



Synapse



THE WEST HUDSON PSYCHIATRIC SOCIETY NEWSLETTER

Published Quarterly

Winter 2008 EDITION

Robert N. Sobel, M.D., Editor & Syed Abdullah, M.D., Co-Editor

West Hudson in Action

The WHPS executive board has continued to meet every month. I have good news to report. We all must applaud the hard work put in by Drs. Robert Sobel and Syed Abdullah since our Synapse Newsletter has once again won the APA Newsletter of the Year award. Congratulations to both of them for their continuing hard work.

Dr. Alan Tuckman's article from the Spring Synapse 2007 issue, "The Insanity Defense: Not So Easy!" won best editorial award. I went back to read the article again and was impressed by the fine details and the issues explained in it. Congratulations to Dr. Tuckman for winning this award as well thanks for being a regular contributor to Synapse.

The Mental Health Coalition has continued to meet monthly. They are planning a spring program at Valley Cottage Elementary School as well as continuing programs at local high schools and colleges in liaison with NAMI-Familya. The Coalition will also be involved

with the Mental Health Walk on May 3rd with the Mental Health Association. Dr. Kroplick and Dr. Flax have written a workshop detailing Coalition work for a presentation at the Psychiatric Institute Meeting in Oct. 2008. We have continued to eschew pharmaceutical industry support for our Spring and Fall meetings and had to resort to charging our members a nominal amount of \$25 for these dinner meetings. The Board had felt that even with this nominal charge a lot of members were not coming to these meetings. Since we only have two major meetings in a year where all members can meet, network, socialize as well as get CME credits, the Board has decided to do away with the charge for the Spring meeting. We are hoping that we will get a full house to reinvigorate the WHPS. If we do get a good turnout we may try to do at least one meeting a year in this manner.

In view of all this, Dr. Jane Kelman has put up with the Board first wanting our usual place at a smaller restaurant and then

changing to Restaurant X where we can accommodate a larger crowd. We are very fortunate that the APA President-Elect, Dr. Nada Stotland will be the speaker for our Spring meeting on May 9th to update us on her plans for the APA as well as talk about "The Myth Of Abortion Trauma". Thank you Jane, for all your hard work and putting up with us.

Dr. Richard Brand is busy updating the APA Mental Illness Awareness Guide for the clergy. Dr. Lois Kroplick has taken over the treasury functions which includes being responsible for our post office box. We have currently \$11,551.69 in our treasury. Most of this is grant money tailored to various projects for the WHPS. Dr. Jim Flax has continued to manage our referral hot line where we get about 3 calls per week. All



Synapse: The Mouse That Roared Again

For Synapse, a newsletter of a small District Branch, winning two national awards at once was amazing. Especially so because this is the twentieth anniversary of its existence. Ordinarily it should have died a natural death considering the limits of its life span as a rodent. Also, very few newsletters of its size survive two decades of continuous publication. The only explanation I could come up with was the regular stem-cell infusions it has been receiving from the writing members. These vital infusions, in the form of articles, have kept it rejuvenated over the years.

Our hope is that these infusions will continue, keeping this gutsy alittle publication alive and thriving.

Syed Abdullah, M.D.

Continued on page 6 

In This Issue...

- 2 Countertransference in the Courtroom
- 3 Private Practice
- 5 District Branch Report
- 7 Newsletter of the Year

Countertransference in the Courtroom: More to Worry About!

As with all other medical specialties, it seems that as soon as we feel comfortable with our knowledge and experience, another area of new interest or "speculation," arises which requires further

thinking, research, and preparation. Certainly, in psychiatry, there appear new developments every year, and sometimes every week, in such areas as genetics, radiological discoveries, psychopharmacology and even newer psychotherapeutic techniques, as well as, of course, "practice guidelines" recommending algorithms for various diagnostic and treatment approaches. So too, in forensic psychiatry, new information about psychiatric applications to legal questions, as well as "creative and novel psychiatric defenses to criminal charges, surface from time to time.

