

# Mental Health Matters

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

## Letter from the Chair

BY JOSEPH T. MONAHAN

Welcome back to the 2016-2017 **Mental Health Law Section Council newsletter!** It has been an active year thus far for the Section Council in its efforts to engage, educate, and lead stakeholders interested in mental health issues. Over the past months, we have tracked Illinois Appellate and Supreme Court cases impacting the receipt and delivery of mental health and intellectual disabilities services, and advanced legislative and policy proposals. Further, the Mental Health Law Section Council has worked diligently to craft continuing

legal education programs on the topics of outpatient treatment and mental health issues involving children.

A number of mental health professionals have addressed the Section Council



Joseph T. Monahan

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## CIT (Crisis Intervention Team) and the emergency response to a crisis that involves the police

BY DARA M. BASS

The ISBA Mental Health Law Section Council recently welcomed Alexa James, the Executive Director of National Alliance on Mental Illness (NAMI) Chicago, to speak about the emergency crisis responses by the police. A Licensed Clinical Social Worker with training in Child

Development, James has worked with NAMI for six years. James led the Police Accountability Task Force De-Escalation Working Group. This group focused on the best police practices for de-escalating

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## Letter from the Chair

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this year, adding their experience and perspectives to our discussions. Alexa James, MS, LCSW, executive director of NAMI Chicago, gave a presentation about Chicago's current state of crisis response for persons suffering from a mental illness and her organization's efforts and leadership in the Police Accountability Task Force De-Escalation Working Group and Crisis Intervention Training. (See the article written by Dara M. Bass in this issue.) Additionally, Jesse Viner, MD, CEO and Executive Medical Director of Yellowbrick Consultation and Treatment Center, presented on the basic neurobiological principles and developmental factors associated with young adults diagnosed with a mental illness and the services his organization provides to emerging adults aged 17-30 (See the article written by Susan O'Neal in this issue.).

As 2017 approaches, we have the opportunity to reflect on both the triumphs and setbacks of 2016 and to contemplate the challenges of the New Year ahead. The November election has cast a pall of uncertainty over the fate of the Affordable Care Act and what priorities, as-yet-unknown, the new administration may pursue regarding mental health issues.

However, federal legislation recently passed the House that, if implemented, will enhance the enforcement of mental health parity laws and potentially increase access to mental health treatment and services.

Over the rest of the bar year, the Mental Health Law Section Council will continue to host diverse speakers to help navigate these issues and guide us in our ongoing work. Depending on space availability, ISBA members may attend these monthly meetings in person. There is also a call-in option for those interested in attending. Please contact Mary Grant at [mgrant@isba.org](mailto:mgrant@isba.org) for monthly call-in information. Next month, keep an eye out for our 2017 Illinois state law update.

On behalf of the entire Section Council, best wishes to you and yours for a happy and safe holiday season.

—Joe ■

Joseph T. Monahan, MSW, JD, ACSW is the founding partner of Monahan Law Group, LLC, in Chicago, which focuses its practice in mental health, confidentiality, guardianship, probate, and health care law. His clients include hospitals, outpatient mental health clinics, and mental health professionals. He may be contacted at [jmonahan@monahanlawllc.com](mailto:jmonahan@monahanlawllc.com).

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## CIT and the emergency response

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situations with different primary options other than the use of force.

NAMI strives to maintain an advocacy position that balances the interests of both the individual who faces mental health challenges and the family of the individual. Half of the members of NAMI's staff self identifies as knowing a loved one who is mentally ill. NAMI maintains four Certified Recovery Support Specialists (CRSS) on staff. Ninety percent of the services NAMI provides are totally free.

James attended the ISBA Mental Health Section Council meeting to speak about police response to mental health crisis situations. NAMI Chicago has been focused on police training for 12 years. The Cook County Sheriff speaks frequently about these issues and explains that more people are in crisis and more people are much more acute. Police encounter particular difficulties when they respond to a mental health crisis. For instance, 911 call-takers have little training on how to handle or even identify mental health issues. There is a great need for 911 dispatchers to recognize a possible mental health issue in a phone call and to utilize officers who have specific training for de-escalation of situations involving patients who may be having a mental health crisis. Additionally, police officers need to be trained to de-sensitize a person who is undergoing a mental health crisis. As a result of the shortage of trained 911 dispatchers and police officers, high numbers of individuals go to Cook County jail rather than being treated in a more appropriate setting.

