

# Mental Health Matters

The newsletter of the Illinois State Bar Association's Section on Mental Health Law

## How the COVID-19 Pandemic Impacts Mental Health Law and Practice: Some Resources to Address These Concerns

BY BARBARA GOEBEN

The COVID-19 pandemic has affected mental health law and practice in unique ways. On Friday, June 4, 2021, from 1-4 pm, a CLE live webcast sponsored by ISBA's Mental Health Law Section and

the Standing Committee on Disability Law will focus on some of the pandemic's effects, specifically in the areas of special education, HIPAA changes, remote court

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## Celebrate Mental Health Month

BY JOSEPH MONAHAN

May is Mental Health Month.

On July 3, 1949, President Harry Truman established the National Institute of Mental Health (NIMH). The stated mission of the organization was to transform the understanding and treatment of mental illnesses through basic and clinical research, paving the way for prevention, recovery, and cure. Mental Health Month has been observed in May in the United States since that time. The purpose of Mental Health Month is to raise

awareness and educate the public about mental health issues.

Statistically, 18.1 percent of Americans suffer from depression, schizophrenia, and bipolar disorder. The realities of living with these conditions and strategies for attaining mental health and wellness is key. These days, Mental Health Month also aims to draw attention to suicide, which can be precipitated by some mental illnesses. Another goal strives to reduce the

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## How the COVID-19 Pandemic Impacts Mental Health Law and Practice: Some Resources to Address These Concerns

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proceedings, and recent changes in mental health law.

In conjunction with this upcoming CLE, the following are some interesting resources in related to mental health law and the pandemic.

### National Institute of Mental Health

Joshua Gordon, M.D., Ph.D., director of the National Institute of Mental Health (NIMH), in his April 9, 2021, article marking the anniversary of COVID-19 noted that “[t]he mental health impacts of COVID-19 continue. From all that we know, it is clear these impacts will outlive the pandemic itself. Therefore, it is crucial that we work together to apply evidence-based strategies to support the mental health needs of all Americans and to make these strategies broadly available, especially in vulnerable communities.” (NIMH » One Year In: COVID-19 and Mental Health (nih.gov)). Interestingly, Dr. Gordon cites to a study focusing on how COVID-19 has affected substance abuse recovery efforts in Cook County. (Notes from the Field: Opioid Overdose Deaths Before, During, and After an 11-Week COVID-19 Stay-at-Home Order — Cook County, Illinois, January 1, 2018–October 6, 2020 | MMWR (cdc.gov))

Besides conducting mental health research, the NIMH has also produced shareable resources for coping with the mental health stress arising from COVID-19: “The outbreak of coronavirus disease 2019 (COVID-19) is stressful for many people. People respond to stress in different ways and it is normal to experience a range of emotions, including fear, anxiety, and grief. Sharing accurate information about COVID-19 and strategies for coping can be an effective way to manage stress and connect with others.” (NIMH » Shareable Resources on Coping with COVID-19 (nih.gov))

### HIPPA and COVID-19

The Health and Human Service’s Office of Civil Rights has an excellent webpage linking

the bulletins, notifications of enforcement discretion, guidance, and resources in explaining how patient information is used and disclosed during the pandemic. (HIPAA and COVID-19 | HHS.gov)

### Special Education

The U.S. Department of Education, specifically the Office for Civil Rights, Office of Special Education and Rehabilitation Services, offers guidance and resources regarding special education and COVID-19. (Supplemental Fact Sheet: Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools (PDF) (ed.gov) ) (Program Information: FAQs and Responses | U.S. Department of Education)

### Remote Court Proceedings in Illinois Due to the Pandemic

Because many behavioral health units still limit in person visitation, a majority of civil mental health proceedings are still conducted remotely in Illinois. The Illinois Supreme Court has a dedicated webpage about COVID-19, including a listing of virtual courtroom guides by jurisdiction. (Illinois Courts - COVID-19 Information and Updates) The Illinois Supreme Court has also drafted a guidance document about remote court proceedings. (Illinois Supreme Court Remote Court Proceedings – Guidance Document)

Besides these useful resources, the June 4, 2021 ISBA webinar will provide further information on COVID-19 and mental health law and practice. We look forward to your participation with this CLE. ■

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## Mental Health Matters

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## Celebrate Mental Health Month

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stigma that surrounds mental health issues.

These past 15 months has presented so many different challenges and obstacles that tested our strength and resiliency. The global pandemic has forced us to cope with circumstances we never could have imagined. Many people who had never experienced mental health challenges found themselves struggling for the first time. During this past year, many were forced to address situations over which we they had no control over: loss of jobs, isolation, no contact with family or friends, financial stresses, limited access to health providers, deferral or cancelations of important life events like weddings, retirements, attendance at wakes and funerals and births of children and grandchildren and many other

important family events. People cancelled business opportunities, travel plans and other long planned activities. The utter lack of control over what we could do or where we could go heaped frustration on many.