Most forensic psychiatrists are certainly cognizant of countertransference issues in the evaluation of forensic cases and, occasionally, we are questioned about that in the courtroom. But, recently, what appears to be a "cottage industry," has developed in the cross-examination of psychiatric testimony, taken to a much more sophisticated and higher level, by a professor of law, practicing attorney and consultant to other attorneys, Mr. Timothy M. Tippins. He provides seminars and workshops, frequently attended by 200-300 participants, with large packets of handouts, well thought out and researched, on how to critique forensic psychiatric reports and cross-examine psychiatric experts.

Recently, an article in the November 1, 2007, New York Law Journal, by Mr. Tippins, titled, "Custody: Sancho's Song and Countertransference Bias," elaborates on the various aspects of psychiatric bias in forensic evaluations. While much of this is anecdotal and, to throw back at Mr. Tippins his own phrase, "not based on empirical evidence," it certainly does provide significant information which must be taken into consideration in any psychiatric evaluation for legal purposes, including countertransference problems, which may arise. Although, of course, it might also help all of us, long out of our training, to again rethink our countertransference behavior with patients Mr. Tippins uses this to discredit the entire

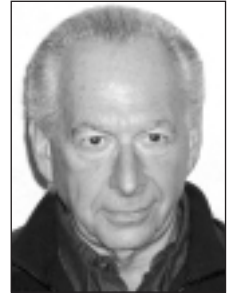
forensic psychiatric assessment process.

As he explains, "This article explores the potential impact that a litigant's likeability, or lack thereof, can have on the custody evaluator's work product."

Certainly, we are aware that, since we are not just automatons, we, like everyone else, do have positive and negative reactions to people, including patients and evaluatees, as we would with anyone else in our lives. While countertransference implies an emotional reaction stemming from something in our own past, it also can result from simple interpersonal preferences, likes and dislikes, without having "childhood underpinnings." The problem arises when we are challenged about these "feelings" in a courtroom.

It is important, though, for us as forensic evaluators, to be able to recognize those feelings and to be able to admit to them and then explain them if questioned about them. It is critically important, in a forensic report and in the courtroom.

There are evaluatees whose personalities do have either an extremely positive or an extremely negative, provocative or annoying quality. Mr. Tippins' conception is that an individual who may be extremely negative or provocative to the evaluating psychiatrist, can still be a very appropriate, effective custodial parent and the two may have no connection in cause and effect. As I have had to explain at times, in the courtroom, my belief is that the way an evaluatee relates to the evaluating psychiatrist is important information, since that method of relating will also be exhibited in the parent's dealings with their child's caregivers, such as doctors, therapists and school personnel, which can help their child or, in some cases, undermine their child's relationships with these



Executive Council

West Hudson
Psychiatric Society

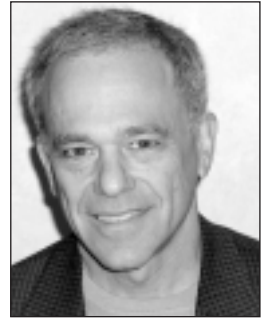
- ▲ **PRESIDENT**
Madhu Ahluwalia, M.D.
- ▲ **PRESIDENT-ELECT**
Dominic Ferro, M.D.
- ▲ **SECRETARY**
Dominic Ferro, M.D.
- ▲ **TREASURER**
Lois Kroplick, D.O.
- ▲ **DELEGATE-TO-THE-ASSEMBLY**
Nigel Bark, M.D.
- ▲ **ALTERNATE DELEGATE:**
- ▲ **GOVERNMENT RELATIONS REPRESENTATIVE:**
- ▲ **LEGISLATIVE REPRESENTATIVE**
Andrew Hornstein, M.D.
- ▲ **MEMBERSHIP/MENTORING:**
Dominic Ferro, M.D.
- ▲ **PUBLIC AFFAIRS**
Diane DiGiacomo, M.D.
- ▲ **PUBLIC RELATIONS**
Richard Brand, M.D.
- ▲ **ETHICS COMMITTEE**
Marc Tarle, M.D.
- ▲ **EDUCATIONAL MATTERS**
Jane Kelman, M.D.
- ▲ **PRIVATE PRACTICE REPRESENTATIVE**
James Flax, M.D.
- ▲ **DEPRESSION SCREENING**
Mona Begum, M.D., Mary Mavromatis., M.D.
- ▲ **WOMENS' COMMITTEE**
Jane Kelman, M.D.
- ▲ **EARLY CAREER REPRESENTATIVE**
TBA
- ▲ **EDITOR, NEWSLETTER**
Robert Sobel, M.D.
- ▲ **CO-EDITOR, NEWSLETTER**
Syed Abdullah, M.D.

