

Useful Books on Forensic Psychiatry

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In this column, I review nine books that can be useful to clinicians who want to learn more about forensic psychiatry and psychology or anticipate being called to testify about a patient. Some are brand new; a couple have been around for a few years but are worth mentioning.

- *Clinicians in Court*
- *The Portable Guide to Testifying in Court*
- *The Portable Lawyer for Mental Health Professionals*
- *The American Psychiatric Publishing Textbook of Forensic Psychiatry*
- *Concise Guide to Psychiatry and Law for Clinicians*
- *Principles & Practice of Forensic Psychiatry*
- *The Psychiatrist in Court: A Survival Guide*
- *The Psychiatrist as Expert Witness*
- *Mastering Forensic Psychiatric Practice: Advanced Strategies for the Expert Witness*

This list doesn't include every good book on the subject, of course, and each has a different use. Some are concise guides to particular topics (e.g., testifying in court). Some address legal concepts in everyday clinical practice. Others are comprehensive handbooks for those who wish to learn a lot about (and plan to sometimes spend considerable time and effort in) forensic practice. The prices noted are retail; look for bargains on the Web or at professional meetings, especially for the older titles.

Clinicians in Court: A Guide to Subpoenas, Depositions, Testifying, and Everything Else You Need to Know. Allan E. Barsky, JD, MSW, PhD, and Jonathan W. Gould, PhD. New York, NY: Guilford Press; 2004. 256 pages, \$25.00 (ISBN 1593850166). This book is written for a multidisciplinary, primarily nonmedical audience. Don't let that put you off if you're a psychiatrist; it's a pretty good reference for forensic issues that often arise in clinical practice. One of its main purposes is to prepare clinicians for testimony in a variety of settings. In the process, it addresses many of the emotional stresses associated with the legal process in general and testifying in particular. It also offers help for notifying patients/clients of the legal implications of their care and addresses group or clinic policies on some (although not all) legally relevant

issues in clinical practice. The subjects are sometimes a bit spotty, but those which are included are generally covered well. Although the authors provide some discussion concerning testifying about one's own patient when he or she is involved in litigation, I cannot agree with some of the authors' recommendations, which seem to mix clinical responsibilities, expert or other forensic roles, and guidance of the patient with regard to his or her legal situation. The answers vary from case to case, of course, and sometimes there aren't any good "answers" at all.

Contents. The book has 10 chapters that cover introductory topics; one's personal responses to forensic roles, requests, and the legal system; initial attorney contact; preparation; trial or hearing testimony; clinical records; expert witnesses; "documentary evidence"; claims against clinicians, and alternatives to adjudication. Sample legal documents and agreements as well as a short glossary are included.

The Portable Guide to Testifying in Court for Mental Health Professionals. Barton E. Bernstein, JD, LMSW, and Thomas Hartsell, Jr, JD. Hoboken, NJ: John Wiley & Sons; 2005. 266 pages, \$45.00 (ISBN 0471465526) and ***The Portable Lawyer for Mental Health Professionals (2nd Ed.)***. Barton E. Bernstein, JD, LMSW, and Thomas Hartsell, Jr, JD. Hoboken, NJ: John Wiley & Sons; 2004. 480 pages, \$49.95 (ISBN 0471465518). These two books have a similar "portable guide" theme. The publisher also packages *The Portable Lawyer* in a set with the second edition of Bernstein's *The Portable Ethicist for Mental Health Professionals*. They are intended for a multidisciplinary (generally nonmedical) audience, but have lots of information that is useful to psychiatrists.

Both books use a very readable form of "case example" writing, with margin highlights, special flags ("Legal Lightbulbs"), and very specific advice (including check-

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lists, examples of legal documents, and forms that the authors recommend). I find the authors' advice generally good, although the number of chapters and examples is necessarily insufficient to apply to every eventuality. When reading this or any book on legal advice or procedures, one must remember that, while federal legal topics generally cover the entire country (there are a few exceptions), most legal and forensic issues are governed by state law, which varies a bit from state to state.

