Chapter 14: Mental Health Services: Legal and Ethical Issues

PSY 440: Abnormal Psychology
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Problem

- How do you balance the rights of the individual with the rights of society?
- Conceptions of mental illness
  - Social
  - Clinical

Psychiatric Commitment

- Civil Commitment
  - Involuntary commitment
  - Kentucky statutes
- Criminal Commitment
- Voluntary Hospitalization
Psychiatric Commitment

- Thomas Szasz
- Predicting Dangerousness
  - Those who are committed must be deemed a danger to self or others
  - Psychologists tend to overpredict dangerousness
  - Accuracy of predictions of dangerousness

Psychiatric Commitment

- Problems with predicting dangerousness
  - Post Hoc Problem
  - Leaping from General to Specific
  - Defining Dangerousness
  - Base Rate Problems
  - Unlikelihood of Direct Threats
  - Difficulty in Predicting Behavior in the Community Based on Behavior in the Hospital

Patients’ Rights

- Right to Treatment
  - Cannot warehouse
  - Wyatt v. Stickney
  - O’Connor v. Donaldson
  - Youngberg v. Romeo
- Right to Refuse Treatment
  - Rogers v. Okin
Insanity Defense

- **Insanity**
  - Legal term
  - Determination whether individual has the ability to tell the difference between right and wrong
  - **Kentucky Statute:**
    - "Insanity" means that, as a result of a mental condition, [a person lacks] substantial capacity to either appreciate the criminality of one's conduct or to conform one's conduct to the requirements of the law

- Furthermore, a person is "not responsible for criminal conduct" if he or she is determined to have been insane at the time that conduct occurred

- Philosophical Basis for the Insanity Defense
  - Classical Thought
  - Neo-Classical Thought

- Legal Bases for the Insanity Defense
  - Ohio case in 1834
  - 1843 M'Naghten Rule
  - *Durham v. United States* (1954)
  - 1972 Guidelines by the American Law Institute

Insanity Defense

- Insanity defense is seldom used
  - And seldom successful
- What happens to people who are judged not guilty by reason of insanity (NGRI)?
- Guilty But Mentally Ill (GBMI)
  - Back to Classical Thought
- Determining Length of Criminal Commitment
  - *Jones v. United States*
Competency to Trial

- Competency to stand trial
  - Different than insanity
    - A defendant will be found mentally incompetent to stand trial if the defendant "is presently suffering from a mental disease or defect rendering him [sic] mentally incompetent to the extent that he [sic] is unable to understand the nature and consequences of the proceedings against him [sic] or to assist properly in his [sic] defense."
  - More people are committed due to being judged not competent to stand trial than are acquitted due to NGRI
- What happens to people judged not competent to stand trial?
  - Medina v. California
  - Sell v. United States

ETHICAL ISSUES

- Therapists are obliged to:
  - not violate client confidentiality (exceptions: threats or instances of child abuse)
  - practice within their area(s) of expertise
  - maintain adequate records
  - clarify their responsibilities to their clients
  - clearly label unvalidated treatments as experimental

ETHICAL ISSUES

- The American Psychological Association's ethical guidelines are based on the following principles:
ETHICAL ISSUES

- Researchers must recognize the following ethical issues:
  - Some research can never be done because it is ethically unacceptable
  - All research must be judged on the basis of risk/benefit analysis
  - All research participants must give informed consent

ETHICAL ISSUES

- Researchers must recognize the following ethical issues:
  - Researchers must consider the stressors placed on participants with mental disorders
  - Researchers must also maintain confidentiality about the identities of their participants

MANAGED CARE AND PSYCHOLOGICAL TREATMENT

- Managed care – a system in which insurance companies:
  - Gather information about the condition of people in treatment
  - Work with the treating professionals to decide what services will be covered under the insurance
MANAGED CARE AND PSYCHOLOGICAL TREATMENT

- it is unclear what the future of health insurance will hold

DEINSTITUTIONALIZATION

- the process of deinstitutionalization will continue because of the court mandate to provide treatment in the least restrictive environment possible

PUBLIC ATTITUDES ABOUT PSYCHOPATHOLOGY

- although attitudes are gradually changing, there is still considerable stigma associated with psychopathology
PUBLIC ATTITUDES ABOUT PSYCHOPATHOLOGY

- the stigma appears to result from three factors:
  - the belief that some psychopathology can be controlled
  - the disruptive effect that psychopathology can have on others
  - the fear that people with psychopathology are dangerous

- fear and stigma often make people unwilling to consider having mentally disturbed individuals as neighbors

- this is the greatest obstacle to the reintegration of people with mental and emotional disturbances back into the community

Legal Liability for Client Actions

- Suicide
  - Historical Perspective
    - Prior to the 19th Century
    - Up until about 50 years ago
    - Modern Times
References