



NEWSLETTER

NEW YORK STATE SOCIETY OF CLINICAL SOCIAL WORK PSYCHOTHERAPISTS, INC

FALL 1989 • VOL. XX, NO.3

Conflict of Allegiance: A Child's Anguish in Court

Giving Evidence Provokes Severe Stress, Committee Demonstrates

Report by Selma Samuel, CSW

The mutual concerns of legal and mental health professionals inspired the thoughtful multidimensional reporting at the cosponsored day-long presentation of the Interdisciplinary Committee on Mental Health and Family Law, on Saturday, October 28, in New York City. The topic: "Witnesses in Family Disputes: A Conflict of Allegiance."

Moderators Magda Denes, Ph.D., and Robert Z. Dobrish, Esq., introduced each speaker and guided the audience from one to another so that the structure of the program was maintained intact.

Therapist as Witness

Eleanor B. Alter, Esq., an expert in custody and visitation issues, began the day's event by discussing the nature of witnessing and by paying special attention to the treating therapist as a witness. She addressed the various dilemmas facing the therapist who is asked to testify in behalf of a patient. Very often the treatment relationship is critically injured and irreparable. It must be emphasized that the treating therapist is the therapist who has treated either the parent and/or the child prior to court action—not the forensic psychiatrist hired by the court to make a judgment. The treating therapist has knowledge of critical issues and should not be involved unless there is no other choice.

Lawyers, in general, undertake an enormous responsibility in making the various judgments needed in the use of witnesses. The revelation of intimacies often evokes irrevocable changes, alters and destroys relationships and changes lives forever. Witnesses who are not family members may be neighbors, friends, hired help, etc. Witnesses may volunteer and be eager to

testify. Others are reluctant and, as hostile witnesses, need to be coerced. The responsible attorney is guided by the facts as revealed by his client in deciding who is to be called and must weigh how the testimony might influence the case in that the witness may reveal something that might be better left unsaid. "Skillful questioning, examining and instinct" guide Ms. Alter in making her decisions.

The Child Witness

Child therapist Esther Mullen, Ph.D., drew from her clinical experience with abused children in addressing the critical developmental issues which profoundly impair youngsters when they are called upon to testify for one parent against the other; or when they are fought over in

custody battles between the parents; or when they have been witness/victim to abuse throughout their lives.

Dr. Mullen discussed the long-range effects of testimony given by family members. The act of becoming a witness finalizes a considerable period of stress, conflict and anxiety. Culturally, we value privacy and family loyalty. Providing testimony—or public disclosure—of private happenings provides a juxtaposition of values and confuses anyone who is called upon to testify. Parents, once all-powerful, are superseded by the authority of the court; legal authority now overrides parent authority. Becoming a witness for one parent against the other can and does cause irreparable harm. The child publicly

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New Licensing Legislation for Clinical Social Work

Proposed Bill Defines, Describes CSW Function Explicitly

*By Marsha Wineburgh, MSW
NYS Legislative Chair*

The first draft of a new licensing bill for clinical social workers in New York State has been written and approved by the legislative committee of NYSSCSWP. For the first time, legislation describing a clinical social worker's competence to assess, diagnose and treat cognitive, behavioral, mental and emotional disorders has been explicitly defined. Our current certifica-

tion, passed in 1965, only defines the title "certified social worker," a generic description of social work based on having completed an MSW program but with no experience requirement.

The legislative committee unanimously supported the inclusion of a core clinical curriculum in a master's program as part of the basic criteria. For those social workers who have had no exposure to clinical courses, postmasters academic work is required to ensure that all licensed

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EXECUTIVE REPORT

ABE Needs "TLC" Fledgling Board Facing Problems



Two years ago clinical social workers across the nation applauded the birth of the American Board of Examiners (ABE) and the establishment of the Board Certified Diplomate (BCD) credential. This landmark was especially significant because it came as the result of long and difficult negotiations between the National Registry of Health Care Providers in Clinical Social Work and the National Association of Social Workers, two organizations which had each announced their plans to establish an advanced credential in the spring of 1986. Since CSWs recognized that two advanced credentials didn't make sense and likely would undermine much of what we intended to accomplish, a loud and clear voice was raised in support of a single credential. For those who believed strongly that a credentialing body should be independent of any professional organization

and that the highest standards should be set, the negotiations were considered successful and worth the effort — an accomplishment of which we could all be proud.