James went into further detail about crisis intervention teams (CITs). Some police districts have more officers trained in crisis intervention than others. Beyond that, CIT officers are not consistently dispatched. The de-escalation process is best served when the Office of Emergency Management Communications, the CIT within the Chicago Police Department,

and the City of Chicago Services collaborate to recognize and respond to mental health matters.

She also touched on the decision points of whether to send a person experiencing a mental health crisis to a hospital or to take that person into custody when both the police and the fire department are present as first responders. In an ideal situation, a person in a mental health crisis would be cared for by her or his own mental health provider; the current system contains many barriers to getting a person in a mental health crisis connected with that individual's provider.

James educated the Council about NAMI's efforts to encourage training programs for police officers. Further, NAMI has waged a campaign within neighborhoods to educate people on the need to be aware of and request the police officers who are trained to handle mental health issues. NAMI also supports the creation of crisis centers which may be used to de-escalate situations and to assume responsibility for directing individuals to the hospital.

Future solutions may be similar to those used in other jurisdictions. Los Angeles, for example, has implemented a system wherein a police detective and typically, a nurse, respond to the calls that implicate a mental health matter. James also noted that in Portland, Oregon, the system utilizes the Emergency Medical Services, a social worker, and notably, a "Stat Lab," in which individuals may undergo their first level of medical clearance. This final measure helps to eliminate the reliance upon the Emergency Department.

James concluded her presentation by distributing some materials which illustrate how the ultimate goals of de-escalation are to increase access to treatment, reduce injury and trauma in the community, and to provide better support for the police department. As such, both law enforcement (through CIT

and otherwise) and mental health workers must join efforts to respond to incidents that implicate a mental health matter. ■

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Dara M. Bass is an independent contractor attorney, based out of the Chicago area, who is licensed in Illinois and Missouri. She has been a member of the ISBA's Mental Health Law Committee since 2006. She may be contacted at: darabasslaw@gmail.com.

### **It's Campaign Season for the 2017 Election**

#### **Run for ISBA Office—**

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The 2017 ISBA Notice of Election (<http://tinyurl.com/jabs3xk>) is now available. Find out more at [www.isba.org/elections](http://www.isba.org/elections).

Candidate filing begins  
January 3, 2017 and ends  
January 31, 2017.

# Premiere mental health treatment for emerging adults

BY SUSAN O'NEAL

**The Chicago metro area has a premiere mental health treatment facility** in Evanston for emerging adults, ages 17-30. Emerging adults have brains that are still developing. They also are transitioning from childhood to adulthood, so they have a number of stressors, such as finding their identity as adults, college and/or job pressure, relationship choices, and career choices, to name a few. Most serious mental illnesses emerge during adolescence and young adulthood. Getting proper treatment early for teens and young adults saves lives, as there is a high suicide rate in this age group. Also, research shows that the longer the individual's mental illness remains untreated, the more debilitating that condition will be long term, and the brain potentially will not develop properly.

The Yellowbrick program offers a multidisciplinary approach, that also utilizes lifestyle changes that, once learned, can be a lifetime source of relaxation and stress management, such as yoga, meditation, art therapy and visualization. They use psychiatry, psychotherapy, group therapy, medication and TMS (transcranial magnetic stimulation).

Yellowbrick uses cutting-edge science, such as brain imaging, EEGs, and pharmaco-genomic testing to find the best medicine to treat the condition and to measure progress. EEG diagrams, which were shown to the ISBA's Mental Health Law Section Council last month by guest speaker, Dr. Jesse Viner, M.D., Yellowbrick's CEO, demonstrate that the brain, after treatment, shows less scrambled and tangled brain activity. This presumably represents more rational thought in the patient.

An assessment at Yellowbrick costs \$7,950. The facility asks for a 10-week commitment. Inpatient treatment runs approximately \$30,000 per month, with individual psychiatric and psychotherapy

sessions being extra, along with other "a la carte" treatments, such as TMS. The fees for the first 10 weeks of treatment must be paid in advance, and only a fraction of the cost might be covered by the patient's health insurance. After the initial 10 weeks, if further treatment is necessary, the staff at Yellowbrick will determine on a case-by-case basis whether some financial assistance or fee forgiveness might be available, based upon such factors as how long the patient has worked on their recovery. The average stay in Yellowbrick's residential program is 4-6 months, and another few months in their Intensive Outpatient Program (IOP).