During this Mental Health Month, we can pause to determine to identify whether trauma is impacting our mental health, or the mental health of friends and family. It may be a time to challenge negative thinking patterns or to recognize we need to make time to take care of ourselves. It is a time to remember that identifying these issues is the first step. Addressing them and working on them takes time. Changes won't happen overnight. Instead, by focusing on small changes, we can help ourselves and others move through the stressors of the

past 15 months and develop a long-term strategy to support ourselves and others on an ongoing basis.

Mental Health America has a number of resources that are available for free online, including information about Mental Health Month, how to spread the good word and resources that can address our mental health during this month celebration. <https://www.mhanational.org>.

Please take a moment during May to celebrate good mental health and pass it on! Someone you know may need this positive boost. ■

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*Joseph Monahan is the founding partner of Monahan Law Group, LLC, in Chicago, Illinois.*

# Observe Mental Health Month: Care for Yourself, Your Community

BY ROBERT E. WELLS, JR.

## Start by Taking Care of Yourself

Daniel J. Cuneo, Ph.D., is a psychologist who wears many hats throughout Southern Illinois and in the St. Louis metropolitan area. He has been active with the Illinois State Bar Association, the St. Clair County Bar Association and Lawyers' Assistance Program (LAP). Dr. Cuneo is also active in the criminal justice and education arenas. He currently serves as president of the St. Louis County Special School District, which has a budget in excess of \$450 million and is responsible for children with special needs and Career Training Education (CTE).

Dr. Cuneo has a presentation entitled: "You Can't Take Care of Someone Else Until You Take Care of Yourself First." This presentation focuses upon the unique and pervasive stress faced by lawyers and the profession. It provides some insight, data and anecdotes that highlight what Mental Health

Month is about—awareness, cognitive behavioral tools, emotional well-being and resources to help address the complex interrelationship between cognitions, behaviors, emotions, the profession and everyday life.

Dr. Cuneo notes:

- Depression among law students is 8-9 percent prior to matriculation, 27 percent after one semester, and 40 percent after three years.
- Stress among law students is 96 percent, compared to 70 percent in medical students, and 43 percent in graduate students.
- Entering law school, law students have a psychological profile similar to that of the general public; after law school 20 to 40 percent have a psychological dysfunction.
- Lawyers are the most frequently

depressed occupational group in the U.S.

- Johns Hopkins stated that lawyers rank first in depression.
- Lawyers are 3.6 times more likely to suffer from depression than non-lawyers.
- Lawyers rank 5<sup>th</sup> in incidence by suicide.

Dr. Cuneo explains some of this is related to the behavioral characteristics of those who enter the profession, the demands of the profession (perfection, hours, stress, finances, the rainmaker syndrome and deadlines), that law schools teach students to think differently (particularly with how we disassemble and rearrange facts), and the fact that, in a sense, lawyers are first responders to the trauma of others, yet like priests, often cannot disclose to others what we see or hear. This is vicarious trauma, i.e., the residue

of exposure to pain, fear, trepidation and feelings of the clients we represent and the circumstances involved. Vicarious trauma is often overlooked.

Dr. Cuneo sees the signs of vicarious trauma in a variety of behaviors, including:

- Difficulty talking about feelings
- Free floating anger and/or irritation (depression)
- Difficulty falling asleep or staying asleep
- Losing sleep over clients
- Worry over inability to do enough for clients
- Feeling trapped
- Diminished feelings of satisfaction and personal accomplishment
- Feeling of hopelessness associated with work
- Dealing with intrusive thoughts of clients with especially severe trauma histories
- Blaming others
- Self-medicating.

Dr. Cuneo suggest a number of adaptive ways of dealing with trauma:

- Recognize trauma is an injury.
- Talk to someone –friend, spouse, professional. Don't isolate.
- Be able to recognize the fight or flight condition and actively calm mind and body. Without these initial steps, trauma keeps people in a sense of impending danger, even when there is none. Bring your mind and body into the present moment (mindfulness).
- Laugh whenever possible, even if gallows humor.

Dr. Cuneo also provides a number of worthwhile practical tips:

- Set realistic and attainable goals.
- Learn to prioritize your life and work.
- Recognize mistakes are part of life.
- Be cognizant of your emotional barometer.
- Seek balance in your life.
- Learn to manage stress by finding healthy outlets, i.e., exercise.
- Take advantage of your strengths and know your weaknesses.

