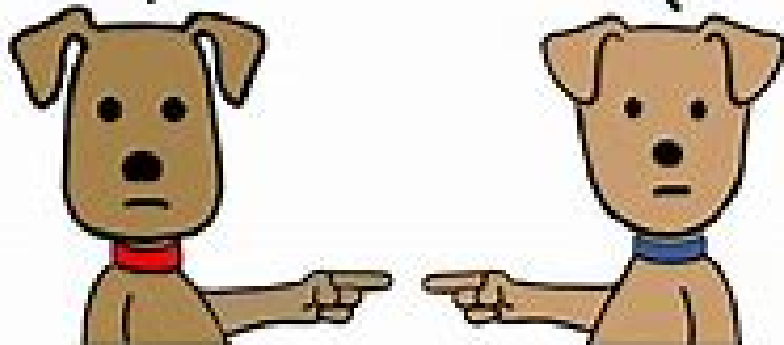
1. How collaborations save money
2. Understand how a systemic response to a mental health crisis can and does resemble responses to other types of crises
3. Gain insight into the benefits of collaboration and the **Asset-Based Community Development Model** to prevent and respond to mental health crises
4. Learn of successful examples of collaboration in Texas
5. Understand **SB 633** what to tell your representatives and senators
6. Have strategies on how to address reluctance to change

Sheree Hess

1. Understand the potential risks of collaboration and how to avoid/reduce failure
2. What to be aware of when entering collaborative agreements (**MOUs/Contracts**)
3. Insuring against risk
4. Preparing for possible negative publicity
5. Developing effective written agreements
6. Collaborations with law enforcement and the courts: **HIPAA** and sharing of information
7. Subpoenas, court orders, and provision of records

HISTORY: WHY ARE WE HERE?

Don't look at me, it's his responsibility.



Brownman

- Historically, persons with serious mental illness issues have challenged and taxed local resources
- Closure of state facilities and reduction of inpatient beds placed increased responsibility on local communities
- Jails and emergency rooms have become *de facto* psychiatric facilities
- Risks a “your person/patient” viewpoint



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RESPONDING TO CHILD ABUSE

SERIOUS PROBLEM WITH SYSTEMIC RESPONSE

A MENTAL HEALTH CRISIS IS A MEDICAL CRISIS!



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Emergency
Response



WHAT ARE THE BENEFITS OF CITY, COUNTY, AND AGENCY COLLABORATION?

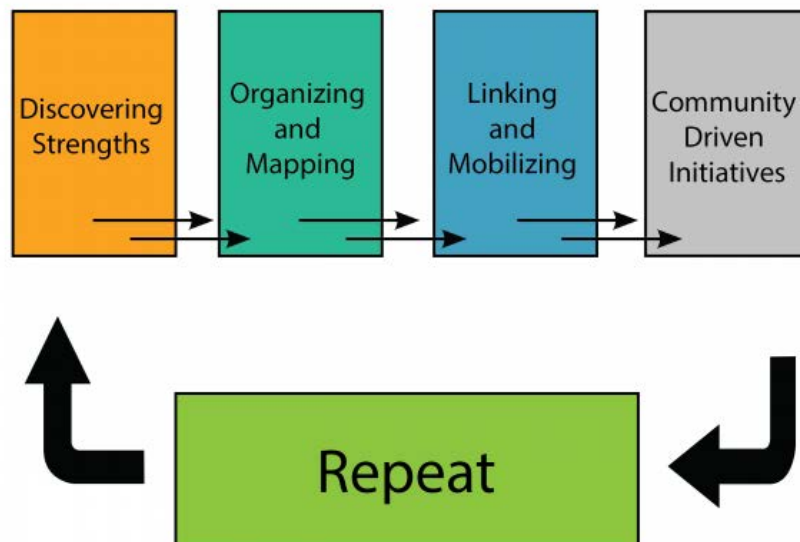
- Achieve greater leverage among stakeholders
- Address complex issues that require coordinating multiple stakeholders
- Provide an integrated continuum of services to meet beneficiaries' needs
- Strengthen or expand program or service quality and performance
- Achieve greater economies of program scale
- Enter new geographies, provide new services, or reach new beneficiaries

ASSET-BASED COMMUNITY DEVELOPMENT*

*CENTER FOR LEADERSHIP & COMMUNITY ENGAGEMENT

MODEL

Center for Leadership and Community Engagement's
Asset-Based Community Development



PROCESS

- **Assessing Assets:** What resources, skills, capabilities, and experiences are available for community improvement?
- **Strengths Focus:** Which core strengths can be brought into community activities: **Empower what exists!!!**
- **Create:** How do we create new combinations, new structures, new sources of income, and new possibilities for the community?



