

Legal, Legislative  
Updates in Psychiatry  
Saturday MARCH 23, 2019



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# Agenda This Morning

## Legal Developments

- ❑ Wit et. al. v. United Health Care
- ❑ Rosen v. Regents

## Legislative Developments

- ❑ Legislation of note
- ❑ CPA legislative agenda 2019

# Wit et al v United Health



# Landmark Case - United Behavioral



## Healthcare Class Action Lawsuit

coverage in CA

- ❑ Used flawed medical necessity criteria
- ❑ Failed to use generally accepted standards of care
- ❑ Adopted restrictive criteria for internal use
- ❑ Systematically denied outpt, intensive outpt, and residential treatment
- ❑ Internal guidelines favored limited acute care
- ❑ Disregarded evidence that chronic



# Parity

## Court found that United

- ❑ Flouted Mental Health Parity and Addiction Equity Act of 2008
- ❑ Circumvented in favor of financial considerations
- ❑ Detailed ruling over 100 pages

## But,

- ❑ Only applies to ERISA insured
- ❑ Non-ERISA insureds must seek remedies from state and federal regulators

# Rosen v Regents





# Plaintiff

## Basic facts

- ❑ Psychotherapist seeing a patient at UCLA
- ❑ Pt assessed potential violence risk by campus security
- ❑ Patient assaulted another student
- ❑ That victim sued psychotherapist

## Tarasoff invoked by plaintiff/victim

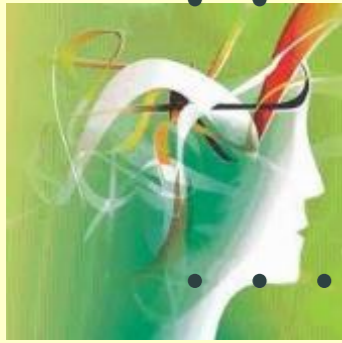
- ❑ Therapist knew/should have known pt was dangerous
- ❑ Therefore had a duty to call police





# Defendant/Student

- Complained of derogatory remarks from other students
- Alleged unwelcome sexual advances, spreading rumors, teasing
- If something isn't done the situation would "escalate"
- Moved to a new dorm
- Complaints continued, new semester
- Claimed voices called him "idiot", heard clicking of guns
- Detained, admitted, evaluated, Dx SCZ
- Threw away medications
- Complained to chem lab professor, messing with his experiments
- Crisis response team, Dean met to discuss how to handle
- Next day stabbed lab mate in chest and neck with kitchen knife



# Alleged negligent failure

... to protect, warn or control  
attacker on the part of the  
university, dean, chem professor, the  
psychologist.

CPA Amicus Brief on Civil Code section

43.92 (Tarasoff) successfully argued  
immunity for psychotherapist because

- a serious threat of violence must be  
communicated
- against an identifiable victim

→ No facts to support that a

communication had taken place



## Appellate Court (Ruling CA Supreme Ct affirming)

- Ruled psychologist was exempt from liability
- However, the University was not found exempt

“Universities have a duty to protect when harm from a particular student is reasonably foreseeable in a curricular setting.”

# CPA 2019 Leg Agenda





# CA 2019 Legislation

- Mental Health parity legislation, AB 11 (Beall)
- Loan forgiveness expansion, AB 565 (Maienschein)
- Online bed registry, AB 682 (Eggman)
- SUD Youth Continuum of Care, AB 1031 (Nazarian)
- Grave Disability, SB 596 (Stern)
- Continuing CA budget funding for TNT PCP Scholarships
- Early psychosis intervention incentives, state budget
- Increase GME funding for psychiatric

# Other Legislation to Note





# Other Legislation to Note

- Secure scrips “fix” AB 149 (Cooper)
- Naloxone mandate “fix” AB 714 (Wood)
- Relief for preauthorization/administrative burdens AB 1268 (Rodriguez)

# Resources







# Online Links

- ❑ [www.calpsych.org](http://www.calpsych.org)
- ❑ [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov)  
bills, statutes, subscribe to bills



# Become a Key Contact

- Key Contacts agree to help elected officials understand a legislative issue requiring psychiatric expertise.
- CPA sends out requests to it's KC email list
- KCs send an email or make a phone call to their elected official related to a particular piece of legislation.
- CPA provides background and talking points making it easy to state the case for or against legislation.
- For more information and to sign up see:

[www.calpsych.org/advocacy](http://www.calpsych.org/advocacy)



# Support CPPAC

- The California Psychiatric Political Action Committee is separate from the CPA .
- CPPAC helps elect or support qualified legislators who understand and are supportive of issues that are important to psychiatrists.
- It is important that CPA have friends in the legislature, this is one way you can help to do that.
- For more information or to donate online, see

<http://www.calpsych.org/cppac-fund>



# Advocacy and Litigation

- The CPA A&L Fund provides additional financial resources to the CPA in times of extraordinary need so that the CPA can advocate successfully on extraordinary subjects.
- For example the A&L provides funding for the filing of amicus briefs in court cases where the protection of psychiatric records is at issue.
- The A&L also, for example, provides extra resources for a more powerful campaign against the expansion of the scope of practice of psychologists into the practice of medicine.
- For more information, or to donate online, see

<http://www.calpsych.org/advocacy-fund>



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