Contents. The *Portable Guide to Testifying in Court* covers both clinicians who are asked to testify about their patients and those who occupy some specifically forensic role. The authors initially explain the separateness of treating and forensic roles and the probability that one will interfere with the other. In some parts of the text, however, the boundaries appear a bit blurred. I suggest caution when reading material that seems to suggest ways for clinicians to blend the two. Although occasionally unavoidable, this is a practice fraught with opportunity for countertransference, other clinical problems, and expert bias. The 22 chapters of the *Portable Guide* are grouped into six sections: The Judicial System (4 chapters), Testimony Versus Therapy (4 chapters), Preparing For Testimony (5 chapters), In the Courtroom (3 chapters), Expert Witness Tools (4 chapters), and Other Expert Witnesses (school counselors and "Forensic Experts," 2 chapters). Appendices are included with lists of resources on the Internet and a number of sample forms and checklists.

The *Portable Lawyer* purports to offer ways to "safeguard your mental health practice with up-to-date information and savvy advice on practicing in today's legal environment" (quote from the publisher's website). Many important topics are addressed. There are 48 short chapters grouped into the following sections: Clinical Records (8 chapters), Confidentiality (3 chapters), Contracts (3 chapters), Fees (2 chapters), Forensic Issues (7 chapters), Practice Models (3 chapters), How to Avoid Malpractice Charges (5 chapters), Managed Care (2 chapters), Teamwork (2 chapters), Unusual Practices (including "Nontraditional and Exotic Therapies" and "Internet Therapy," 3 chapters), and the Health Insurance Portability and Accountability Act (HIPAA) (10 chapters). Twelve appendices contain sample forms, including a number related to consent, patient/client termination, waivers, HIPAA, group confidentiality, and even various kinds of practice organization (e.g., partnerships, corporations).

The American Psychiatric Publishing Textbook of Forensic Psychiatry. Robert I. Simon, MD, and Liza H.

Gold, MD, eds. Washington, DC: American Psychiatric Publishing; 2004. 624 pages, \$84.00 (ISBN 1585620874). There are several fairly comprehensive textbooks of forensic psychiatry; a strong point of this one is its recognition that most forensic psychiatry evaluation and testimony is done by general psychiatrists, not subspecialists. Simon and Gold, both practicing psychiatrists associated with the Georgetown University School of Medicine's Psychiatry and Law Program, engaged some 28 chapter authors, all well established and experienced in the field, to discuss many of the most important forensic and clinical-forensic topics. The chapter quality is a little uneven, and the choice and breadth of topics don't quite meet the image of the overarching title, but anyone serious about forensic work should own this book.

Contents. The editors and authors use a "case example" style to address most topics, which makes subjects that are sometimes dry seem more interesting and adds to readability. Sections include an introduction to forensic psychiatry, the legal system and working with attorneys (9 chapters); civil litigation (6 chapters covering malpractice, standard of care, competency, forensic assessment, and legal issues in personal injury, disability, and workplace topics); criminal matters (4 chapters addressing assessment for trial competency and criminal responsibility, sex offender evaluation, correctional psychiatry, and law enforcement consultation); and "Special Topics," including malingering, children and adolescents, personal violence, instruments that purport to predict risk, and psychological testing standards. There is a legal glossary as well as a case index.

Concise Guide to Psychiatry and Law for Clinicians (3rd Edition). Robert I. Simon, MD. Washington, DC: American Psychiatric Publishing; 2001. 285 pages, \$32.95 (ISBN 1585620246). Although an older book, this is a basic, well-respected guide to legal issues in clinical practice. It is an updated summary of a larger, earlier text. It is not comprehensive, in that it addresses only the topics listed below, but is an easy read for those who are interested in clinical applications and don't want a big textbook. It is well referenced, but the views and style of its author (a highly respected clinician, psychoanalyst, and forensic consultant) are his own, and sometimes differ a bit from those of other writers and experts. All of that having been said, it is still among the best small books in this field.

Contents. The *Concise Guide* provides an overview of the law relevant to malpractice and other liability, standard of care, and clinical risk management, then proceeds to several broad topics important to professional practice:

The Doctor-Patient Relationship, Confidentiality and Testimonial Privilege, Informed Consent and the Right to Refuse Treatment, Psychiatric Treatment, Seclusion and Restraint, Involuntary Hospitalization, The Suicidal Patient, The Potentially Violent Patient, and Therapist-Patient Sex and other boundary issues. There is a useful glossary of legal terms.