While this program may be a model for successfully putting the lives of mentally ill young adults back on track, it is unfortunately financially out-of-reach for most individuals and their families. When asked about this, Dr. Viner replied that without the treatment provided at Yellowbrick, these young adults might instead end up dead or disabled. From the standpoint of the family members, such as those who have taken NAMI's Family-to-Family education class or who attend the Family-to-Family support group, this is perhaps more than a little simplistic and unfair. Of course, the family of a mentally ill young adult wants to see their child both live and have a meaningful existence, hopefully not spending the rest of their life on SSI disability. It isn't that these families don't want to sacrifice the more than \$70,000 for 10 weeks of residential treatment at Yellowbrick for their loved one. The vast majority of families simply do not have that kind of money and also have no way to borrow that much money.

The hope is that the Yellowbrick program will provide solid evidence that their program works. It could become the "gold standard" of treatment. Dr. Viner is correct. Without proper treatment young adults, diagnosed with a serious

mental illness, may end up dead or disabled. As advocates, people living with mental illness and their families need to continue to organize and put pressure on their local, state and federal government representatives to fund more mental health research, to fund more community mental health programs, modeled on the successful treatment programs of innovative and science-based programs like that at Yellowbrick, and to put pressure these same government officials to require health insurance providers, whether private or government, to cover these treatments. Our youth are our future and successful, intensive treatment should not only be available to the 1 percent who can afford to pay the high cost of excellent treatment out-of-pocket. ■

Susan O'Neal is a part-time Assistant Public Defender in Juvenile Court in a Peoria County and has a private practice devoted to representing persons with disabilities. She is also certified to teach and does teach the NAMI Family-to-Family class.



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# New legal rules regarding medical cannabis

BY MERYL CAMIN SOSA, ESQ.

**During this past legislative session, the legal requirements regarding medical cannabis were changed.** This article will discuss the new rules as well as the existing legal requirements regarding medical cannabis. Under federal law, even medical cannabis is categorized as a schedule 1 drug and is therefore illegal to prescribe. The original four-year pilot program, “Illinois Medical Cannabis Pilot Program”, was enacted in 2014 but did not start until later that year because the rules needed to be drafted. The program was extended by the legislature and will run through July 1, 2020, unless the legislature extends the program again.

Under the program, patients can receive up to 2.5 ounces per 14-day period which includes usable cannabis: seeds, leaves, buds and flowers. It also includes edibles and other non-refrigerated, non hot-holding items (e.g. tinctures). Minors can only use cannabis-infused products. It is possible for patients to obtain a waiver to get more than 2.5 ounces per 14-day period. No limit is specified for patients qualified for the waiver. The waiver requires a statement by a physician as to why the patient requires more than the 2.5 ounces. Physicians should keep in mind that 2.5 ounces is not a small amount as it is enough for 50-100 joints.

Currently, the only psychiatric condition included in the conditions approved for medical cannabis is post-traumatic stress disorder (PTSD). The Medical Cannabis Advisory Board (Board) has considered petitions to add anxiety and anorexia nervosa as conditions to the list of approved conditions, but the Board declined to add them. The Illinois Psychiatric Society (IPS) has submitted letters opposing the addition of anorexia nervosa and PTSD, and will continue to oppose the addition of psychiatric conditions to the list of conditions approved for medical marijuana, as it is likely that those conditions will be reconsidered in the future by the Board.

Here is the list of all conditions approved for medical cannabis:

Cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis, fibrous dysplasia, spinal cord injury, traumatic brain injury and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson’s, Tourette’s, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndrome Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren’s syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, seizures (including those characteristic of epilepsy) post-traumatic stress disorder (PTSD), or the treatment of these conditions and terminal illness with a diagnosis of 6 months or less (if the terminal illness is not one of the qualifying debilitating medical conditions, then the physician shall on the certification form identify the cause of the terminal

illness.

Until this past summer, in order for patients to obtain medical marijuana, they had to obtain recommendations by physicians that medical marijuana would benefit the patient’s condition. However, as of this summer, physicians no longer need to make a recommendation that medical marijuana would benefit the patient. Instead, the new certification form only requires that the physician check the box for the condition that the patient has and sign the document as the patient’s treating physician. Here is a link to the certification form: <https://www.illinois.gov/gov/mcpp/Documents/Physician%20Certification%20Form%20080814.pdf>.

Under the law, physicians will not be subject to arrest, prosecution, or penalty, or denied any right or privilege solely for providing written certifications. However, a physician may be sanctioned for issuing a written certification for a patient not under his/her care or for failing to properly evaluate a patient’s medical condition.