POTENTIAL RISK AREAS

- Ultimate Risk -- Failure!
- Memorializing Agreement -- Pre-MOU/ILA/Contract Considerations
- Different Risks to Types of Participating Entities
- Insuring Against Risks
- Publicity

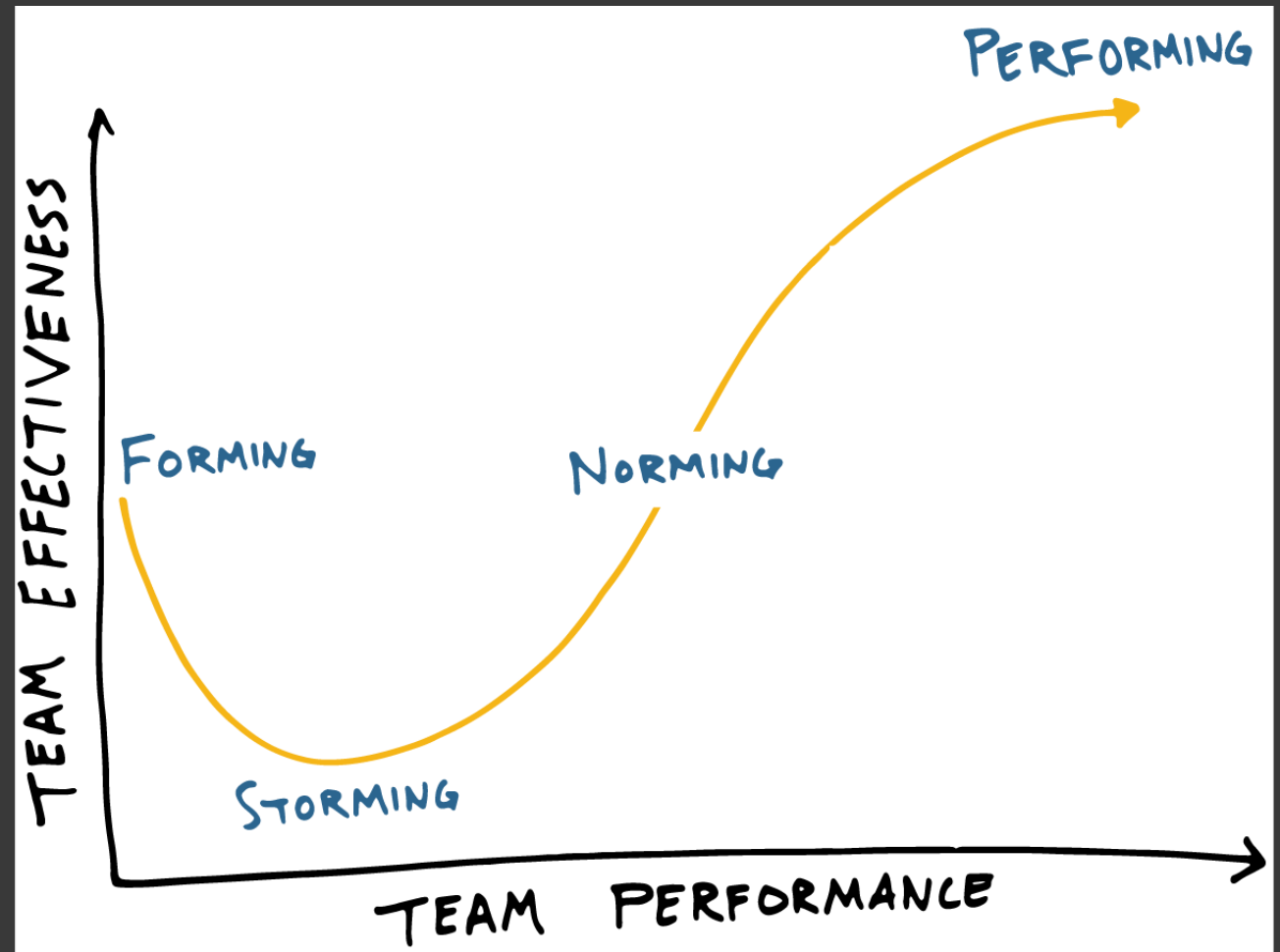
ULTIMATE RISK -- FAILURE

- Forgetting the focus of the collaboration - an individual experiencing a psychiatric medical crisis.
- Stakeholders “missing” from or wrong stakeholders at the table
- Not utilizing your combined resources – your experts
- Time and financial commitment greater than expected
- No common challenge or common goal
- Differing perspectives of challenge and solution
- Inflexibility/Closed-Minded/Egos
- No common mission/values
- “The enemy of ‘good’ is ‘perfect.’”
- Inexperienced Facilitator – critical for movement forward



“We like to bring together people from radically different fields and wait for the friction to produce heat, light and magic. Sometimes it takes a while.”

FORMING *
STORMING *
NORMING*
...
PERFORMING!!



PRE – COLLABORATIVE AGREEMENT

Clearly delineated the new process?

Considered Operational Issues: Location, Facility, Staffing, Procedures, Responsibilities Determined/Articulated??

Collaborating entities share same mission/vision/values?

Enough money in new process/venture to cover cost of operating?

Identified risks?