- Give yourself personal time.
- Know that the practice of law is inherently stressful.
- Be aware of self-medicating.
- Have someone to talk to.
- Know when to ask for help.

The major barrier is captured in the following John Kenneth Galbraith quote: “When given a choice between changing, and proving that it is not necessary, most people get busy with the proof.” However, avoidance is not the answer and isolation exacerbates the adverse consequences.

Dr. Cuneo graciously consented to the liberal use of his notes and opinions in the foregoing article.

### Next, Support Community Awareness and Equal Access to Mental Health Resources

May is recognized as Mental Health Month. It was created to heighten awareness of the pervasive impact on mental health, on the health of individuals and on our communities. One of its principal goals is to break the stigma attached to mental health and better understand it is an integral component of overall health.<sup>1</sup>

We have experienced a year like no other. A year of disruption and, at times, despair from COVID-19. We have suffered the loss of loved ones, the disability of others and the dislocation of many. We have recognized as essential many who were previously marginalized. Many of us may work from home, but many do not have this option. Many children have lost from the lack of in-person instruction, limits on socialization, and feeling of isolation.<sup>2</sup> The underlying common denominator is the STRESS to our mental and emotional well-being.

These circumstances have given rise to increased awareness, but what has not occurred is an enhanced understanding and access to practical, evidence-based strategies of mental health that help to provide to individuals and families specific sets of tools, skills and support to address the complex interrelationships between cognitions, behaviors, emotions and everyday life.<sup>3</sup> The importance of these issues is underscored by the Illinois Mental Health Task Force Virtual Summit convened by Illinois Supreme Court Chief Justice Anne M. Burke.<sup>4</sup>

COVID-19 has exacerbated many of the disparities between the haves and the have-nots. It has laid bare the instability of households, neighborhoods, schools and communities. The trauma of everyday life has been magnified in scope and depth.

The following statistics can be found on the NAMI website:

#### Individual Impact:

- 20.6 percent of U.S. adults (51.5 million people) experienced mental illness in 2019, but only 43.8 percent of them received treatment.
- 1 in 5 U.S. adults experience mental illness each year, but less than half get treatment.
- 5.2 percent of U. S. adults (13.1 million people) experienced serious mental illness in 2019, but only 65.5 percent of them received treatment.
- 1 in 20 U. S. adults experiences a serious mental illness each year, but less than two-thirds get treatment.
- 16.5 percent of U. S. youth aged 6-17 (7.7 million people) experienced a mental health disorder in 2016, but only 50.6 percent of them received treatment.
- 1 in 6 U.S. youth experience a mental health condition each year, but only half get treatment.
- 50 percent of all lifetime mental illness begins by age 14, and 75 percent by age 24.
- Suicide is the 2<sup>nd</sup> leading cause of death among people aged 10-34 and the 10<sup>th</sup> leading cause of death overall in the U.S.
- The overall suicide rate in the U.S. has increased by 35 percent since 1999.

#### Community Impact:

- Lesbian, gay, and bisexual youth are 4 times more likely to attempt suicide than straight youth.
- Transgender adults are nearly 12 times more likely to attempt suicide than the general population.
- The average delay between onset of mental illness symptoms and treatment is 11 years.
- 55 percent of U.S. counties do not have a single practicing psychiatrist.



- 3.8 percent of U.S. adults experienced both mental illness and a substance use disorder in 2019 (9.5 million people).
- Mental illness and substance use disorders are involved in 1 out of every 8 emergency department visits by a U.S. adult (estimated 12 million visits).
- 20.5 percent of people experiencing homelessness in the U.S. have a serious mental health condition.
- 37 percent of adults incarcerated in the state and federal prison system have a diagnosed mental illness.
- 70.4 percent of youth in the juvenile justice system have a diagnosed mental illness.
- 41 percent of Veteran's Health Administration patients have a diagnosed mental illness or substance use disorder.<sup>5</sup>

The impact of adverse childhood experiences (ACEs) has taken on a new dimension and has increased the generational impact not only on our children, but on our families and the communities within which we live. Studies have shown that the toxic stress upon our children can *physically* impact the development of a child's brain. Likewise, the absence of a nutrient-rich diet and the absence of age-appropriate social and intellectual stimuli impairs the development of not only academic, but social skills fundamental to positive interaction and success.

We can ignore the disruption and hope that the return to normalcy will resolve the underlying anxiety, frayed nerves, and depression or we can use our heightened awareness to identify best practices and means of early identification of illness, marshal resources and develop the tools needed to confront the challenges our children are facing. Telehealth has increased access to mental health services. Wraparound services are being increasingly made available and communities are re-imagining ways to collaborate. We can stand back or we can stand up for reforms in how we address and deliver mental health services. If we stand back, we wait for a tsunami. If we step forward, we can prepare our children to respond with emotional flexibility, dexterity and resilience.