The law does include a variety of physician restrictions. A physician may not:

1. Seek or accept any payment other than a fee for the examination required prior to certifying a patient.
2. Offer a discount for use of a particular primary caregiver or dispensing organization.
3. Conduct a personal physical examination at a cultivation center or dispensary.
4. Refer patients to a cultivation center, dispensing facility, or registered designated caregiver.
5. Advertise in a cultivating center or dispensing facility.
6. Hold any financial interest in a cultivation center or dispensing facility if the physician certifies patients or is financially connected to a physician who certifies patients.
7. Serve on the board of directors or as an employee of a cultivation center or

dispensing facility.\* ■

\*However, a cultivation center or dispensing facility may hire a physician as an independent contractor provided the physician's involvement

in the cultivation center is limited exclusively to designing or conducting non-proprietary medical research or studies.

Meryl Camin Sosa is the Executive Director of

the Illinois Psychiatric Society.

## Ex-small biz lobbyist tapped for mental health advocate post

**A veteran small business lobbyist has been hired** to help handle state mental health government affairs for a top Illinois behavioral health advocacy group and to push to reverse state funding cuts opposed by Illinois voters.

Blanca Campos, chief operating officer for advocacy at the Illinois Small Business Advocacy Council (SBAC) from 2010 through 2016, has been recruited by the Community Behavioral Healthcare Association of Illinois to help lead the group's legislative advocacy in Springfield.

Campos, who earned in Masters of Public Administration from DePaul University in Chicago, will serve as CBHA's behavioral health care advocate associate, according to the group's chief.

"With seven years of legislative advocacy experience at the Small Business Advocacy Council, Blanca will significantly boost our advocacy fire power in the General Assembly," said CBHA CEO Marvin Lindsey. "Blanca will be able to forcefully deliver to lawmakers not only our behavioral health message, but also our small business message that our members our crucial economics cogs in communities."

During her work at the business group, Campos led the SBAC's advocacy efforts to bring intrastate equity crowdfunding to Illinois, and helped pass legislation setting a 10% state procurement goal for small businesses. Prior to working for the SBAC, she worked in state legislative and congressional campaigns.

One of the messages that Campos will be delivering to lawmakers is the voting

public's support for greater investment in mental health care and drug treatment services, says Lindsey.

A July 26 automated poll of 826 likely Illinois voters conducted by Illinois Public Opinion Strategies found that 70.1% back "investing more money in mental health care" while just 11.5% support "investing less money" or a net +59 points. 18.4% were undecided.

The poll also found that 55.4% of likely voters support investing more money to "provide treatment to individuals struggling with drug addiction, such as addiction to heroin" and 27.2% support "investing less money." 17.4% were undecided.

While mental health and drug treatment funding are strongly backed by voters, state funding for both programs has retreated in the last two years.

In Fiscal Year 2016, state addiction treatment contracts issued to community providers, with money coming from the state's general revenue fund for drug treatment, were cut 25% from FY 2015 levels. Mental health care contracts saw a 21.8% cut. In 2017, addiction treatment contracts had 21.4% reduction and mental health got a 26.7% cut.

"Blanca will help communicate to lawmakers that their constituents want greater financial investment in behavioral healthcare – not less – and that an investment mandate exists for this human services priority," said Lindsey. "I think that Blanca will be effective in delivering that message."

Beyond her business background,

Campos has also served on the Women's Health Awareness Council, a collaborative program coordinated by the Women's Health Initiative at Swedish Covenant Hospital in partnership with more than 30 elected officials, community leaders, major philanthropies and respected health care providers. ■

mlindsey@cbha.net

This article was previously published December 7, 2016, in CBHA News, a publication of Community Behavioral Healthcare Association of Illinois, at <https://ilcbha.net/2016/12/07/ex-small-biz-lobbyist-tapped-for-mental-health-advocate-post-funding-push/>, and is reprinted with permission.

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## January

### **Tuesday, 01-10-17- Webinar—**

Technology and Business Planning for a Law Firm. Practice Toolbox Series. 12:00 -1:00 p.m.

### **Thursday, 01-12-17- Live Webcast—**

Immigration Law Update Spring 2017—Changes which Affect Your Practice and Clients. Presented by International and Immigration. 12:00- 1:30 p.m.

### **Friday, 01-13-17- Chicago, ISBA**

**Regional Office—**Implicit Bias in the Criminal Justice System. Presented by Criminal Justice. 9:00 a.m. – 4:45 p.m.

### **Wednesday, 01-18-17- Live Webcast—**

The Nuts and Bolts of Drafting Non-Disclosure Agreements: Tips for the Practicing Lawyer. Presented by Business & Securities. 10:00 a.m. – 11:00 a.m.

### **Wednesday, 01-18-17—Live Webcast—**

Presented by Labor and Employment. 12:00 p.m. – 1:30 p.m.