Telephone (845) 638-6992

Articles published in Synapse represent the views of their respective authors and do not necessarily represent the views of the West Hudson Psychiatric Society or its members.

Continued on page 3

Private Practice: NY State Prescription Requirement



Recently I received an official letter from the NY State Department of Health warning me that I had failed to mail a prescription to a pharmacy to which I had phoned in an emergency supply of Adderal for one of my patients, four months earlier. They furthermore advised me that "failure to provide the required prescription may result in a formal charge of violation(s) of the Public Health Law".

There were two aspects of this letter that disturbed me. First, I had mailed the written prescription on the day I had called it in, but somewhere between my mail-box and the pharmacy records it had gone missing. Of course, I had no knowledge of this until I got the warning letter. Secondly, I was informed that emergency prescriptions must have written on the face of the Rx the words "Authorization for Emergency Dispensing."

I promptly sent a new prescription with the proper notation of "Authorization for Emergency Dispensing" written on the Rx. Of course, this time I sent it certified with a return receipt. Then I had to send proof of having done so to the Department of Health. This lead me to peruse the NYS DOH website where I found the following:

A practitioner may orally prescribe up to a

five-day supply of Schedule II, III and V controlled substances, as well as benzodiazepines. Practitioners may orally prescribe up to a 30-day supply or 100 dosage units of Schedule IV (nonbenzodiazepines) controlled sub-stances, whichever is less.

Within 72 hours after authorizing an oral prescription for controlled substances, the practitioner must furnish the pharmacist with the written follow-up prescription. Prescriptions for Schedule II controlled substances and benzodiazepines may only be orally prescribed in an emergency situation. In addition to the information otherwise required, the follow-up prescription must also have written or typed on its face the words: "Authorization for Emergency Dispensing."

The date on a controlled substance prescription must be the date the prescription was actually signed by the practitioner. Controlled substance prescriptions cannot be pre-dated or post-dated.

(<http://www.health.state.ny.us/publications/1477/index.htm>)

I'm inclined from now on to be very circumspect about emergency prescriptions. I haven't yet sent them certified, but am probably going to start doing so. You must date them the day they were signed AND remember to add "Authorization for Emergency Dispensing."

As a reminder the DOH also has the regulation regarding the number of pills as follows:

Indicating Drug Quantity and Refills in Numerical and Word Form

New regulations now in effect require official prescriptions for controlled substances to indicate the quantity of drug prescribed and the number of refills authorized by the practitioner in both numerical and written word forms. Because drug-seeking individuals often alter these numbers in an attempt to divert controlled substances, this requirement will help detect and prevent such illegal activities. (http://www.health.state.ny.us/professionals/narcotic/docs/2007-1_bne_practitioner_newsletter.pdf). ▲

James Flax, MD

Countertransference, cont'd.

caregivers. But, we must be able to explain that. Mr. Tippins uses the term, "associative bias," to describe the dynamic of a psychiatrist dealing with his or her own family struggles, projecting them onto a litigant family and reacting inappropriately, without recognizing the connection. Associative bias may exist, but may also bear no connection to the psychiatrist's view of the litigants.

Another term Mr. Tippins uses is "aversion bias," in which the parent and evaluator have different views of childrearing tasks and, without recognizing the bias that may be inherent in that difference, identifies the parent as being inappropriate, rather than

simply "different," but not inappropriate at all.

Another concept he proposes is that of "confirmatory bias," a process in which the likeability or non-likeability" of a litigant influences the forensic evaluator's opinions and decisions regarding custody, with Mr. Tippins suggesting that a "parent's likeability may or may not be relevant to the issue of custody and that it may reflect little more than the situational effects caused by the stress of litigation." I take significant issue with this, since parents and everyone else, are frequently in situations of stress and the way one reacts to stressful situations is a helpful bit of information about the

individual's personality and functioning, as well as their anticipated dealings with future stressful situations in their child's life. In addition, an evaluatee's negative reactions, provocative behavior, or worse, in an evaluation for custody, certainly is an indication of serious impairments in judgment and impulsivity, where the individual cannot contain his or her negative feelings adequately, even when the situation calls for a very different approach. Evaluatees should want to present the most positive side of themselves in these situations. An individual who could not contain themselves, in this situation, also would not, in other

Continued on page 8 ➔

District Branch Representative's Report: Fall 2007

Including the marijuana action papers:

I was unable to attend the NYSPA fall meeting on 10.20.07 (our President, Mahdu Ahluwalia did) but the following are some important activities from the minutes.

