

BOOK REVIEW

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A Review of Clinical Psychiatry and the Law

REFERENCE: Robert I. Simon, M.D., *Clinical Psychiatry and the Law*, American Psychiatric Press, Inc., Washington, D.C., 1992, 736 pp.

Many mental health practitioners are frightened by the confusing and restrictive legal requirements imposed upon their practices. This book is for them. The purpose of this book is to guide the mental health clinician in conducting his practice according to the requirements of the legal system without fear. While other books scare clinicians away from practice, and promote defensive modes of practice, this book seeks to provide familiarity with the legal requirements in order to diminish fears and defensive practices.

Dr. Simon promotes understanding instead of fear with regard to all of the topics that a psychiatrist or other mental health professional will incur in this everyday practice. The topics include the psychiatrist-patient relationship, confidentiality, right to refuse treatment, informed consent, and involuntary hospitalization. A section on somatic therapies includes discussion of medications, tardive dyskinesia, and electroconvulsive therapy (ECT). Another section discusses violent patients, duty to warn, seclusion, and restraint. A section on negligent treatment discusses sexual and other misconduct on the part of a therapist. The last section discusses malpractice and litigation. This book explains the nuts and bolts of legal issues in everyday practice. For example, the steps to take upon receiving a subpoena, and the steps that occur in malpractice litigation, are clearly delineated.

The way this text is arranged makes it easy to read and understand. Each chapter begins with a case vignette. The chapter then consists of questions raised by the case, and the answers. Some questions, clearly, are asked so that the author can give the information in the form of an answer to a question. For example, is there a central clearing house that maintains data concerning disciplinary actions against physicians? At other times, the answer to the question is obvious, for example, is it always negligence for a psychiatrist to have sex with a patient? Even though the questions or answers might be obvious, this method of organizing the text remains very helpful. The reader can quickly find the section which addresses a particular question.

For some questions, no clear answer exists, for example, have courts found a duty to warn or protect to prevent automobile accidents? For such a question, the author explains where the confusing answer lies at this point in time.

Occasional lists and tables appear in the text. They are helpful. An especially helpful chapter discusses borderline patients. Borderline patients are among the most challenging,

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especially regarding the legalities of the treatment. This chapter does an excellent job of depicting the legal traps, and teaching the best ways to avoid them.

One difficulty with this book, as with all books on legal issues, is the applicability to all 50 states. For example, the discussion regarding substitute decision makers for health care issues adequately presents the problem. However, the solution varies from state to state. The book does not give specific answers for specific states.

In summary, Dr. Simon's book is an excellent guide for psychiatric practitioners, and all mental health clinicians. It is not intended as a text for the forensic psychiatrist. It will, however, serve as a handy reference for all clinicians, including forensic psychiatrist.