Unfortunately, it has not been easy to get ABE up and running. Many of us have been inconvenienced by ABE's administrative problems. The publication of a directory is long overdue, and now we hear that the date for the first BCD exam has been postponed until next spring. Many of us have been disappointed to learn that these problems have come about due to the breakdown of ABE's administrative services contract with NASW. That organization's commitment to ABE has been called into question since it is difficult [for that organization] to claim ignorance in the matter. (*NASW News*, September 1989: "NASW Seeking Arbitration of Contract Dispute") It was certainly painful for those members of the ABE board who had been appointed by NASW to vote in favor of discontinuing this business relationship. Their ability to take a stand in favor of ABE and in the best interests of the profession is laudable. I hope that we can follow their example and remain dedicated to the ideals that gave birth to ABE. Now, more than ever, ABE needs our support.

Robert J. Evans, CSW
President

A QUESTION OF ETHICS

Potential Liability for Supervisors

Flexibility, Availability Required

By David G. Phillips, DSW



In the Summer 1989 issue we discussed supervisory liability in the context of the Regulations of the New York State Education Department. These regulations caution professionals about delegating responsibilities to those whom we know, or should know, are not qualified by training, experience or licensure to perform them. This column will address other aspects of supervisory liability and, again, a major source will be Ronald Jay Cohen's valuable book on malpractice.

Supervisory Negligence

First, as Cohen points out, just as there can be negligence in therapeutic practice there can also be negligence in supervisory practice. He notes that we must be both flexible and available in establishing supervisory arrangements in order to meet the specific needs of both the supervisee and the patient: "Unless records document that the schedule of supervision of assistants and other employees was decided on the basis of a careful evaluation of the needs of both the supervisee and the patient, it is conceivable that a good case for malpractice could be made" (p. 238).

There is a key legal doctrine that establishes the basis for potential liability of supervisors: *respondet superior*. This doctrine, sometimes called "vicarious liability," holds that the "master" is responsible for the actions of the "servants" when those actions are undertaken in the course of the "employment." Even though there is not necessarily a relationship of employment between supervisor and supervisee, this legal principle has been used in a number of cases of medical malpractice to transfer all or part of the liability to the supervisor. In one case cited, for example, a woman sued after a nurse had injured her during childbirth. The court did not assess liability against the hospital in this case, but did find that the nurse was a "borrowed servant" of the obstetrician and held the physician liable for the negligence of the nurse (p. 181).

It should be emphasized that there is not only a legal basis for plaintiffs to attempt to involve supervisors in a law suit, there is also a financial incentive for them to do so — *it gives them someone else to sue*. By attempting to involve supervisors and others in legal action, plaintiffs are not just trying to apportion the alleged negligence among various parties who may share accountability; they are also trying to fix responsibility for the negligence on those who are best able to compensate them. The plaintiff may have been injured by the negligence of the primary therapist, but if

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Advertising for Spring 1990 issue due March 1.

BOOKS

EMPATHIC ATTUNEMENT: The "Technique" of Psychoanalytic Self Psychology

*Crayton E. Rowe, Jr. &
David S. Mac Isaac*

*Jason Aronson, Inc.,
Northvale, New Jersey, 1989,
308 pages*

*Reviewed by
Stephen J. Murphy, Ph.D.*

The authors introduce this book with their ambitious objective of presenting the "essence" of Kohut's works in a "straight-forward, accurate, and usable way." They set out to capture this essence by focusing on Kohut's emphasis on the "empathic mode of data gathering from within the patient's experience." They stand up to the task in a distinctive manner.

Stylistically, this book is a clearly written exposition that distills Kohut's self psychology into a system of experience-near listening and understanding. What is distinctive is the depth of understanding embedded in their exegesis of Kohut's writings, presented to the reader in a pleasingly succinct way. This book is didactic. Although the authors include "interested readers outside the mental health field" in their audience, it is primarily a book for all clinicians. The simple, direct, sequential presentation of theory and then illustrative clinical material leads the reader to discern their developing "technique" of self psychology, namely empathic attunement.

Empathic Bonds

The book is divided into three parts. Part I, entitled "Understanding from the Vantage Point of the Patient's Experience," highlights relevant aspects of Kohut's life. These chapters present the development of Kohut's fundamental conceptualizations: defining empathy and explaining its functions, and beginning to create the "intersubjective" context of empathy by tracing the development of the selfobject concept and selfobject transferences. The authors' clinical astuteness and expository skills combine in these early chapters when they invite the reader to "walk in Kohut's shoes for awhile." In other words, the reader is encouraged to adopt the experience-near stance so crucial to empathy in order to understand self psychology. Herein lies another distinctive

accent in this book: based upon the experience of being in session with patients, the reader can form a sort of empathic bond with the authors. This experiential feature is especially appreciated later on when clinical cases are presented.