1. Jeffrey Borenstein, Chair of the Public Affairs Committee, noted the West Hudson's Annual Forum on Mental Health and the Arts and its work with Senator Morahan on mental health issues. His own Healthy Minds television show (produced by WLIW 21, shown on WNET at 10pm Mondays and 5.30am Thursdays and streaming on NARSAD's website) received four Telly awards this year and was due to start its second season in November.

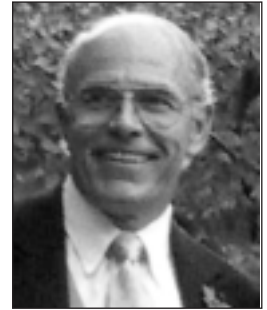
Various individuals, committee members, the Executive Director, Seth Stein are working on the following issues (among many others) that affect our members:

2. NYS COPS funding for outpatient clinic services (at present in violation of Medicaid regulations);
3. Glenn Martin, Vice-President of NYSPA is on the Medicaid Preferred Drug List Committee. At present all antipsychotics and antedepressants are exempt. There have been hearings about hypnotics and stimulants which are in limbo.
4. He is also Chair of NYSPA's Information Technology Committee which now has a Google group. Anyone interested can sign up via the Google website.
5. Richard Gallo, NYSPA's Government Relations Advocate for the past 34 years was awarded NYSPA's Distinguished Service Award for his legislative accomplishments especially the Professions Bill and Timothy's law. His work as Chair of the Timothy's Law Coalition "truly embodies the spirit of NYSPA and its mission to improve care and treatment of persons with mental

illness."

6. Mr. Gallo reported that he is still working with the NYS Department of Insurance to address problems of Timothy's Law implementation. Edward Gordon, Chair of the NYSPA Economic Affairs Committee, reported that it is collecting reports of more restrictive interpretations by Insurance carriers and preparing a list of diagnostic codes it believes should be covered, for Mr Gallo to work with.
7. NYSPA is again initiating a law suit against the Department of Health in connection with Medicaid's failure to pay the coinsurance of dually eligible individuals.
8. NYSPA is seeking clarification of the new Child Abuse Reporting Law which said everyone in a facility who saw such a child had to report it. The clarification seems to suggest that the first person seeing the child, and the Director and anyone who gets additional information each have to report it.
9. Mr. Stein reported that psychiatrists (and institutions) are using the E & M codes for Medicare reimbursement for psychiatric services. He recommends using the E & M documentation templates available on the NYSPA website.
10. Ann Sullivan (the Area II - New York State - Trustee) reported that with the passing by the House of Representatives of a Federal parity bill the APA continues to be very involved in ensuring that State mandates like Timothy's Law are not weakened by the Federal bill.
11. As is the practice NYSPA was asked to review four action papers, including marijuana medical use and research, to be presented at the Assembly Meeting. Ones on technology and APA symbols were endorsed but not the marijuana papers.

Two weeks later the Assembly met in Washington for its annual two and a half day meeting. The speaker Jeffrey Akaka from Hawaii (a veteran of the endless so far successful battle to prevent psychology prescribing in Hawaii) gave the meetings a Hawaiian flavor with his chocolate coated macadamia nuts and his local congressman, Representative Neil Abercrombie, giving a rousing speech about the importance of APA's lobbying and its Political Action Committee.



There was a session on telepsychiatry, the Profile in Courage awarded to Dr. Ann Holmgren and her moving description of her work in Louisiana immediately after Katrina, reports from the APA's Medical Director and Chairs of Committees but the main business of the Assembly is promoting APA policy and action through Action Papers. Many of the action papers are proposed because of something really bad that has happened or is happening somewhere to patients or psychiatrists.

