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SNAP
FOR COLLEGE STUDENTS

Reasonable Accommodations in Assisted Living

Negotiated Rulemaking

Medical-Legal Partnerships

Welfare Privatization

Child Welfare Financing Reform

LGBT Elders' Economic Security and Health Care



Sargent Shriver National Center on Poverty Law



MFY LEGAL SERVICES' MENTAL HEALTH—LEGAL PARTNERSHIP

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Medical-legal partnerships are joint ventures between medical professionals and lawyers. In these ventures both partners seek to identify and resolve legal issues that affect patients' health and well-being by integrating legal assistance into the medical setting. Lawyers work with health care professionals to identify legal issues that may be affecting their patients' health; health care professionals work with lawyers and patients to solve those legal problems and remove the legal stressors and improve the patients' health.

Medical-legal partnerships are becoming the subject of increased governmental attention. There are now 180 medical-legal partnerships nationally.¹ At the federal level bills have been introduced that would allocate \$10 million to establish a nationwide medical-legal partnership demonstration project and evaluate the effectiveness of the partnerships.² In New York State an effort is in progress to amend the Public Health Law to formalize state recognition of medical-legal partnerships, called health-related legal services programs in the draft legislation, and to establish a mechanism for support of those partnerships within the New York State Department of Health.³

MFY Legal Services began engaging in a medical-legal partnership with outpatient mental health care providers in the mid-1980s. Unique when it was created, and still unique in its focus on mental health, MFY's mental health-legal partnership was and continues to be in the vanguard of the medical-legal partnership movement. (MFY became an independent, not-for-profit law firm in 1968, having started out in 1963 as the legal arm of Mobilization for Youth, an antipoverty organization created one year earlier to prevent juvenile delinquency.)

MFY's Mental Health Law Project is, however, frequently misunderstood. The MFY mental health-legal partnership—aimed at tackling civil legal problems that affect patients' mental health in that they put them at risk of homelessness or cause other adverse consequences, such as mental decompensation—is often confused with other legal

¹Erik Eckholm, *When Doctor Visits Lead to Legal Help*, *NEW YORK TIMES*, March 23, 2010, <http://nyti.ms/ikINhH>.

²The Medical-Legal Partnership for Health Act, H.R. 5961, 111th Congress (2d Sess. 2010), and its Senate counterpart, The Medical-Legal Partnership for Health Act, S. 3668, 111th Congress (2d Sess. 2010), were both introduced on July 29, 2010, and referred to committee.

³An Act to Amend the Public Health Law, in Relation to Health-Related Legal Services Programs, A.11030 (May 10, 2010), and its New York State Senate corollary of the same name, S.7973, were introduced in May 2010 but did not reach a vote before the end of the 2010 session. The bills are expected to be reintroduced in the next session of the New York State legislature.

services providers who represent people with mental illness in hospital retention hearings. In New York State, Mental Hygiene Legal Services, authorized under the New York Mental Hygiene Law, represents people in those circumstances.⁴ The project is also sometimes confused with federally funded “protection and advocacy” organizations such as New York State’s Disability Advocates and New York Lawyers for the Public Interest, which are authorized under the Protection and Advocacy for Mentally Ill Individuals Act to “pursue administrative, legal and other appropriate remedies to ensure the protection of individuals with mental illness who are receiving care or treatment in the State.”⁵ While other civil legal services and legal aid programs serve low-income people, many of whom have a mental illness, none of those programs focuses on serving people with mental illness or works in partnership with mental health professionals at each step of the legal process. MFY’s mental health–legal partnership is a program dedicated to simultaneously serving both the legal and treatment needs of people with mental illness in outpatient mental health programs or temporarily in hospitals.

History

MFY’s Mental Health Law Project was created in 1983 with funding from the New York City Department of Health and Mental Hygiene. At that time the department was evaluating ways to support the large numbers of people who had mental illness and were returning to the community from long-term psychiatric facilities as part of the deinstitutionalization movement. The department, ahead

of its time in understanding the interplay of stressors and mental health, chose to include a legal component in the support system that it created for those living with mental illness in New York City.⁶