Part II, "Treatment in Self Psychology," moves into the clinical arena. The reader follows further down Kohut's path as his conceptualizations of treatment are presented, including the ever-important "two-step therapeutic unit of understanding and explaining." Subsequently, the authors seem almost to attune themselves to the reader's ubiquitous urge to compare self psychology with classical drive theory. These timely and concise chapters address the place of drives, defense and resistance, dreams and the curative process. The authors thankfully do not belabor these comparative issues. They admittedly run the risk of seeming to oversimplify and distort the classical perspective but press on to the Kohutian conclusion that any clinical understanding or interpretation must derive from the experience-near vantage point.

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understanding or
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experience-near
vantage point.*

Clinical Applications

Part III opens the door to more specific "Clinical Applications of Self Psychology." Here's the action. They offer a synopsis of Kohut's two analyses of Mr. Z. This section is nicely organized around Kohut's change from classical analytic understanding to his self psychology perspective, all in reference to the same patient. The following seven chapters compel the reader to deepen his/her empathic participation in the work. Considerable time is devoted to Mr. Rowe's 7-year treatment of a narcissistic personality disorder in Mrs. O. Mr. Rowe narrates his 8-year treatment of a borderline personality disorder in Mr. V. These extensive treatment narratives are presented sequentially beginning with initial sessions and extending to termination. The therapist's "moment-to-moment" reactions and theoretical understanding nicely

highlight the development of the empathic bonds with each patient.

The authors aptly demonstrate what they define as "expanding attunement," which is a mode of empathic listening requiring the therapist to "as closely as possible... experience what the patient is experiencing, which includes the patient's simultaneous experience of the analyst." The reader's empathic immersion into the clinical narratives develops along with the authors' understanding. Mr. Rowe's candid countertransference reactions further strengthen the reader's experience-near vantage point. The authors include a refreshing reminder that "there is no such thing as perfect empathy."

*... "there is no
such thing as perfect
empathy."*

The final chapter, "The Empathic-Intropective Approach," wraps up the work in a direct and focused way. The authors stress that "Kohut systematized the experience-near empathic vantage point as the basic structure upon which the treatment process is built." It is from this structure that they point to a "new frontier of understanding" which has changed the perceptions of what comprises analytic treatment. Such a ponderous statement begs for more elaboration than the simple restatement the authors make of the treatment process as defined by self psychology. The reader is left however to ponder the essence of self psychology and whether or not we, as clinicians, are truly entering a new frontier of understanding. This book is a profoundly useful guide to an experience-near consideration of the question.

Oops—Sorry

The book review in the Summer 1989 issue was written by Phyllis Caroff, DSW. We omitted her byline, and apologize.

Mark the Date

The NYS Society's Annual Meeting will take place Saturday, May 12, 1990: **The Year of the Family.** Watch for details!

POTENTIAL LIABILITY (continued)

that individual has few financial resources and no malpractice insurance, it is clearly to the plaintiff's advantage to try to fix responsibility on other parties.

In sum, in the modern world we may well find ourselves involved in litigation even though we have never actually seen the patient. Practitioners who do supervision should consider the following guidelines: 1) Be flexible in your arrangements, available to your supervisees and be sure that the supervision is individualized according to the needs of both supervisee and patients. 2) Keep careful records of your work — they are always your best protection in a law suit. 3) Be careful in supervising those who may not be qualified for their practice by training, licensure or experience — especially when the supervision takes place outside of a structured training program. 4) Be extremely careful in supervising practitioners who are not covered for their practice by some form of malpractice insurance.

Reference:

Cohen R.J: Malpractice: A Guide For Mental Health Professionals. The Free Press, 1979.

NEW LICENSING (continued)

clinical social workers will have a comprehensive background in psychopathology, human development, etc. This core curriculum requirement is in sharp contrast to the "QCSW," the "qualified clinical social worker," NASW's new clinical credential. This credential is being promoted without any required academic course work, relying primarily on two years of postdegree supervised clinical experience as the pivotal minimum requirement to be identified as a clinical social worker.