SAFETY

LIABILITIES

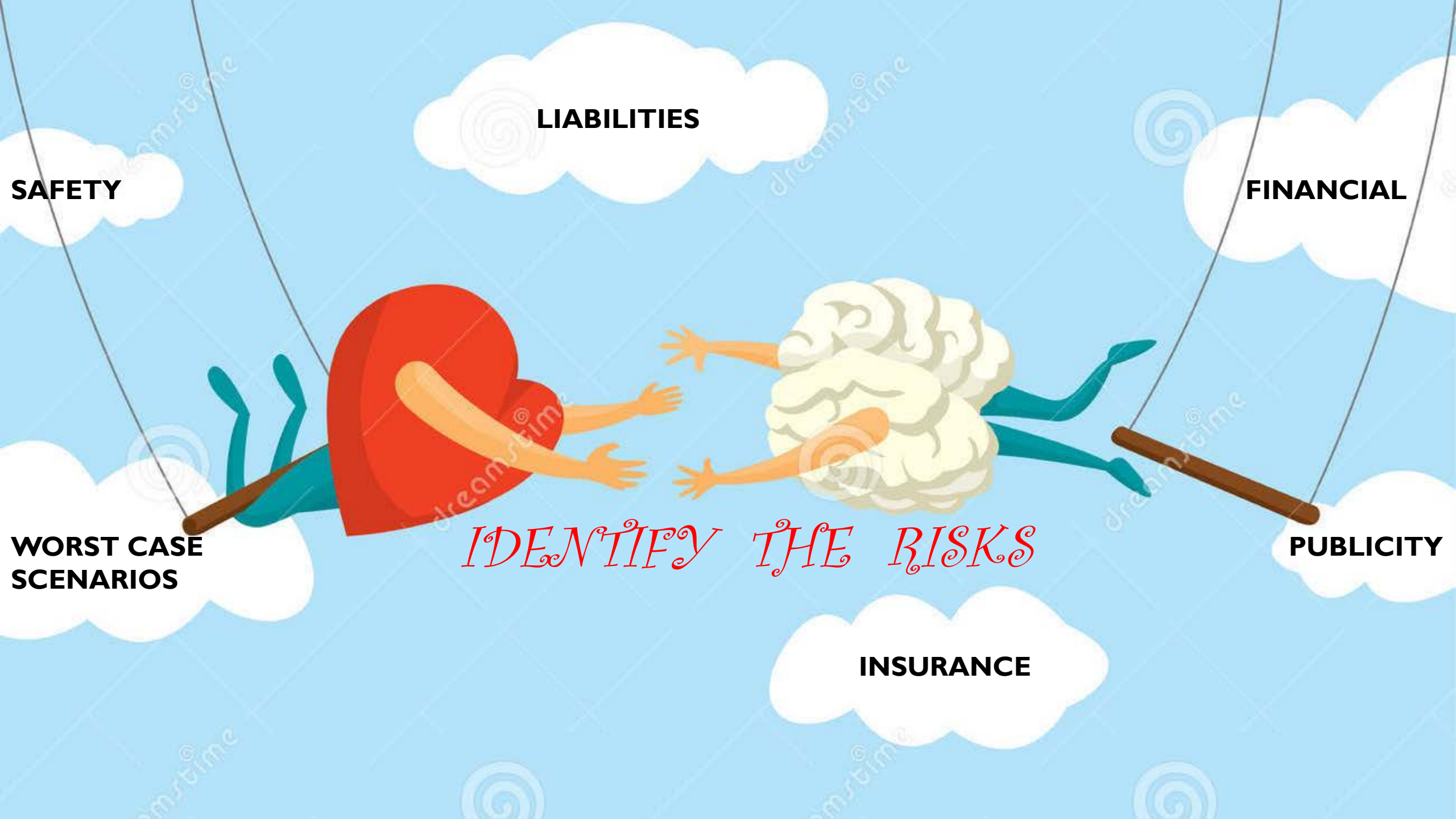
FINANCIAL

**WORST CASE
SCENARIOS**

PUBLICITY

IDENTIFY THE RISKS

INSURANCE



INSURING AGAINST RISKS



- Who carries the insurance? Needs to be in contract
- Employee/independent contractor status within the collaborative
- Liability may be different between collaborative partners
- Public entity * Private * Non-Profit
 - Public entity – sovereign immunity & Tort Claims Act
 - Private/Non-profit no limit to liability
 - Does this drag the public entity into more exposure?

INSURANCE ISSUES

- **NON-PROFIT / PRIVATE ENTITIES SHOULD CARRY**

- GL \$1M occurrence \$2M aggregate
- Auto \$1M combined single limit
- Umbrella \$1M
- Property coverage for owned contents
- Directors' & Officers'
- WC \$500,000

- **JOINT VENTURE EXCLUSION**

- **WATCH FOR EXCLUSION IN YOUR OWN POLICY !**

- **EVERYBODY SHOULD CARRY:**

- **Jointly owned property**
- **Automobiles**
- **Errors & Omissions**
- **Leased Premises**
- **“Additional Insured”**
- **Waiver of Subrogation**

PUBLICITY RISKS

WHO GETS THE BAD
PRESS?

**HAVE A PUBLICITY RISK
STRATEGY**

**SPOKESPERSON -- NO ONE
ELSE**

OPEN RECORDS CAUTION!



MEMORANDUM OF UNDERSTANDING (MOU)

- A written document evidencing the understanding or agreement of two or more parties regarding the subject matter of the agreement. **Because the underlying agreement may or may not be legally binding and enforceable in and of itself, a memorandum of understanding may or may not constitute a contract.** It is generally considered a **less formal** way of evidencing an agreement and is ordinarily used in state government only between or among state agencies or other government entities. The term is used interchangeably with "memorandum of agreement."

/ Texas Administrative Code Chapter D Section 392.303(14)

-
- a) A **local government** may contract or agree with **another local government** . . . to perform governmental functions and services
 - b) An interlocal contract must:
 - a) Be authorized by the governing bodies of each entity (unless municipally owned electric company)
 - b) State the purpose, terms, rights, and duties of the contracting parties**
 - c) Specify that each party paying for performance of the governmental function or services may pay from current revenues available to them
 - d) Fairly compensate the performing party



INTERLOCAL COOPERATION CONTRACTS

(GOVERNMENT CODE 791.001 ET. SEQ.)

EFFECTIVE WRITTEN AGREEMENT

Memorandum of
understanding
(MOU)

Between public entity and
either non-profit or private
no exchange of \$\$ involved