In the early 1980s, the Department of Health and Mental Hygiene began funding an expansive system of community supports, including outpatient programs, day programs, psychosocial clubs, and other services, to ensure that people would have access to mental health care and supports within their communities. The department’s efforts were spearheaded by Jim Rice, the department’s assistant commissioner at the time.⁷ Because the department was also concerned about legal matters that could impede successful integration in the community, and recognized the challenges of living on a limited income in New York City, the department wanted to ensure that people who had mental illness and were enrolling in its programs had access to attorneys.⁸ Accordingly the department contracted with MFY to work in partnership with outpatient treatment providers. The goal of the partnership was to ensure that patients attending outpatient programs could obtain and retain life-sustaining government entitlements, such as federal disability benefits, Medicaid, and housing subsidies; regularly and timely pay rent and live in habitable housing; deal with consumer law problems affecting the ability to pay rent and afford other necessities; and, in light of people with mental illness being frequently stigmatized, targeted, and discriminated against, overcome civil rights issues. Not only did the department recognize the concrete need for representation in these areas, but also

⁴See N.Y. MENTAL HYG. LAW §§ 47.01–47.03 (McKinney 2011).

⁵The Protection and Advocacy for Mentally Ill Individuals Act of 1991, 42 U.S.C. §§ 10801–10807, 10805(a)(1)(B) (2011). For more information on protection and advocacy groups, see New York State Commission on Quality of Care and Advocacy for Persons with Disabilities, Protection and Advocacy Programs (n.d.), <http://bit.ly/hW8KN4>.

⁶For information about the deinstitutionalization movement, see Pat Stubbs, *Broken Promises: The Story of Deinstitutionalization*, PERSPECTIVES (Sept. 25, 1998), <http://bit.ly/hJMGMV>.

⁷For a discussion of one of Jim Rice’s advocacy efforts on behalf people with mental illness, see Deirdre Carmody, *Proposed Referral Center for Homeless Disturbs West Side Neighborhood*, NEW YORK TIMES, May 25, 1981, <http://nyti.ms/etKF1M>.

⁸In 1985 a single disabled person on Supplemental Security Income (SSI) benefits received a total of \$325 per month. In 2010 and 2011, the amount for a single disabled person is \$674 per month (see Social Security Online, Automatic Increases, <http://bit.ly/ijCuia>). In New York State individuals on SSI receive a state supplement, bringing their monthly income to \$761 (see New York State Office of Temporary and Disability Assistance, Informational Letter 10-INF-23 (Dec. 8, 2010), <http://bit.ly/ihksUD>; SSI Benefit Levels Chart Effective January 1, 2011 (Reflects the 0% Federal COLA for January 2011) (Oct. 18, 2010), <http://bit.ly/eFw14B>).

it understood that the stress connected with fear of losing one's housing or navigating complex bureaucracies could have an adverse impact on mental health and recovery. The cost of rehospitalization or reinstitutionalization was too high in both financial and human terms for the city to ignore these. Mental health promotion and recovery, like treatment of and recovery from physical illness, requires affordable access to effective legal information and representation. Thus MFY was funded to work in concert with mental health treatment providers to serve the legal needs of people who have mental illness and live in communities throughout New York City's five boroughs.

Because this model was so successful, the mental health–legal partnership was expanded in 1994 to handle the legal problems of patients hospitalized in psychiatric wards of the New York City Health and Hospitals Corporation system. Patients admitted to the corporation's psychiatric wards are considered to be experiencing a short-term yet acute phase of a mental illness, and this component of the project was developed to allow doctors and discharge planners to work with attorneys to remove barriers to patients' discharge from the hospital. During a downward spiral in mental health, a patient may lose the ability or judgment to pay rent, may engage in nuisancelike behavior, and may fail to respond to legal notices. Often only when the patient is admitted to the hospital in a debilitated state will these problems surface, leaving the patient helpless to deal with them and the hospital unable to discharge the patient safely after the patient is stabilized. Thus MFY lawyers collaborate with mental health professionals to identify and solve problems with health care coverage, housing, government benefits, and other legal matters that stand in the way of a safe and successful discharge plan.

Model

In the five boroughs of New York City, the Department of Health and Mental

Hygiene contracts with over 400 mental health care providers to provide services to thousands of mentally ill New Yorkers.⁹ These providers offer a wide range of services: inpatient psychiatric wards; psychosocial clubs that assist mental health consumers in reestablishing their sense of self-esteem and group affiliation; continuing day treatment programs for active treatment and rehabilitation designed to maintain or advance current levels of functioning and community living; assertive community treatment teams for mobile intensive treatment and support to people with psychiatric disabilities; and intensive case management programs that link to the service system for mental health consumers, coordinate services, and achieve a successful outcome.¹⁰ While participants in these programs may have different levels of treatment needs, all are people with mental illness and all face stressors that can have a huge impact on their continued recovery.

