**Module 15: Contemporary Issues In Psychopathology**

LEARNING OBJECTIVES

**15.1. Legal Issues Related To Mental Illness**

* 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.

**15.2. Patient’s Rights**

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

**15.3. THE THERAPIST-CLIENT RELATIONSHIP**

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

KEY TERMS

***Actus Rea***: A Latin term used in criminal law meaning “guilty act.”

**American Law Institute Standard (1962):** States 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 legal process by which individuals are admitted into a treatment facility or supervised outpatient treatment against their wishes. This can be done for various reasons, including mental illness, serious developmental disability, and/or substance abuse as defined by current statutes.

**Civil Commitment Criteria:** In the case of mental illness, the typical commitment standard is posing a danger to self or others, with almost all states construing the inability to provide for one's basic needs as a danger to self. This means that an individual may be subject to involuntary civil commitment if they pose a threat to themselves or others, or if they are unable to provide for their basic needs due to their mental illness.

**Competent to Stand Trial:** A person is mentally competent to stand trial if he or she is able to understand the character and consequences of the proceedings against him or her and is able properly to assist in his or her defense.

**Confidentiality:** A principle of professional ethics requiring providers of mental health care or medical care to limit the disclosure of a patient’s identity, his or her condition or treatment, and any data entrusted to professionals during assessment, diagnosis, and treatment.

**Criminal Commitment:** The confinement of people in mental institutions either because they have been found not guilty by reason of insanity or to establish their competency to stand trial as responsible defendants.

**Dangerousness:** A person’s capacity of harming themselves or others and implies physical harm but not necessarily psychological abuse or the destruction of property.

**Duty to Warn:** The obligation of mental health professionals to warn third parties whom their clients intend to harm or who might be able to protect a suicidal client from self-harm. Based on the outcome of the *Tarasoff v. the Board of Regents of the University of Californi*a court case.

**Durham Test:** Emerged from the 1954 *Durham v. United States* case. This test stated that a person was not criminally responsible if their crime was a product of a mental illness or defect. This term is synonymous with ‘products test.’

**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. This act includes several provisions, including the standard for insanity, burden of proof, and scope of expert testimony.

**Forensic Psychology/Psychiatry:** 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.

**Guilty But Mentally Ill (GBMI):** A court judgment that may be made in some states when defendants plead insanity. Defendants found guilty but mentally ill are treated in a mental hospital until their mental health is restored; they then serve the remainder of their sentence in the appropriate correctional facility.

**Insanity Plea:** a criminal defense strategy where the defendant may plead innocent by reason of insanity. When the defendant makes an insanity plea, they still acknowledge that they were involved but were not of sound mind at the time of the crime.

**Irresistible Impulse Test (1887):** a test used in some jurisdictions when considering an insanity defense that involves a determination of whether an impulse to commit a criminal act was irresistible due to mental disease or defect regardless of whether the defendant knew right from wrong

**M'Naghten Rule (1843):** 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.

***Mens Rea:*** A Latin term used in criminal law meaning “guilty mind.”

**Not Guilty By Reason of Insanity (NGRI):** When a defendant pleads NGRI they are acknowledging their guilt for the crime (*actus rea*) but wish to be seen as not guilty since they were mentally ill at the time (*mens rea*).

***Parens Patriae*:** Latin term meaning “father of the country” or “country as parent.” Refers to the government’s responsibility to act when individuals with mental illness behave in erratic or potentially dangerous ways, to either themselves or others.

**Privileged Communication:** While confidentiality is an ethical principal, privileged communication is a legal one. With few exceptions, confidential communications cannot be disseminated by a mental health clinician or medical professional without the patient’s permission.

**Products Test:** States that a person is not criminally responsible if their crime was a product of a mental illness or defect; this term is synonymous with ‘Durham test.’

**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.

***Tarasoff v. the Board of Regents of the University of California* (1976):** In this 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, they are obligated to warn the potential victim.

***Thompson v. County of Alameda* (1980):** In this case, the court ruled that a therapist does not have a duty to warn if the threat is nonspecific.