Inter-local agreement
(ILA)
\$\$

Contractual agreement
between governmental entities

Contract
\$\$

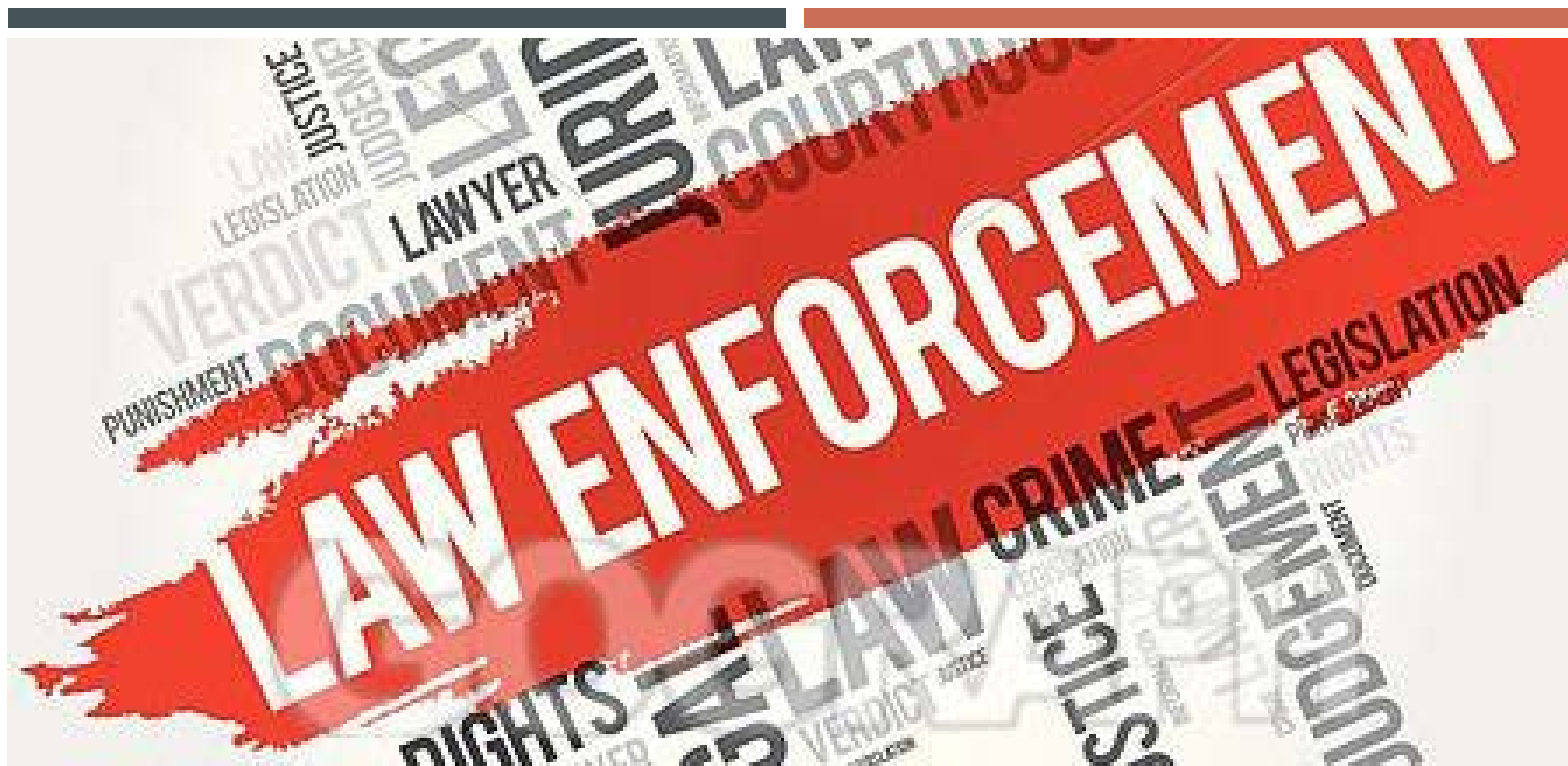
Between any entities if
involves money



NONE OF THESE
TRUMP HIPAA !!