Edith M.

Edith M. (not her real name) receives outpatient services from a member of the MFY mental health–legal partnership. When Edith received a notice that she was being sued in New York City Housing Court due to nuisance behavior, her social worker recognized the need for legal assistance and contacted MFY Legal Services. After a telephone intake, MFY decided to represent Edith and talked to her and her case manager about possible courses of action for the litigation. We collectively determined that, by having Edith's social worker visit her home more frequently, Edith would minimize any problematic behavior. Accordingly we determined that a probation-type period would be appropriate and settled her case on that basis. The increased treatment was effective, and Edith was no longer a problem in her building. However, Edith's landlord brought the case back to court and claimed that the problematic behavior had continued. At that stage MFY worked with Edith and her social worker again to prepare for a hearing regarding Edith's behavior in the building. Edith's lawyer's cross-examination of the landlord's witnesses cast doubt on the assertion of problematic behavior, and Edith's social worker testified about her regular visits to the apartment and her personal knowledge that Edith was not being problematic. With her legal and mental health providers working together, Edith prevailed in the hearing, by which time the probation period had ended and Edith remained in her home.

⁹See generally DIVISION OF MENTAL HYGIENE, NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, DISTRICT RESOURCE STATEMENT: FISCAL YEAR 2008, <http://bit.ly/hPB1Su>.

¹⁰*Id.*

Outpatient Treatment Programs. MFY's mental health–legal partnership works with providers in outpatient treatment programs to help the health care professionals learn to recognize legal stressors at the earliest possible stage (see box). MFY attorneys visit the programs for on-site discussion with and formal training of the providers about the types of legal issues that patients face. Sometimes the discussion or formal training is an overview of the myriad issues patients may face, and sometimes the discussion or formal training is targeted to specific issues. The topics of discussion originate both from health care providers who see multiple patients with the same legal problems and from MFY attorneys who might identify an undiscussed legal problem. MFY attorneys are in constant communication with the health care partners, and the attorneys work with health care professionals to help the treatment providers learn to identify legal issues that negatively affect mental health recovery and the ability to remain in the community. While mental health professionals learn to identify and assist on legal issues, attorneys in the project are trained in understanding the various forms of mental illness, the symptoms of these illnesses, and the effects of medication. Sensitivity to how different cultures view mental illness is also crucial to effective intervention. To assist treatment providers, MFY sends regular updates and information by mail so that all of the providers are aware of common legal issues.

When the mental health treatment providers recognize that wrestling with a legal issue is important for comprehensive treatment of a patient, the providers contact MFY through an intake line that is open seven hours a day, four days a week. Because the health care providers are scattered throughout New York City, the initial discussion of the legal issue generally happens by telephone for the convenience of all involved. Sometimes the patient is involved in this first discussion of the issue and sometimes not, at the health care provider's discretion. If follow-up is needed after the first discussion, the patient is always involved.

When ongoing assistance is needed, MFY, with the continued assistance of the health care professionals, provides direct legal advice and representation to the patients.

Having twenty-eight hours of open intake a week staffed by our attorneys can lead unsurprisingly to attorney stress. Through trial and error, MFY has taken a number of steps to minimize that stress. Originally, rather than having an intake line, each outpatient program was assigned to an individual attorney and could call at any time. When this proved to be too disruptive to the attorneys' days and concentration on other work, intake was shifted to a single telephone line for all of the outpatient providers; the line is staffed by a different attorney every day. The schedule is set at the beginning of each month, with vacation and other time out of the office taken into account, so that attorneys can plan their work around when they staff intake. MFY has streamlined the intake process for cases needing only onetime advice so that once the attorney completes the intake form, noting the advice given, the attorney submits the form and has no further work on the case. Because so much intake can increase the stress in the already demanding job of being a legal services attorney, MFY is constantly finding ways to make intake less onerous for the staff while maintaining the high level of access that has been key to creating productive partnerships with the myriad outpatient mental health programs in New York City.

Hospital Inpatient Psychiatric Wards. The model works somewhat differently in MFY's partnership with the inpatient psychiatric wards. There are eleven Health and Hospitals Corporation hospitals with psychiatric wards in New York City. MFY has created eleven dedicated telephone lines so that the health care professionals at each hospital can dial a dedicated number and reach the MFY attorney with whom they partner. Those telephone lines never being closed, health care professionals can reach an attorney or their voice mail at any time and are assured that they will speak with

an MFY attorney within one business day of making the call. Each hospital works with one specific MFY attorney in order to minimize confusion and maximize the effectiveness of the partnership over time.

