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Legal Services and Community Mental Health Centers

By
HENRY WEIHOFEN

Washington, D.C.: Joint Information Service of the Psychiatric Association and the National Association for Mental Health. 1969
Pp. 74, $2.00

The 1960’s has been a decade of restlessness. Sparked by the challenges of the Kennedy era, programs for experimentation in social change have sprouted in manifold form. Some have faltered; others have withered away. But despite criticisms from many quarters, the movement to build and staff community mental health centers faces the 1970’s, battered perhaps, yet apparently healthy. It must now meet the responsibility of making good its promise to provide, in the words of President Kennedy, “A bold new approach” that will “. . . return the care of the mentally ill to the mainstream of American medicine.”

Since the inception of these programs, the Joint Information Service has assumed a responsibility for studying and reporting the progress and problems encountered in their development. With a trend in the direction of comprehensively planned services, it is appropriate that the Service has included among the dozen volumes thus far published a study of Legal Services and Community Mental Health Centers. The author, Professor Henry Weihofen, has considerable experience with forensic psychiatry. He was co-author with Dr. Manfred Guttman of Psychiatry and the Law in 1952. The present book was written as an outgrowth of his preparation to become Legal Services Coordinator for the Bernalillo County Mental Health Center in Albuquerque, New Mexico.

In assessing the need for legal services to mental health centers, Professor Weihofen visited some 18 facilities across the country. His studies have resulted in a practical manual. Though its 74 pages are far from exhaustive, the reader will find a thorough treatment of most of the pertinent issues. These issues “. . . may be divided into a) those that concern primarily the administrator or staff of the center, b) those that underlie or are enmeshed in the emotional and mental problems of individual patients, and c) those of broader concern to the community as a whole or to certain of its agencies such as the courts.”
The first section entitled "Legal Services for Administration and Staff" is a reasonably complete review of the legal problems the centers might have to face. Attention is given to liability for negligence, drafting of forms and the formalities of obtaining consent to treat minors. But from the midst of such mundane-sounding issues new problems emerge. With the transition to new approaches in the delivery of mental health services, new considerations of the legal assumptions involved will be necessary as well. For instance, we can use the concern for the preservation of a patient's rights of confidentiality as an example. Up to the present our treatment schemes have provided a certain clarity to the division between the helper and his client. And it was assumed to be the responsibility of the helper, whether practicing psychiatrist or state hospital attendant, to hold in confidence the patient's record. But what is to be the procedure in a "therapeutically" organized community where the division between helper and helped becomes blurred—where the office secretary or the community organizer may be a client himself? What sort of information and how much of it should be transmitted to the staff of an affiliated section of a mental health center such as a vocational rehabilitation unit when planning the post-hospital phase of treatment? Professor Weihofen is careful to avoid neatly packaged answers to such questions. Yet he is explicit in his concern that they be thought through. His discussion provides a good deal of insight that must underlie decisive programming by the centers.

From such essentially procedural concerns, the author turns to "Legal Services for Patients." "A patient's mental troubles" he says, "may be inextricably bound up with, and are perhaps largely a consequence of, a devastating marital situation, overwhelming financial troubles, a job crisis or threatened eviction." Ten years ago he may have gotten an argument on that point. But today, with the expansion of mental health programs among the poor and disadvantaged, we recognize more readily the interplay between the social and intrapsychic forces contributing to the client's problem. The perfunctory referral "outside" to Legal Aid is not always the answer. To people with low self-esteem, referral anywhere may be just another message of rejection or lack of concern. Coordination of services is essential if follow-through is really expected. Professor Weihofen's point is clear and well taken. Only through close affiliation with Legal Aid or a legal component of the center's staff can this need be met effectively.

If a criticism is to be made about this book, we can point out that the third section which deals with "Services to the Community" is the weakest. Some of the schemes to involve a mental health lawyer
in community consultation and social action seem vague in comparison to the sharply drawn questions and specific examples of the first two sections. The role of the lawyer in consultation sessions involving psychiatrists with police groups is made to sound like some sort of translator between people of foreign tongues. Yet the limitations of this section seem not altogether inappropriate when one considers the unsophisticated methods behind all our efforts at primary psychiatric prevention. It is clear that both lawyers and psychiatrists have much more to learn about their roles in effective social action.

The style of this book was conceived with the mental health professional in mind. The too-often heavy phrasing of the law review is avoided along with psychiatric jargon. Lawyers have long appealed to psychiatrists to speak more plainly to the court. Here is a lawyer whose own clear style provides a superb model. The book is well-documented and there are several appendices which provide a useful model for the kind of services a lawyer can provide a center.

Though Professor Weihofen prescribes no panacea for the problems facing mental health centers, the clear exposition of many anticipated legal problems will help to minimize the frustration they can produce. Most importantly, his efforts help assure that we not overlook the important contributions of the legal profession in seeking solutions to mental health problems.

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