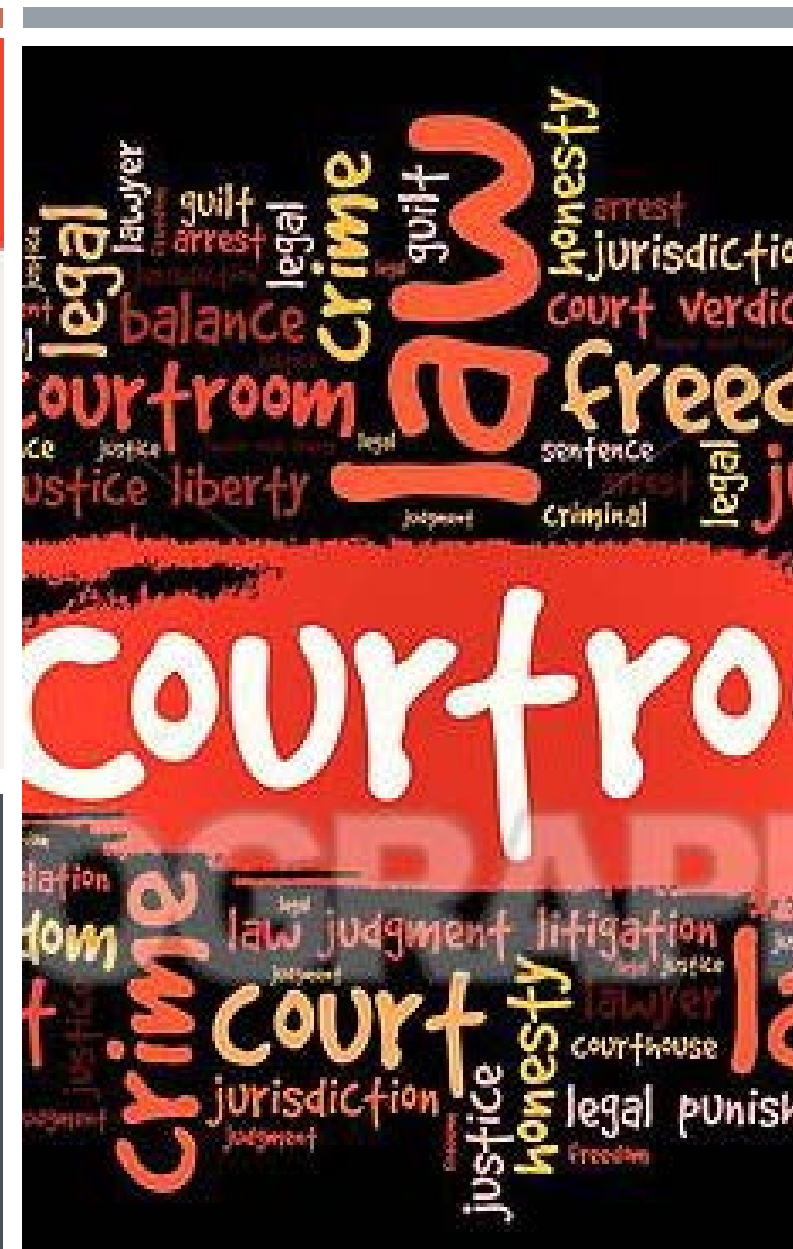
NEED CLIENT'S
CONSENT



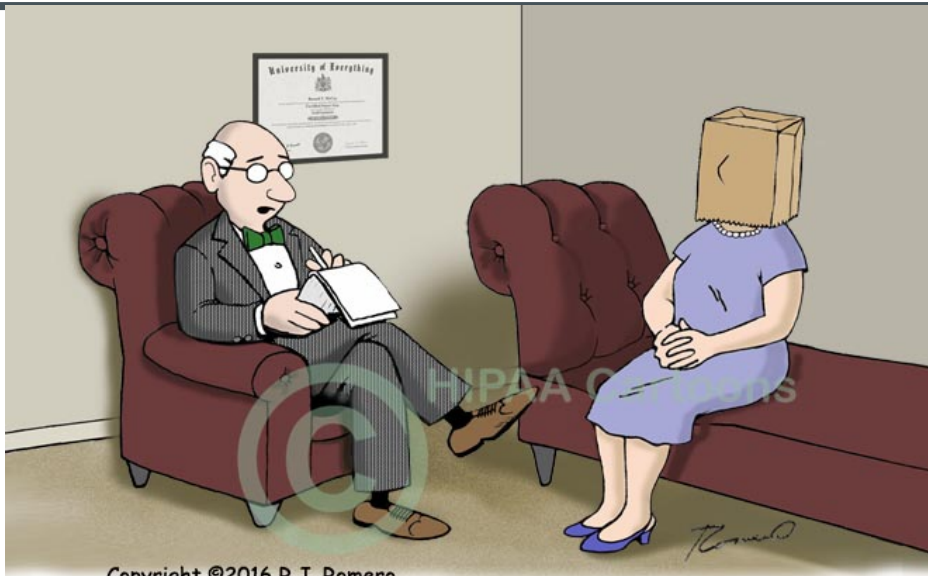


OTHER COLLABORATIONS

STATE & FEDERAL PRIVACY LAWS



SHARING INFORMATION WITH LAW ENFORCEMENT AND THE COURTS



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"There's no need to be paranoid about your privacy Mrs. Smith. Mental health services are protected under HIPAA."