Again, MFY has tried to keep the level of increased stress on our attorneys at a minimum while making sure our hospital partners have regular access to us. Five of our six full-time staff attorneys have two hospitals each, while the sixth attorney has the hospital with the largest psychiatric ward and consequently the highest number of calls. In assigning the hospitals MFY takes into account the size of each hospital ward and the inconvenience of the location relative to our offices and to the attorneys' homes. In this way each attorney fields a roughly equivalent number of calls from the hospitals, and each has the travel time to the various hospitals kept as low as possible.

As in the outpatient model, MFY attorneys each work with the health care professionals at each hospital to help the treatment providers learn to identify legal issues that might make discharge difficult and adversely affect mental health recovery. MFY attorneys regularly visit the hospitals both to discuss legal issues and to meet with patients in need of legal intervention. The attorneys are also in regular communication with the hospital's health care professionals by telephone, particularly the social workers on the wards. By staying in close contact, attorneys can discuss potential legal issues that both sides are seeing, outcomes of cases where the patient has been discharged, and any improvements on the partnership; the attorneys also conduct a formal training at each hospital annually.

When a hospital's health care professional identifies a patient with a legal problem, the health care professional calls the MFY attorney working with the hospital and discusses the case. The MFY attorney provides immediate assistance where possible, and the two work together to assist the patient henceforth. MFY regularly provides advocacy help to health care professionals as a first step, especially when a patient's housing pro-

vider is resistant to the patient returning. Often this advocacy can resolve the issue much more quickly than litigation, and the patient can return to the community more expeditiously. If informal advocacy is unavailing, MFY provides legal representation to resolve the patient's problem and assure a safe and timely return to the community.

Joan W.'s discharge exemplified the kind of advocacy that the mental health–legal partnership provides clients in inpatient settings. Joan (not her real name) was admitted to the psychiatric ward at a Health and Hospital Corporation facility from a supportive housing program where she had received not only housing but also mental health supports such as on-site case management and group therapy. When Joan's social worker at the hospital contacted the supportive housing program to discuss Joan's discharge, the program said that it would not readmit her. Joan's social worker then contacted MFY, and MFY immediately contacted the program to explain its legal obligation to readmit Joan. The MFY attorney also told the program that if it thought that it was an inappropriate placement for Joan, it should do discharge planning with her after she returned. The program was swayed by this discussion but wanted to meet with Joan and her inpatient treatment team. This meeting took place, and Joan returned to her program. If MFY and the hospital had not collaborated, Joan might have languished in the hospital longer, depleting the hospital's scarce resources and derailing Joan's continuing recovery.

Legal Issues

Based on the needs articulated by patients and mental health care professionals, MFY's mental health–legal partnership focuses primarily on two main areas: maintaining or increasing income (including securing health care coverage) and preventing homelessness.

Income Maintenance. Patients in both outpatient mental health treatment and inpatient hospital settings often have limited incomes and some problems with government entitlements. An acute

episode of mental illness can lead to a patient missing required appointments and consequently losing benefits, to an unwillingness to engage with government bureaucracies to correct inappropriately low benefits, or to overspending as part of a manic phase. When a patient has somehow lost benefits, such as public assistance or Medicaid, MFY works with the treatment provider to correct the problem through informal advocacy with the patient's benefits caseworker and through representation at an administrative agency hearing and a court appeal where necessary. Where appropriate, we invoke the need for a reasonable accommodation of our patient's mental illness to request changes in administrative policies, such as extensions of timelines or second chances to submit necessary documentation. By utilizing all of these methods, we generally can maintain or restore the patient's income and secure continued health care coverage that benefits both the patient and the health care partner.

Due in part to the difficulties inherent for those with mental illness in applying for state or federal benefits, patients are sometimes not receiving benefits to which they are entitled or are receiving a lower amount of benefits than what is available to them.¹¹ For example, the Social Security Administration sometimes determines that a patient lives in the household of another person—and this reduces the amount of the patient's Supplemental Security Income (SSI) benefits—when in fact the patient simply has a roommate and should be considered an independent household. MFY and its partners work together to be sure that the health care professionals who most often come into contact with patients can recognize when a patient's income is inappropriately low or when they may qualify for additional benefits, including health

care coverage. When an application is needed, MFY attorneys train the health care professionals to assist patients in filling out strong applications. When informal advocacy is needed, MFY and the health care partner work together to urge the appropriate government agency to alter the patient's benefits and increase the patient's income or health care coverage. And when the patient needs an administrative hearing or court action to obtain the correct benefits, MFY represents the patient.