Update: New York State

Governor Cuomo signed into law Chapter 693 of the Laws of 1989, legislation which amends the criminal procedure law to include psychologists as qualified *psychiatric examiners*. We will shortly be introducing legislation to amend this law to include qualified social workers as psychiatric examiners.

Medicaid (S.1419/A.2112) — We are currently working on clarifying how New York State will be reimbursed by the federal government for outpatient psychotherapy services delivered to Medicaid patients by clinical social workers. □

CONFLICT (continued)

declares that s/he is no longer equally devoted to both parents. With the significant increase in divorce and the equal rights of both mother and father, we have noticed an increase of child testimony in our courts.

Personality development already affected by family disputes is further altered by the court experience. The age and maturational level of a child are significant variables in the treatment of children who have been court witnesses and who, prior to this event, have suffered severe family disruption. It often takes a year or more before a patient can even begin to acknowledge the deep emotional torment experienced at the time s/he was called upon to "betray" trust and alienate at least one family member.

There are delayed effects too. At age 12 a female patient chose to side with her father and now, at age 25, still does not know the degree of damage in her relationship with her mother that led to the decision. Nor can she explain why she has not talked to her mother in years.

In adolescence, as Norman Sugarman, CSW, points out, there is a tendency to champion causes with the underlying value of "fair play." The adolescent is most likely to mediate between the parents and, when called as a witness, is forced to take a position (often "righteous") and lose one parent or the other — an irreparable loss.

The Honorable Bentley Kassal revealed a judge's sensitivity to the dilemmas faced by child witnesses. By inviting the child into the judge's chambers, privately and without the intense examination of the open courtroom, children are somewhat protected.

Parents' Dispute = Adolescent's Conflict

The highlight of the day was a mock trial introduced by Kenneth Koopersmith, Esq., who was in fact the lawyer for the father in the case upon which the presentation was based. Mr. Koopersmith truly communicated a sensitive concern for the family as a whole. The situation projected was a dispute between parents about who should retain the marital residence. The presentation centered around a letter found by the mother (unbeknownst to him) in her 14-year-old son's desk. Mr. Koopersmith's impassioned remarks note that a child should never be called upon to testify in a dispute between parents unless the testimony is *critical* to the case. The experience for the child will impact on the child's life, on both parents' lives, on siblings' lives — and on the lawyer's life as well.

The case involved an 18-year-long mar-

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Calendar: Upcoming Events - NYS Chapters

Mid-Hudson

Fall 1989 8-session course: Working the Dreams in Psychotherapy — Amy Blumberg, CSW

Spring 1990 Seminar: "Developmental Stages of Divorce" Eleanor and Howard Yahm

Information: Yasuko Hatano-Collier, CSW — 914-297-5901

Nassau

January 20, 1990 "The Interface of Law and Mental Health" Howard Sovronsky, CSW
1 PM - 4 PM Director, Forensic Services
Nassau County

Fee: Members, in advance — \$30; at door — \$35

Information: 516-731-7611

Queens

April 1990 Special Education Meeting—Topic: "Adult Development"

Staten Island

January 1990 8-week course: "Self Psychology"

Syracuse

March 24, 1990 Private Practice Seminar
9:30 AM - 12:30 PM

May 5, 1990 Annual Program: "The Effects of Gender Issues Throughout the Life Cycle." Patsy Turrini, MSW

Information: Joy Perlow, MSW — 315-445-1287

Westchester

April 7, 1990 Annual Spring Conference: "Narcissism From a Developmental Point of View." Joyce Edward, MSW
9 AM - 1 PM

Information: Rosemary Sacken, MSW — 914-948-8182

Western New York

January 26, 1990 Educational Meeting: "The Multiple Personality"
5 PM - 6:30 PM Tom Giancarlo, CSW

Information: Laura Salwen, CSW — 716-838-2440

CONFLICT (continued)

riage. The husband, an attorney, age 40, with a history of alcoholism, demonstrated a competitive, domineering attitude toward his son. The wife, age 39, a former school teacher, has not been employed during the marriage. There are two children—Josh 12, quiet, compliant, unobtrusive—and Steven, 14, the witness in question. Father's tennis partner, private school student with suddenly failing grades, Steven had expressed the wish not to testify or take sides. This reluctant witness was convincingly portrayed by actor Donid Sable.

The marital residence is a house in Riverdale. Parents have had numerous arguments; they do not share the marital bedroom. The legal grounds for making one of the parties leave the home is demonstrated abuse; father refuses to leave.