- **State and Federal Privacy Laws**
- **Texas Health and Safety Code 611**
- **HIPAA**
 - **45 CFR 164**

DISCLOSURES TO LAW ENFORCEMENT

STATE LAW
HSC 611.004

FEDERAL LAW
HIPAA
45 CFR 164.512

A professional **IS REQUIRED** to disclose confidential information if the disclosure is required or authorized by law (e.g., imminent harm, correctional facility, subpoena, court order).

A professional **IS PERMITTED** to disclose confidential information in other circumstances.

DISCLOSURES TO LAW ENFORCEMENT...

- Court order or court-ordered summons, subpoena (including grand jury!)--Required
- Imminent **physical** or emotional harm to patient or others --**Required**
- Correctional facility continuity of care-**Require**
- For purposes of identifying or locating suspect, fugitive, material witness, missing person-**May**
 - Limited to name, address, SSN, date and place of birth, ABO blood type and rh factor, type of injury, date and time of treatment, date and time of death, a description of distinguishing physical characteristics
- Suspected perpetrator of a crime when victim is employee of covered entity--**May**

DISCLOSURES TO LAW ENFORCEMENT...

- Respond to request for PHI about victim of crime with victim's agreement AND law enforcement agrees info not used against victim
- Admission to violent crime IF admission not made in course of treatment related to propensity to commit this type of violent act
- Most frequent: Administrative subpoena or investigation demand or other written request from LEO

NOTE: Administrative requests may be made without judicial involvement, so they must include a statement that *“the information requested is relevant and material, specific and limited in scope and de-identified information cannot be used.”*

DISCLOSURES TO LAW ENFORCEMENT...

- Except when required by law, disclosures are **permissive**, and limited to the “minimum necessary” determined by the covered entity (may rely upon law enforcement as with administrative subpoena or request)

SUBPOENAS VS. COURT ORDERS

SHARING MENTAL HEALTH VS SUBSTANCE USE RECORDS

Mental Health

- HIPAA –compliant authorization from individual
 - Must specify which records to be released (i.e. “*mental health records*”)
- Subpoena
- Administrative Request from Law Enforcement
- Court Order + Protective Order

Substance Use

- HIPAA –compliant authorization from individual
 - Must specify which records to be released (i.e. “*mental health records*”, “*substance use*,” etc.)
- Court Order + Protective Order

Sample Court Order and Protective Order

Accomplishing together more
than individually we can
possibly do!

COLLABORATION



SUPPORT



TEAMWORK



COMMUNICATION



TRUST



MOTIVATION



INSPIRATION



SUCCESS

EXAMPLES OF EFFECTIVE COLLABORATIONS

- **COMMUNITY MENTAL HEALTH GRANT, COMAL COUNTY (HB 13, 85th Leg. Session)**
- **PRODUCT OF A COUNTY-WIDE TASK FORCE OF 29 AGENCIES INCLUDING CITY AND COUNTY OFFICIALS**
- **BEGINNING IN 2014, THE TASK FORCE DEVELOPED A COMMUNITY VISION FOR THE MENTAL HEALTH NEEDS OF COMAL COUNTY**
- **RESULTED IN A SUCCESSFUL GRANT APPLICATION THAT ESTABLISHED A MENTAL HEALTH CLINIC IN RURAL COMAL COUNTY (CANYON LAKE AND SPRING BRANCH/BULVERDE COMMUNITIES)**

