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Landmark Court Opinion Affirms Clinical Social Work's Bio- psychosocial Approach

A New York Court has held that clinical social workers may provide services to those whose mental disorders or symptoms may be organic in nature or result from a concurrent physical ailment. In December, 2005, Judge Budd G. Goodman of the New York State Supreme Court issued his opinion, which strongly affirmed the new scope-of-practice section of New York's clinical social work licensure law and which set clinical social work on the same footing as psychology.

Judge Goodman found that, under New York law, "in terms of clinical functions, the scope of practice of psychology and the scope of practice of licensed clinical social work, although described using some different words at times, do not vary in substance and are wholly equal and the same." Relying, in part, on ABE's long-time definition of clinical social work, which includes a bio-psychosocial framework, the Court determined that, "as a matter of [New York] law, the failure of a psychologist or licensed clinical social worker to utilize a bio-psychosocial approach in the performance of diagnosis, assessment and treatment planning would constitute practice that, per se, violates the professional standard of care."

The legal issue arose in a case in which a person charged with assault had been examined by a psychiatrist and a psychologist, who reported that the defendant was not competent to stand trial as the result of dementia secondary to head trauma. Heeding the concerns of opposing counsel, the Court appointed Hillel Bodek, MSW, LCSW, BCD, to examine the defendant. Mr. Bodek is president of the New York State Society for Clinical Social Work. At that time, New York State's new licensing laws for psychologists and clinical social workers went into effect, replacing statutes which had protected professional titles but had not defined the scope of practice of psychology and clinical social work. Defense counsel argued that only physicians may assess a person and diagnose when there is a question of a biologically-based mental disorder. Mindful of the new licensure law, the Court denied counsel's application to rescind Mr. Bodek's appointment and to strike the report of the psychologist; instead, Mr. Bodek made his evaluation and the defendant, who was found competent, pleaded guilty to a lesser offense and received a sentence of probation.

Regarding forensic evaluations, Judge Goodman, who had served on the bench for 35 years, indicated that the quality of forensic experts depends "far more on the professional involved and the thoroughness of his or her evaluation, rather than his or her discipline. ...

Clinical social workers are uniquely suited to assist the courts as forensic experts because they have particular competence in assessing the impact of a person's mental and physical condition on his or her social functioning, a key element in rendering forensic mental health assessments and opinions."

For those who may wish to review the opinion and cite it in their advocacy, the case of *People v. RR* is reported at 12 Misc 3rd 161, 807 NYS 2d 516 (Supreme Court, New York County 2005), which may be accessed through the New York court decision archives at: http://www.courts.state.ny.us/reporter/3dseries/2005/2005_25561.htm. Any court, legislature, lobbyist, or advocacy organization, in any state or jurisdiction dealing with the role of clinical social work, would do well to become familiar with this decision.

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