

Preface

Mental Health Law in Wisconsin: A Guide for Legal and Healthcare Professionals is the brainchild of my University of Wisconsin Law School classmate, Peggy Crooks-Mishacoff. When Peggy contacted me to discuss her vision for this book, it seemed inconceivable that Wisconsin lacked a central exposition of the law related to mental health. Based on our involvement in the judicial system, we were able to identify authors who were both knowledgeable and passionate about the subject matter. I am grateful for the time and energy contributed to this project by my judicial colleagues as well as some of the outstanding lawyers and advocates who work tirelessly in these important areas of the law.

Historically, manifestations of mental illness were regarded as weaknesses, deficiencies, or even vices rather than symptoms of health conditions. As a result, many people avoided seeking treatment. While societal perceptions continue to evolve as knowledge and awareness of mental health issues develop, a certain stigma endures. I observed this as a circuit court judge in Milwaukee County presiding in Children’s Court. As one example, some children resented their diagnoses and resisted taking medications or receiving other treatment because they desperately wanted to be “normal.” Analogizing mental health conditions to other medical issues like cardiovascular disease or cancer can help children (and adults) accept their conditions but of course monumental differences exist. Neither a heart attack nor diabetes triggers governmental intervention or imperils personal liberty, but fear of such consequences may discourage people with mental health needs from seeking treatment or other services.

My own awareness of mental health issues and the law developed in a professional setting as a member of the judiciary but like many Wisconsinites, I have encountered the intersection of mental health and the law within my extended family. Collectively, those experiences have made me acutely mindful of the importance of a knowledgeable bench and bar to serve the interests of those involved with or affected by mental health proceedings in our justice system. While a comprehensive understanding of the law is paramount, the value of developing an understanding of mental illness transcends commitment and guardianship cases. We have learned that many instances of criminal behavior may be rooted in mental illness or trauma, requiring advocates and judges to have some grounding not only in the legal aspects of mental health but in the medical and psychosocial sides as well.

In recent years, the Wisconsin Supreme Court has granted review in numerous chapter 51 cases in order to examine, interpret, and apply both statutory and constitutional law governing commitments. The prevalence of these cases before the state’s highest court evidences the complexity of legal issues underlying proceedings involving mental health. It also reflects judicial recognition of the significant interests at stake in mental health cases. Undoubtedly, this book will prove to be a beneficial resource for lawyers, judges, social workers, and mental health professionals, as well as those with mental health conditions and their families who must navigate the justice system.

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