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# Legislating Psychiatry

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# Legislating Psychiatry

REVIEW OF CLINICAL PSYCHIATRY AND THE LAW, VOL. 1

Edited by Robert Simon, M.D.

American Psychiatric Press,

1989, 416 pages, \$38.50

## Carla Rodgers, M.D.

Clarity in both style and organization is the most remarkable aspect of this excellent reference. It is definitely user-friendly, even if the user has only a minimal background in the legal issues which affect psychiatric practice.

The book is divided into sections which deal with the topics that any psychiatrist must face in the course of working with patients. What are the laws affecting the use of psychotropic medications, ECT, and how do these laws differ from state to state? What about confidentiality, particularly in the era of AIDS? When does the psychiatrist's duty to warn pertain? What are the new psychiatric legal diagnostic dilemmas facing all of us in our rapidly changing field?

Confronting any one of these questions can prove overwhelming to the individual resident or even the experienced practitioner. Neither Dr. Simon or his co-authors shrink from the difficult questions. They present lucid commentary about what laws exist, what the ethical considerations are, and how the practitioner can best deliver care in the prevailing legal climate.

Among the subjects I found particularly interesting were laws regarding ECT. The following excerpt clearly defines the difficulties faced by the psychiatrist practicing in California.

“In California ECT is becoming effectively limited legislatively. A recent set of regulations governing ECT procedures was appended to the so-called 1976 ECT statute to make it more specific. The regulations limit ECT treatment to 15 in a 30 day period. The maximum number a year is 30. A problem immediately arises because any seizure counts as a treatment. . . The law is so restrictive that ECT is facing extinction in northern California and a significant decline has taken place in southern California.”

In addition to sounding the alarm, the author discusses a suit which has been filed to redress the situation. Practical suggestions, such as a specific ECT consent form, are also offered in this section.

Another fascinating subject which is elegantly reviewed is physician-patient privilege. Like many medical trainees I assumed that physician-patient privilege

was an inherent right, passed down to us from the ancient practitioners of the healing arts. Imagine my surprise to find out that exactly the opposite is true, insofar as the U.S. and Britain are concerned.

“The United States follows English common law, a body of court decisions dating back to the Middle Ages. Unlike Roman derived French law, it contains no explicit formulation of a right to privacy.”

The discussion further continues with a history of the legislation of the right of physician-patient privilege. It is noteworthy that two of the states, South Carolina and West Virginia, have no statutes covering patient-physician privilege. Further, the Federal Courts have no specific privilege, although the author points out that they may use local state law.

These two examples provide an idea of the in-depth and cogent investigation the authors undertake with each of their selected topics. In this era of complex medical-legal interaction, no psychiatrist's library can be complete without a solid forensic reference. *Review of Clinical Psychiatry and the Law, Vol. 1* would be an excellent choice. I eagerly await the publication of volume two.