Roger Peele, Trustee-At-Large, nicely summarized these actions as follows noting that these highlights are unofficial and that virtually all the motions have to be approved by the Board of Trustees before they are official APA positions. The Assembly...

1. Approved a Position Statement on Release of Patients Records to State Medical Boards (emphasizing patient privacy, patients should sign a release and in third party complaints where this is refused there should be an independent review process etc). The experience of Harold Eist underlines the need for such a position. (After five straight losses in court the Maryland

Continued on page 5 ➡

Report, cont'd.

Medical Board has, yet again, appealed the Eist case this time to the Maryland Supreme Court.)

2. Passed a brief statement that ECT is an effective medical treatment and an updated statement strongly supporting the insanity defense.
3. Approved a motion that the APA initiate support for continued health insurance for dependent adult children on their family policy when available and extend Medicaid and SCHIO coverage for other dependents
4. Approved motions that the APA oppose pre-Emergency Room diversion and ER diversion of behaviorally disturbed patients to non-medical facilities.
5. Approved a motion on establishing an APA position on the impact and consequences of high volume psychiatric care for psychiatrists and their patients. (Psychiatrists asked or expected to see or cover far too many patients in clinics.)
6. Approved a motion that the APA advocate to the FDA that the term "suicidal behavior" and similar terms be limited to medications associated with suicide per se (eg Accutane not SSRIs).
7. Approved a motion to improve detection and treatment of peripartum psychiatric disorders.
8. Approved a motion to change the name of Mental Retardation to Intellectual Disabilities or rather have the Committee on Diagnosis and Assessment approve such a change.
9. Approved a motion to split the position of Secretary-Treasurer into two positions.
10. Approved a motion to create a committee on information technology.
11. Approved a motion to create an inventory of resources for psychiatrists working in rural and underserved areas.

12. Approved a motion to have the APA promote profiles in Psychiatric News of psychiatrists in rural an underserved areas.
13. Approved a motion to provide grants to DBs to support their initiatives in telepsychiatry.
14. Approved a motion to change the Action Paper format to a resolution format.
15. Approved a motion to conduct training courses in disaster psychiatry
16. Approved a motion to develop an electronic newsletter for residents.
17. Approved a motion to expand the application of the APA's conflict of interest policy to include candidates for election and to include major non-pharmaceutical relationships, and to include important conflicts that may be more than three years old.
18. Approved a motion to review the question of the first day of the APA Annual Meeting.
19. Approved a motion for the Membership Committee to explore the issues of developing APA accoutrements (eg pens, ties) for sale.
20. Approved three motions on Marijuana. First a motion asking the APA to review and revise the 1997 APA Policy Guideline on Medical Use of Marijuana in light of ongoing research over the past decade. Second, a motion to protect patients and physicians participating in State-approved medical marijuana programs. Third a motion urging Federal Government to implement well-designed clinical research into the medical utility of marijuana.

These were contentious motions and became more so after the meeting when an organization, the Marijuana Policy Project, issued a triumphalist and polemical press release saying it was a unanimous vote,

listing the number of members of the APA and affiliated organizations and quoting a psychiatrist calling it a "landmark" decision. This made some people feel the APA had approved the recreational use of marijuana. Several members on the Assembly list serve decried the passing of the motions and wanted to revisit them.

However, as with all motions these had been widely discussed on the list-serve before the Assembly and reviewed by an Area Council (ours), the APA Lifers Committee (of which I am a member) and in great detail by the Reference Committee at the Assembly. (All Action Papers are referred to a Reference Committee whose job is to review and improve, or decide not to support, the paper.) I believe they were very precise, limited, well crafted statements that the Assembly should be proud of. They were entirely in line with the policy statements of the AMA, American Academy of Addiction Psychiatry and APA's Council on Addiction in supporting more research and opposing Federal interference in the practice of medicine and Doctor-Patient relationships where State laws have been passed permitting medical use. The motions did not approve medical use but even if they had it in no way suggests approval of recreational use or misuse. But yes we are left having to explain the differences as is the case with most of our issues. Few are pure and simple.

And if you are asked to explain this, or any aspect of psychiatry, to the media and want some last minute pointers or facts from the APA Public Affairs Office, contact Press@psych.org and expect a reply within the hour or call 703 907 8640. If you want information for patients (eg APA's Lets Talk Facts series) download it from www.HealthyMinds.org

This is your APA in action for you! ▲

Nigel Bark, M.D.