Principles & Practice of Forensic Psychiatry (2nd Edition). Richard Rosner, MD, ed. London: Arnold (Hodder Arnold, Distributed in the U.S. by Oxford University Press), 2003. 980 pages, \$149.50 (ISBN 0340806648). This is the “tome” for those who spend their careers in this field. Although published in England, it is primarily written by and for U.S. professionals. Many of the topics are also relevant to psychiatrists in Canada and other Western countries. *Principles and Practice* is incredibly comprehensive, solidly written, and indispensable for forensic psychiatrists and fellows, but probably overkill for nearly everyone else. As in most edited books, the chapters vary in caliber and relevance to particular readers, but there are no bad ones. Look for it in a nearby medical school library.

Contents. The book has 92 chapters written by 106 contributors, plus a case index and a very good subject index (important in a volume this large). The chapters are grouped in individually edited sections on the general topics of History and Practice (12 chapters), Legal Regulation of Psychiatric Practice (10 chapters), Forensic Evaluation and Treatment in the Criminal Justice System (5 chapters), Civil Law (8 chapters), Family Law and Domestic Relations (11 chapters), Correctional Psychiatry (8 chapters), Special Clinical Issues (26 chapters), Basic Issues in Law (8 chapters), and Landmark Cases (4 chapters).

The Psychiatrist in Court: A Survival Guide. Thomas G. Gutheil, MD. Washington, DC: American Psychiatric Press; 1998. 142 pages, \$48.95 (ISBN 088048764X) and ***The Psychiatrist as Expert Witness.*** Thomas G. Gutheil, MD. Washington, DC: American Psychiatric Press; 1998. 178 pages, \$45.50 (ISBN 0880487631) (prices for both books often significantly discounted). The diametric opposite of the Rosner text, these companion books shouldn't be listed here because they were published back in 1998. But they are so good at what they do that any psychiatrist faced with testifying in a couple of weeks should read at least the *Survival Guide*. The books are designed for practicing psychiatrists who do little forensic work, although their readability and wit have placed them on the bookshelves of many experienced forensic clinicians. Gutheil's

style is unique and very personable, if occasionally superficial. I don't agree with everything he says, but these books remain fine, eminently readable resources, the first as an “emergency” guide and the second as an introduction for those interested in pursuing forensic careers.

Contents. *The Psychiatrist in Court* has 8 main chapters: The Courtroom As Foreign Country, Some Notes on the Malpractice Situation, The Personnel of the Courtroom, Types of Witnesses, Depositions and How to Survive Them, The Trial Itself, Writing for Court, and Specific Roles for the Psychiatrist in Court. There is also a useful discussion of problems associated with “wearing (the) two hats” of clinician and testifying psychiatrist.

The Psychiatrist as Expert Witness has 10 primary chapters: Introduction: What Makes an Expert?, The Expert's Ethical Universe, First Principles, Types of Typical Cases, Discovery and Depositions, The Expert in Trial, Some Pointers on Expert Witness Practice, Writing to and for the Legal System, Developing and Marketing a Forensic Practice, and The Expert on the Road. There is an Appendix with sample attorney agreements.

Mastering Forensic Psychiatric Practice: Advanced Strategies for the Expert Witness. Thomas G. Gutheil, MD, and Robert I. Simon, MD. Washington, DC: American Psychiatric Publishing; 2002. 176 pages, \$34.95 (ISBN 1585620076). This book is intended to be the successor to the two 1998 volumes by Gutheil discussed above. It is very useful in the areas covered (primarily private forensic consultation in civil cases), but is somewhat limited in scope. There are very readable sections on important, often slighted topics such as countertransference, attorney-expert relations and pressures, fees, forensic ethics, unauthorized use of experts' names, experts discussing other experts, and forensic malpractice. Some of the content is drawn from, or refers to, the authors' relatively informal surveys of practicing forensic psychiatrists.

Contents. The book has 11 chapters divided into 6 sections: Introduction & Basics (1 chapter), Practical Matters (3 chapters), Problem Areas in Attorney-Expert Relations (2 chapters), Forensic Countertransference (1 chapter), Problems With Depositions and Trial Testimony (3 chapters), and Ethical Issues (1 chapter).

The Last Word

I couldn't come up with a good “last word” for a collection of book reviews. In the next issue, I will offer a few tips for those times when someone asks you to testify about a patient.