Skillful questioning by attorney Irvin H.

Rosenthal (mother's counsel) led the audience and the witness to the point where the letter was produced. Steven's anguish and torment was clearly conveyed.

In the discussion that followed, Dr. Joel Markowitz, M.D. (who in fact consulted in the actual case), talked about the adolescent's renouncing his submission to the all-powerful father and being forced to testify and therefore defend and protect the mother. Questions and answers and considerable controversy followed.

The lengthy meeting was adjourned by co-chair Bernard Rothman, Esq., who invited us all to join the "brown bag lunch"—a realistic attempt to join forces and explore mutual issues between the legal and mental health professionals intended to broaden our understanding of the complex and sensitive issues with which we are all concerned. □

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January 19, 1990
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BELIEF SYSTEMS AND THEMES IN COUPLES THERAPY

Faculty: Peggy Papp, M.S.W.
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January 20, 1990
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THE TAO OF FAMILY THERAPY

Faculty: Joseph M. Rosenthal, Ph.D.
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January 26,27, 1990
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TREATING THE ADOPTIVE FAMILY

Faculty: Ronny Diamond, M.S.W.
Time: Saturday
February 3, 1990
Tuition: \$75

THE INDIVIDUAL AND SYSTEMS ANALYSIS OF EXTRAMARITAL AFFAIRS

(Something New About Something Old)
Faculty: Israel W. Charny, Ph.D.
Director, Postgraduate
Interdisciplinary & Graduate
Social Work Programs In Family
Therapy
Tel Aviv University
Time: Saturday and Sunday
February 10,11, 1990
Tuition: \$150

INTRODUCTION TO FAMILY THERAPY

Faculty: Constance Scharf, M.S.W.
Time: Friday and Saturday
March 2,3, 1990
Tuition: \$150

AMBIGUOUS LOSS: UNDERSTANDING CLINICAL INTERVENTIONS IN UNRESOLVED LOSS

Faculty: Pauline G. Boss, Ph.D.
Supervisor, AAMFT Training
Program, Family Social
Science, University of
Minnesota
Time: Friday and Saturday
March 16,17, 1990
Tuition: \$150

FAMILY/SCHOOL COLLABORATION: BUILDING A PARTNERSHIP FOR CHANGE

Prerequisite: School Problems: A
Family Systems Approach or
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Faculty: Howard M. Weiss, Ph.D.
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April 7, 1990
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Stephen Rosenheck, M.S.W.
Helen Singer Kaplan and
Associates, Department of
Psychiatry, Columbia University
Time: Friday
April 20, 1990
Tuition: \$75

ADOLESCENT PROBLEMS AND FAMILY THERAPY: WALKING A TIGHTROPE

Faculty: Howard A. Liddle, Ed.D.
Professor of Counseling
Psychology and Director,
Adolescents and Families Project
Temple University
Time: Saturday
April 21, 1990
Tuition: \$75

SYSTEMIC FACTORS WHICH HOLD WOMEN BACK

Faculty: Karen Friel Noble, M.S.W.
Family Therapist, Internal
Consultant, Affirmative
Action, Bank of Boston
Time: Friday and Saturday
April 27, 28, 1990
Tuition: \$75

BREADTH AND DEPTH: EXPERIENTIAL METHODS IN FAMILY THERAPY

Faculty: Joseph M. Rosenthal, Ph.D.
Time: Friday and Saturday
May 4,5, 1990
Tuition: \$150

DAY 1 - SYSTEMIC ISSUES OF GAY MEN WITH AIDS RELATED ILLNESS: FAMILY OF CHOICE VS. FAMILY OF ORIGIN

DAY 2 - AIDS IN THE INNER CITY: DRUGS, MINORITIES AND CHILDREN

Faculty: John Patten, M.D. and
Gillian Walker, M.S.W.
Time: Friday and Saturday
May 11,12, 1990
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\$50-1 day

PSYCHOANALYSIS AND FAMILY SYSTEMS

Faculty: Hinda Winawer, M.S.W.
Shelly Goldakian, Ph.D.
Ferkauf Graduate School of
Psychology, Yeshiva
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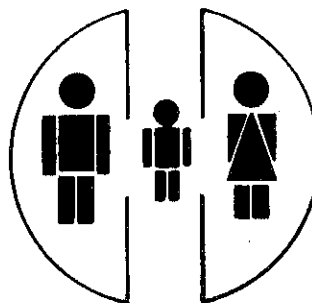
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