President, cont'd.

these callers are either referred to our web site and/or mailed the private practice referral manual which has information about all the WHPS psychiatrists who choose to advertise in it for a nominal fee. A new manual is going to be printed shortly and 30 psychiatrists have already sent data for it. Dr. Flax is also preparing a progress report on our last grant from APA. This takes an inordinate amount of time. Thanks Jim, for doing this!!!

We are still awaiting to hear from Senator Morahan regarding our grant. Our women's committee continues to meet monthly. All the women enjoy talking about our difficult cases as well talking about balancing our work and home lives. Dr. Dominic Ferro has taken over membership as well as being Secretary and President-Elect. Some of our members have not renewed their memberships. We all urge you to think about all the advantages of being part of the APA and if you aren't a member of the WHPS please join us.

Dr. Mary Mavromatis, who organizes the depression screening, is also considering expanding it to other MD's and adding alcohol screening.

We have thankfully no ethics complaints to report.

Our next meeting is at the Fresca Restaurant on March 21, 2008. If you wish to attend any of our meetings please call any of the board members. ▲

*Madhu Ahluwalia, MD,
President*

Save the Date: May 9th, 2008

**WHPS Spring Dinner
Educational Meeting**

Nada Stotland, APA President-Elect will be updating us about the APA and speaking on

"The Myth of Abortion Trauma."

Restaurant-X

will be the locale for the event

Can your claims examiner pass this test?

1. What does Axis III of the DSM-IV classification signify?
2. What is tardive dyskinesia?
3. What is the significance of the "Tarasoff" decision?
4. How often should lithium be monitored?
5. Which population is most at risk for suicide?
6. What precautions should be taken before administering ECT?
7. What is the definition of suicidal ideation?



We can!

We speak your language. You won't have to explain psychiatric terminology to us. Our claims staff has more experience handling psychiatric liability claims than any other in the world.

For more than 20 years, we have handled over 15,000 files involving psychiatrists. Of course, we hope you never have a claim. But, when the unfortunate does occur, you want to make sure you have experts on your side.

Find out if your malpractice insurer's claims examiners can answer these questions.

If they fail this test, it's time for you to give us a call!

Call: (800) 245-3333, ext. 389
E-mail: TheProgram@prms.com
Visit: www.psychprogram.com

The Psychiatrists' Program

Professional Liability Insurance Designed for Psychiatrists

Synapse Wins Newsletter of the Year Award Again!

Alan Tuckman Wins Editorial of the Year

Below are the 2007 Award Winners as listed in the APA Member Update of Jan/Feb 2008

Newsletter of the Year Award Winners Announced!

The APA and the Newsletter of the Year Awards Corresponding Committee congratulate the winners of the 2007 Newsletter of the Year Awards.

The APA each year invites District Branches and State Associations (DB/SA) to enter the Newsletter of the Year Award

competition. The entries are judged by members of the Newsletter of the Year Corresponding Committee.

The awards exemplify the kind of quality information and resources that APA encourages District Branches and State Associations to produce.

The 2007 Newsletter of the Year Award winners are:

Newsletter of the Year 2007 (100-200)

West Hudson Psychiatric Society

Synapse - **Winner**

Editors: Robert H. Sobel, M.D. and Syed Abdullah, M.D.

Nevada Psychiatric Association

Nevada Psychiatric Association Newsletter

Editor: Lesley R. Dickson, M.D.

Honorable Mention

Newsletter of the Year 2007 (201-500)

Louisiana Psychiatric Medical Association

Louisiana Psychiatric Medical Assn. Newsletter

Editor: Juliana Fort, M.D.

Winner

Indiana Psychiatric Society

The Spectrum

Editors: N. Leela Rau, M.D. and C.

Andrew Class, M.D.

Continuing Excellence

Kentucky Psychiatric Medical Association

The Kentucky Psychiatrist

Editor: Steven B. Lippmann, M.D.

Honorable Mention

Newsletter of the Year 2007 (501+)

New Jersey Psychiatric Association

New Jersey Psychiatrist - **Winner**

Editor: William M. Greenberg, M.D.

