

Book Reviews

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The Psychiatrist in Court: A Survival Guide

by Thomas G. Gutheil, M.D. Washington, D.C., American Psychiatric Press, 1998, 126 pages, \$25.00

The Psychiatrist as Expert Witness

by Thomas G. Gutheil, M.D. Washington, D.C., American Psychiatric Press, 1998, 150 pages, \$25.00

So you would like to broaden your practice base beyond the control of managed care organizations? Perhaps you have fantasies of a brief appearance on "Court TV" as an expert witness, or you have been subpoenaed and will testify not as an expert, but as a fact witness. If so, Dr. Thomas Gutheil's new books are just what you need!

The Psychiatrist in Court: A Survival Guide and *The Psychiatrist as Expert Witness* are tightly written, succinct paperbacks. The first book is intended for general psychiatrists who will be testifying at a deposition or trial (for instance, at the psychiatrist's own medical malpractice trial). The second book "is targeted to increasing the knowledge and skills of the beginning expert witness and of those contemplating this role for even the first time." Although these books serve quite different purposes, they are highly complementary and the author frequently refers the reader from one to the other.

Dr. Gutheil's style is readable and entertaining. He generously recounts many interesting anecdotes from his personal experience in depositions and courtrooms. Some of his vignettes are especially critical of attorneys, judges, and psychiatric witnesses. These vignettes are stark—for instance, the attorney who lies to his expert and the attorney who sets himself up to look stupid when he cross examines the opposing expert—and instructive. Dr. Gutheil has included many practical outlines and checklists in both volumes. Perhaps the most useful are his list of principles for distinguishing true and false statements; the six P's of trial preparation; the outline of the forensic report; the specifics for how to express yourself in a deposition; and suggestions for dealing with common attorney tactics.

The Psychiatrist as Expert Witness provides the basic necessities for the novice expert—what a psychiatrist will need to know when contemplating taking on a forensic case. This book does not explain how to conduct the forensic evaluation, such as what one looks for when assessing competency to make a will or the criteria for the insanity defense. This book assumes you can do the evaluation, but you need help with all the other features of forensic work, such as attorneys, judges, cross examination, depositions, and opposing experts. Dr. Gutheil covers the most relevant aspects of:

- deciding whether a particular case is right for you: watch out for conflict of interest,

- communicating and negotiating with attorneys: make sure they understand your opinions before testifying,
- dealing with fees: get a retainer, and
- dressing for court: wear a suit, look like an attorney.

Although most of the material in these books is delivered in a clear and convincing manner, the author becomes fuzzy when he discusses whether therapists should believe what their patients tell them, especially regarding past traumatic experiences. Early in *The Psychiatrist in Court*, Dr. Gutheil takes the position that "in psychiatric treatment, perhaps especially in the treatment of trauma victims, it is important for the therapist to believe the patient's story of the traumatic experience." The recommended therapeutic stance is "deliberate credulousness" and the "willing suspension of disbelief." Later in the same book, however, Dr. Gutheil says that therapists should not testify that the trauma actually occurred: "The treaters who overidentify with their patients and who 'just know' their patients are reporting accurately actually do their patients a disservice by weakening the treaters' credibility. In objective fact, these treaters *do not* know because they were not there." He seems to recommend that the therapist should say to the patient, "I believe your trauma occurred," but should later testify, "I cannot say whether or not the trauma occurred." This important topic of "psychic reality versus objective reality" is discussed in greater detail and more clearly in Appendix 1 of the book. At that point, Dr. Gutheil and his colleagues recommend that the therapist withhold judgment regarding the objective reality of the history and not rush to reach a conclusion. While previously suspension of disbelief was praised, here it is criticized. Although some fuzziness crept into the text, I expect that Dr. Gutheil's own thinking is quite clear on this issue.

These books are highly practical—at times, practical to a fault. It seems unnecessary to instruct the reader on how to select items for one's toilet kit while traveling and how to keep the hotel room at a comfortable level of humidity. But overall, both of these books are very useful and will be enjoyed and appreciated by psychiatrists who are anticipating their days in court. The reader will benefit greatly from Dr. Thomas Gutheil's wit, wisdom, and experience.

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