### **Tuesday, 01-24-17- Webinar—**

How to Stop the 8 Things Killing Your Law Firm. Practice Toolbox Series. 12:00 -1:00 p.m.

### **Wednesday, 01-25-17- Live Webcast—**

Helping Immigrant Children- Special Immigrant Juveniles. Presented by International and Immigration; co-sponsored by Bench and Bar. 11:00 a.m. – 12:00 p.m.

### **Wednesday, 01-25-17- Live Webcast—**

Housing Justice v. Housing Injustice: How Unfair Housing Practices Keep Segregation Intact. Part 1: SCOTUS Opinion, Fair Housing Policies and Housing Voucher Programs. Presented by REM; multiple cosponsors (see agenda). 1:00 – 3:00 p.m.

### **Thursday, 01-26-17—Chicago, ISBA**

**Regional Office—**Family Law Table Clinic

Series—Session 3. Presented by Family Law.

1:00 – 3:00 p.m.

**Friday, 01-27-17- Chicago, ISBA Regional Office & Live Webcast—**Recent Developments in State and Local Tax—Spring 2017. Presented by SALT. 8:30 a.m. – 12:45 p.m.

## February

**Wednesday, 02-01-17—Chicago, ISBA Regional Office—**Cybersecurity: Protecting Your Clients and Your Firm. Presented by Business Advice and Financial Planning; co-sponsored by IP (tentative). 9:00 a.m. – 5:00 p.m.

**Friday, 02-03-17- Springfield, Illinois Department of Agriculture—**Hot Topics in Agricultural Law- 2017. Sponsored by Ag Law. All Day.

**Friday, 02-03-17- Chicago, ISBA Regional Office—**2017 Federal Tax Conference. Presented by Federal Tax. 8:20 a.m. – 4:45 p.m.

**Monday, 02-13 to Friday, 02-17—Chicago, ISBA Regional Office—**40 Hour Mediation/Arbitration Training. Master Series, presented by the ISBA—WILL NOT BE ARCHIVED. 8:30 -5:45 daily.

**Tuesday, 02-14-17- Webinar—**Hardware & Software: You Bought It, You've Got It... Now Use It! Practice Toolbox Series. 12:00 -1:00 p.m.

**Monday, 02-20-2017- Chicago, ISBA Regional Office & Fairview Heights—**Workers' Compensation Update – Spring 2017. Presented by Workers' Compensation. 9:00 a.m. – 4:00 p.m.

**Wednesday, 02-22-17- Live Webcast—**Housing Justice v. Housing Injustice: How Unfair Housing Practices Keep Segregation Intact. Part 2: Landlord Privileges/Defenses and Tenant Rights/Remedies. Presented by REM; multiple cosponsors (see agenda).

**Thursday, 02-23-2017—Webcast—**Written Discovery Part 2: Electronic Discovery – How to Seek, Locate, and Secure. Presented by Labor & Employment. 1:00 – 3:00 p.m.

**Friday, 02-24-2017- Chicago, ISBA Regional Office—**Wrongful Death, Survival, and Catastrophic Injury Cases. Presented by Tort Law. 8:45 a.m. – 1:00 p.m.

**Tuesday, 02-28-17- Webinar—**Introduction to Microsoft Excel for Lawyers. Practice Toolbox Series. 12:00 -1:00 p.m.

## March

**Thursday, 03-02-17—Chicago, ISBA Regional Office—**Family Law Table Clinic Series—Session 4. Presented by Family Law.

**Friday, 03-03-17- Chicago, ISBA Regional Office & Webcast—**8th Annual Animal Law Conference. Presented by Animal Law. 9:00 a.m. – 5:00 p.m.

**Thursday, 03-09 and Friday, 03-10—New Orleans—**Family Law Conference NOLA 2017. Presented by Family Law. Thursday: 12:00 pm – 5:45 pm; Reception 5:45- 7:00 pm. Friday: 9:00 am – 5:00 pm.

**Tuesday, 03-14-17- Webinar—**Matter Management Software- Why Outlook Isn't Good Enough. Practice Toolbox Series. 12:00 -1:00 p.m.

**Wednesday, 03-22-17- Live Webcast—**Housing Justice v. Housing Injustice: How Unfair Housing Practices Keep Segregation Intact. Part 3: Mortgage Fraud, Subprime Lenders, and Foreclosure Crisis. Presented by REM; multiple cosponsors (see agenda). 1:00 – 3:00 p.m. ■

## MENTAL HEALTH MATTERS

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