The Elite Medical Center has summarized the signs and symptoms of mental illness as

follows:

- Change in appetite or sleep pattern—a noticeable change or decline in personal care, sleep, or appetite.
- Having problems in thinking clearly—lack of concentration, memory loss, or lack of logical thought or speech that's not easy to explain.
- Increase in sensitivity—to smell, touch, sound, or sight.
- Mood swings—drastic shifts in emotions, feeling low or constant depressed feelings.
- Feeling disconnected—hitting a sense of delusion (unreal), paranoia, or a vague feeling of detachment from oneself, others, or surroundings.
- Withdrawal symptoms—from friends, social circle and losing interest in meeting anyone.
- Disrupted functioning—like a sudden loss of interest in performing day-to-day activities like school, work, sports, social activities, etc.
- Changes in physical intimacy like sex drive.
- Illogical thinking like exaggerated beliefs about some 'special' powers or belief in imaginary life events.
- Nervousness, fear, or suspicion of others for no reason.
- Unusual behavior like excessive anger, hostility, or acts of violence.
- Problems with drug or alcohol abuse.
- Suicide tendencies.<sup>6</sup>

At the very least we need to identify the strengths each person has; what resources are available or are missing and what type of resources might be most appropriate and how those services might be made available and delivered.

We support the mental wellness of future generations when we seek a greater understanding of the neuroscience of developmental research, the value of safe, but unstructured play, ways to communicate effectively and the better management of emotions and behavior. Emotional intelligence (EQ) is as important as academic intelligence (IQ) and has proven to not only enhance enjoyment of life, but success.<sup>7</sup>

Seek first to understand all that is involved and then advocate for optimizing the future of yourself, your family and your community by adopting a positive

mindset, being deliberate and focused about your sources, resources and build on your strengths. With guidance we can learn actively, not passively, identify good sources of information that will challenge us, but not overwhelm us. We can take affirmative control of our well-being by staying active, eating right and getting enough sleep. Simplify down to the 3Ms: mindfulness, movement, and mastery.

Finally, we can find peace and joy through gratitude for blessings we too often overlook or imprudently discount when they may yield more lasting joy than the fleeting pleasure of material objects which are, by nature, transient. Such objects are a poor substitute for those relationships and experiences which can be shared and celebrated with others. Self-management requires we take an active role in our quest for wellness. We can focus on that over which we control, the intrinsic. We should not fear collaboration with qualified professionals, but embrace them. Life expands when we find the guidance, motivation and greater clarity of our self-value and purpose. Mental health professionals are ideally positioned to support our mental well-being. We just need to use them and advocate for equal access to quality care by all members of the community. ■

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1. Sources of information for this article come from a number of sources, including but not limited to the Center for Disease Control and Prevention, NAMI (National Alliance on Mental Health), American Psychiatric Association, M.H.A. (Mental Health America), the Elite Medical Center, and various other professional and mental health organizations and advocates.

2. For other suggestions related to Covid-19 and mental health reference the observations of Dr. Alexandra Tsang in the February 2021 Newsletter of the Mental Health Section Council.

3. All of us recognize the C.D.C., i.e., Center for Disease Control. What is too often overlooked is the rest of its charge: "AND PREVENTION".

4. Members can find summaries: Session 1: Strategies for Mental Health and Law Enforcement Collaboration to Prevent Justice Involvement (in the October 2020 Mental Health Newsletter) and Session 2: Mental Health Diversions from the Justice System; Session 3: Learning from the Voices of Lived Experience: Informing Change; Session 4: How Mental Illness and Trauma Affect Quality of Life; and Session 5: Illinois' Path to Improving the Court and Community Responses to Persons with Mental Illness: Bringing the Community Together in One Voice and Common Mission (in the February 2021 Mental Health Newsletter).

5. Nami.org/MHstats.

6. <https://elitelv.com>, citing MHA, AHA (American Hospital Association), NAMI and the APA.

7. A good example of this is Feist and Barron's 1996 retrospective study of 80 Ph.D.s in science who underwent a battery of personality tests, IQ tests, and interviews in the 1950s when they were graduate students at the University of California, Berkeley. When they were in their early 70s, about 40 years later, they were tracked down and had their resumes evaluated by experts to determine their level of success. According to this study, emotional abilities were 4 times more important than IQ in determining professional success and prestige. Prof. Jason M. Satterfield course, *Boosting Your Emotional Intelligence* (The Great Courses, 2017).