Module 15: Contemporary Issues in Psychopathology

Module 15 Outline

15.1. Legal Issues Related to Mental Illness
15.2. Patient's Rights
15.3. The Therapist-Client Relationship
15.4. Future Directions

Module 15 Learning Objectives

- Describe how clinical psychology interacts with law.
- Describe issues related to civil commitment.
- Describe issues related to criminal commitment.
- Outline patient's rights.
- Clarify concerns related to the therapist-client relationship.

15.1 Legal Issues Related to Mental Illness

Section 15.1 Learning Objectives

- Define forensic psychology/psychiatry.
- Describe potential roles a forensic psychologist might have.
- Define civil commitment.
- Identify criteria for civil commitment.
- Describe dangerousness.
- Outline procedures in civil commitment.
- Define criminal commitment.
- Define 'not guilty by reason of insanity' (NGRI).
- Describe pivotal rules/acts/etc. in relation to the concept of insanity.
- Define 'guilty but mentally ill' (GBMI).
- Clarify what it means to be competent to stand trial.

Section 15.1 Key Terms

American Law Institute standard: Developed in 1962; stated that people are not criminally responsible for their actions if, at the time of their crime, they had a mental disorder or defect that did not allow them to distinguish right from wrong and to obey the law.

Civil commitment: The government is involved (by enacting laws allowing for involuntarycommitment in certain circumstances); involuntary commitment in a hospital or mental health facility and is done to protect the individual; the individuals hospitalized under civil committment must be at immediate risk of harming self or others or be so incapacitated by mental illness that they are unable to care of themselves.

Competent to stand trial: To be deemed competent, federal law dictates that the defendant must have a rational and factual understanding of the proceedings and be able to rationally consult with counsel when presenting his/her defense.

Criminal commitment: When people are accused of crimes but found to be mentally unstable, they are usually sent to a mental health institution for treatment; also when the not guilty by reason of insanity please is successfully pled in a criminal case.

Dangerousness: The degree to which an individual is at risk of harm themselves or others.

Durham (or products) test: Emerged from the 1954 Durham v. United States case, but it was short-lived; Stated that a person was not criminally responsible if their crime was a product of a mental illness or defect. It offered some degree of flexibility for the courts but was viewed as too flexible.

Federal Insanity Defense Reform ACT (IDRA) of 1984: The first comprehensive federal legislation governing the insanity defense and the disposition of individuals suffering from a mental disease or defect who are involved in the criminal justice system; it inlcuded several provisions.

Forensic psychology/psychiatry: When clinical psychology is applied to the legal arena in terms of assessment, treatment, and evaluation.

Guilty but mentally ill (GBMI): Effectively acknowledges that the person did have a mental disorder when committing a crime, but the illness was not responsible for the crime itself; the defendant typically serves his or her sentence in a state prison.

Irresistible impulse test: Adopted in the U.S. in 1887 instead of the English M'Naughten rule; focused on the inability of a person to control their behaviors. The issue with this rule is in distinguishing when a person is unable to maintain control rather than choosing not to exert control over their behavior.

M'Naughten rule: Originated in England in 1843 and states that having a mental disorder at the time of a crime does not mean the person was insane; the individual also had to be unable to know right from wrong, or comprehend the act as wrong.

Not guilty by reason of insanity (NGRI): A plea made by the defendant in a criminal case; the defendant is acknowledging his or her guilt for the crime (*actus rea*) but wishes to be seen as not guilty since he or she were mentally ill at the time (*mens rea*); very few defendants successfully plead NGRI, but those who do typically serve more time in a psychiatric hospital than they would have in prison if they hadn't pled NGRI.

Section 15.1 Key Takeaways

- Forensic psychology is when clinical psychology is applied to the legal arena in terms of assessment, treatment, and evaluation, though it can include research from other subfields to include cognitive and social psychology.
- Civil commitment occurs when a person acts in potentially dangerous ways to themselves or others and can be initiated by the person or the government.
- Dangerousness is defined as the person's capacity of harming themselves or others and implies physical harm but not necessarily psychological abuse or the destruction of property.

- Criminal commitment occurs when a person is accused of a crime but found to be mentally unstable.
- Several rules or tests have been attempt to determine if a person is responsible for their actions at the time a crime was committed. These include the M'Naghten rule, irresistible impulse test, Durham test, and the American Law Institute standard.

Section 15.1 Review Questions

1. Describe the subfield of forensic psychology.
2. What is civil commitment and what criteria is used when establishing its need?
3. What does the concept of dangerousness mean?
4. What is criminal commitment?
5. Outline the various rules/tests used to determine if someone is responsible for the actions at the time of a crime.
6. Contrast the insanity plea with the concept of being competent to stand trial.

15.2 Patients' Rights

Section 15.2 Learning Objectives

- Describe rights patients with mental illness have and identify key court cases.

Section 15.2 Key Terms

Right to less restrictive treatment: In Dixon v. Weinberger (1975), a U.S. District Court ruled that individuals have a right to receive treatment in facilities less restrictive than mental institutions. The only patients who can be committed to hospitals are those unable to care for themselves.

Right to live in a community: The 1974 U.S. District Court case, Staff v. Miller, ruled that state mental hospital patients had a right to live in adult homes in their communities.

Right to refuse treatment: As patients have the right to request treatment, they too have the right to refuse treatment, such as biological treatment, psychotropic medications (Riggins v. Nevada, 1992), and electroconvulsive therapy.

Right to treatment: In the 1966 case of Rouse v. Cameron, the D.C. District court said that the right to treatment is a constitutional right, and failure to provide resources cannot be justified due to insufficient resources. In the 1972 case of Wyatt v. Stickney, a federal court ruled that the state of Alabama was constitutionally obligated to provide all people who were committed to institutions with adequate treatment and had to offer more therapists, privacy, exercise, social interactions, and better living conditions for patients. In the case of O'Connor v. Donaldson (1975), the court ruled that patient's cases had to be reviewed periodically to see if they could be released. As well, if they are not a danger and are able to survive on their own or with help from family or friends, that they be released.

Section 15.2 Key Takeaways

- Patients with a mental illness have a right to treatment, to refuse treatment, to have less restrictive treatment, and to live in a community.

Section 15.2 Review Questions

1. What rights do patients with mental illness have and what court cases were pivotal to their establishment?

15.3 The Therapist-Client Relationship

Section 15.3 Learning Objectives

- Describe three concerns related to the therapist-client relationship.

Section 15.3 Key Terms

Confidentiality: Guarantees that information about you is not disseminated without your consent; this applies to students participating in research studies, as well as patients seeing a therapist.

Duty to warn: In the 1976 Tarasoff v. the Board of Regents of the University of California ruling, the California Supreme Court said that a patient's right to confidentiality ends when there is a danger to the public, and that if a therapist determines that such a danger exists, he/she is obligated to warn the potential victim.

Privileged communication: A legal principle, which states that confidential communications cannot be disseminated without the patient's permission. There are a few exceptions to this, which include the client being younger than 16, when they are a dependent elderly person and a victim of a crime, or when the patient is a danger to him or herself or others, to name a few.

Section 15.3 Key Takeaways

- There are three main concerns which are important where the therapist-client relationship is concerned – confidentiality, privileged communication, and the duty to warn.

Section 15.3 Review Questions

1. What are the three concerns related to the therapist-client relationship? Describe each and state any relevant court rulings relevant to them.