Wisconsin Psychiatric Association

The Wisconsin Psychiatrist

Editor: Edward Krall, M.D.; Harold Harsch, M.D.; Jeff Marcus, M.D.; and, Linda DaRaimondo, M.D.

Continuing Excellence

North Carolina Psychiatric Association
The Bulletin

Editor: Alan Krueger, M.D. and Robin Huffman

Honorable Mention

Best Editorial 2007

West Hudson Psychiatric Society

Synapse - **Winner**

“The Insanity Defense: Not So Easy”

Author: Alan Tuckman, M.D.

Pennsylvania Psychiatric Society

Pennsylvania Psychiatrist

“The topography of modern psychiatry-between a rock and a hard place”

Author/Editor: Edward C. Leonard, M.D.

Honorable Mention

Outstanding Feature Article 2007

New Jersey Psychiatric Association

New Jersey Psychiatrist - **Winner**

“Debate”

Authors: Jeffrey Mattes, M.D.; Robert C.

Bransfield, M.D.; Matthew Menza, M.D.

Queen’s County Psychiatric Society

The QC Newsletter - **Honorable Mention**

“Disclosing A History of Mental Illness”

Author: Pauline L. Kuyler, M.D.

Countertransference, cont'd.

situations, such as dealing with school personnel thus, having a detrimental effect on the school's handling of their child or themselves. I cannot imagine that an evaluatee "behaving badly" in an evaluation session, has no bearing on that person's effectiveness as a parent.

It is obvious that a psychiatrist, either an evaluator or therapist, who has had, or is having, significant emotional or personality conflicts in his or her own life, may transfer those conflicts onto patients or evaluatees, a countertransference phenomenon. In the courtroom, as in personal psychotherapy sessions, we must always be on guard for this potential interference. As thinking, feeling beings we are never immune from personal struggles affecting our thinking and feelings, in any setting. As psychiatrists, we strive to identify these personal struggles and work actively to avoid their contaminating our professional functioning. In the courtroom, we may be challenged and confronted with "evidence" of this contamination of an evaluation, stemming from sections of a forensic report which allege "clear evidence of countertransference bias." I was recently involved in a custody

action in which the father, an extremely negative, provocative, controlling man, contaminated his relationship with me while meeting with me, as well as dealing with appointments and other aspects of the evaluation process. When I devoted a section of my report to that behavior, it was then utilized as evidence of "countertransference bias," that I didn't like him from the beginning" and, thus, as a result of these negative feelings toward him recommended against custody for him, unrelated to all of the other problems with which he presented. Despite my need to explain, in cross-examination, that this man's behavior was dramatically different from that of thousands of other evaluations that I had performed, the attorney kept harping on this as evidence of bias which would limpart on my final opinion. That is not to say that there were not many other issues presented on cross-examination that had to be dealt with, but it was certainly an important theme in the cross-examination process.

It is true that custody evaluators have "no demonstrably valid method of weighting or prioritizing the many parenting variables presented by the unique family

constellations that appear before them. They do not even have an empirically-based psychological construct that corresponds to the legal system's best interest standard. Nor does the law prescribe an operational definition of that standard, putting the evaluator in the position of trying to hit a non-existent target". It is imperative in the courtroom that we as professional experts, make it clear that we do not have definitive, empirically-based data, regarding final custody decisions, but "opinions" gathered and garnered from many years of evaluations of individual personalities and psychopathology. It is true that we do not have an empirical basis to take the next jump from our well-defined expertise, to the ultimate conclusion of "who should have custody of the children." But we can identify individual personality styles, pathology, interpersonal behaviors and past experiences as indicators of a "likely," more appropriate parent, without having to answer the ultimate question.

I guess they never told me at the beginning of my forensic training how really complex this field would become. ▲

Alan J. Tuckman, M.D.

SYNAPSE is available on the World Wide Web at <http://www.rfmh.org/whps>

SYNAPSE

PO Box 741

Pomona, NY 10970-0741



1992, 1999, 2000, 2001, 2003, 2004, 2005 and 2007 APA Newsletter of the Year Award
1993 & 2002 APA Continuing Excellence Award • 1997 5 Year Continuing Excellence Award
1998 APA Honorable Mention