A MENTAL HEALTH CLINIC WITH A FULL ARRAY OF SERVICES CO-LOCATED IN CANYON LAKE AND SPRING BRANCH/BULVERDE

Canyon Lake Presbyterian Church



Bulverde/Spring Branch Fire & EMS Services



ABILENE, TEXAS BEHAVIORAL ADVISORY TEAM

- **TASK FORCE COMPRISED OF ABILENE FIRE AND POLICE DEPARTMENT, TAYLOR COUNTY SHERIFF'S DEPARTMENT, AND BETTY HARDWICK CENTER (MHDD)**
- **SUCCESSFULLY LINKED 911 SYSTEM WITH MENTAL HEALTH 24/7 CRISIS HOTLINE**
- **FORMED A CRISIS RESPONSE (MULTI-DISCIPLINARY) TEAM COMPRISED OF A MENTAL HEALTH CRISIS WORKER, MENTAL HEALTH PEACE OFFICER, AND PARAMEDIC THAT WORKS FOUR 10-HOUR SHIFTS DURING PEAK MENTAL HEALTH CRISIS HOURS**
- **EMBEDDED A MENTAL HEALTH "JAIL NAVIGATOR" IN TAYLOR COUNTY JAIL TO ASSIST WITH SUCCESSFUL DISPOSITION OF INCARCERATED PERSONS WITH MENTAL ILLNESS DIAGNOSES**
- **RECENTLY SECURED A FEDERAL GRANT TO IMPLEMENT A SECOND CRISIS RESPONSE TEAM**

SB 633: “ALL TEXAS ACCESS” (2019) SEN LOIS KOLKHORST 86TH LEGISLATURE

- Recognizes rural Local Mental Health Authorities (LMHAs) and Regional Partners as the most skillful to collaboratively decide the best approach to meet their population’s mental health needs
- LMHAs are considered rural if they serve a county of 250,000 or less—Purpose is to reduce:
 1. Cost to local govts. of providing services to persons experiencing a mental health crisis
 2. Transportation of people served by an authority in the local mental health group to mental health facilities
 3. Incarceration of people with mental illness in county jails in an area served by an authority in the local mental health authority group
 4. Number of hospital emergency room visits by people with mental illness at hospitals in an area served by an authority in the local mental health group
- Regional groups have been defined as the LMHAs that operate within the catchment areas of the HHSC state hospitals located throughout the state

- If increasing capacity of regional group LMHAs to provide access to needed services would offset cost to state or local government of:
 1. Transportation to mental health facilities that are not local
 2. Inpatient hospitalizations
 3. Emergency room services to people with mental illness
 4. Incarceration in county jails of people with mental illness
- If available state funds or grants could be used to fund each regional group's plan
- How each regional group plan aligns with the Statewide Behavioral Health Strategic Plan (www.hhs.texas.gov/services/mental-health-substance-use)

SB 633 REGIONAL GROUPS ALSO WILL ASSESS:

EXAMPLE OF REGIONAL PLAN DRAFT PROPOSALS

SAN ANTONIO STATE HOSPITAL REGION



Expand navigation services for quicker access to psychiatric beds



Increase broadband capacity in rural areas to allow for greater tele-psychiatry and crisis screening access



Provide tele-psychiatry capabilities in jails for all counties of 100,000 or less population



Provide funding for rural counties to hire mental health deputies



Fund 30-45 bed "regional hub" facilities to expand access to psychiatric inpatient beds



Expand community crisis stabilization services



Develop community mental health options for children and adolescents



**CONTACT YOUR
ELECTED
OFFICIALS TO
SUPPORT:**

- **Senate Bill 633
Recommendations (including
reduction/elimination of match
requirements for counties of less
than 100,000)**
- **HHSC Legislative Appropriations
for Expansion of Mental Health
and IDD Services**
- **Funding of Jail Telepsychiatry
Services for counties of less than
100,000**

COMPONENTS OF SUCCESSFUL COLLABORATIONS (WHAT INFLUENCES CHANGE)

Developing & Maintaining Partnerships

- Start Where You're At
- Build Trust & Address Stigma
- Cross Refer—Allow Others to be Expert
- Join Additional Task Forces
- Reassess With Change & Growth

Shared Mission

- Shared Understanding
- Feeling of Connection & Belonging
- Proactive—Schools, Churches, Resource Centers, MH Center, Law Enforcement, County Officials

Financial Motivation

- Sharing Resources is Cost Effective
- Funders Encourage Partnerships
- Partners Share Search for Funding sources

FEAR OF CHANGE!

*"Don't fear failure.
Fear being in the
EXACT SAME PLACE
next year as you are
today."*

- **7 STEPS (Lucia Giovanni, WSJ 12/1/2016)**
- **Life is Change and Change Means Life**
- **Accept the Situation, but Don't Resign Yourself to It!!**
- **See Failure as Something Positive**
- **Celebrate Every Little Success**
- **Be Responsible**
- **Be Patient**
- **Step Outside Your Comfort Zone!!!**



“AT LEAST I TRIED”

TIME FOR QUESTIONS (AND WE WISH YOU THE BEST!!!)