Homelessness Prevention. A long-standing priority in MFY's mental health–legal partnership is homelessness prevention. In New York City affordable housing is difficult to find and difficult to keep. A record-breaking 39,000 New Yorkers were sleeping in municipal homeless shelters each night in January 2010.¹² Even more than for those without mental illness, losing stable housing can be devastating to those with mental illness, often precipitating acute deterioration and hospitalization. Avoiding homelessness for the patients involved in the mental health programs with which we partner has long been a crucial focus.

Patients of mental health outpatient programs and those who are inpatient for short durations reside in an array of housing types. Many live in the same public housing projects and private rent-regulated apartments that other low-income New Yorkers inhabit, but eviction for those with mental illness can often happen more quickly and with more devastating consequences.¹³ Some reside in "scatter-site" supported housing, where a treatment provider locates a private apartment which a patient may sublet or lease in the patient's own name. The treatment provider's support services assist the patient in continuing to live in the community. Still other patients re-

¹¹See Sarah E. Dunn, *Mental Block: The Challenges Awaiting a Mentally Impaired Claimant when Applying for Social Security Disability Benefits*, 22 REGENT UNIVERSITY LAW REVIEW 453 (2009–2010); for information on barriers to benefits for former inmates with mental illness, see Jennifer Mathis & Laurel Stine, *Breaking the Cycle of Incarceration: Strategies to Facilitate Timely Restoration of Benefits upon Release of Inmates with Mental Illnesses*, 41 CLEARINGHOUSE REVIEW 176 (July–Aug. 2007).

¹²Patrick Markee, Coalition for the Homeless, State of the Homeless 2010: How Governor Paterson's Budget Will Make New York's Historic Homelessness Crisis Even Worse (March 2, 2010), <http://bit.ly/dWqZHJ>.

¹³See Meghan P. Carter, *How Evictions from Subsidized Housing Routinely Violate the Rights of Persons with Mental Illness*, 5 NORTHWESTERN JOURNAL OF LAW AND SOCIAL POLICY 118 (2010).

side in community residences, supportive single-room occupancy hotels, adult homes, or other licensed housing designated for those with mental illness.¹⁴ In each of these settings, patients can face challenges that sometimes result in legal stressors and a need for legal assistance to maintain their housing and continue their mental health recovery.¹⁵

MFY and its health care partners constantly work together to identify possible legal issues relating to housing and to ensure that the health care professionals working directly with patients can recognize possible legal problems as early as possible. Falling behind in the rent, living in housing with substandard conditions, nuisance-type allegations based on the patient's behavior, a private landlord wanting to obtain a rent-regulated apartment for the landlord's own use, and a housing provider's unwillingness to accept a patient back to the housing after a short-term hospitalization are some of the legal problems relating to housing faced by our patients. On each of these housing problems and the myriad others that arise, MFY works with our partners to stabilize the housing and provide the patient with the best possible living situation to maintain the patient's mental health.

When a health care professional recognizes a housing problem or a barrier to discharging a patient from the hospital, MFY works with the health care professional to provide informal advocacy and resolve the problem quickly. Often a private landlord or even a mental health housing provider will attempt to deny the right to return to an apartment to a patient who has been hospitalized. In that circumstance MFY will write an advocacy letter setting forth the patient's right to return and give the letter either to the treatment provider or to the landlord directly, depending on the assessment of both partners as to which will be more persuasive. These letters are regu-

larly successful, and the patient can return home without the additional stress of a court proceeding. However, where nonlitigation advocacy fails to convince a landlord to allow the patient to return home, MFY will pursue court action to secure the patient's return to the patient's housing.

In other housing cases, the patient may already be involved in eviction proceedings before the patient informs health care professionals of the litigation. In those instances MFY works with the health care professionals to obtain the full facts of the case and to craft a plan to maintain the housing. In rent arrears cases, the health care provider can often work with the patient to create and monitor a budget, set up online bill payment, or obtain management of the patient's finances from another agency. While the health care provider is helping the patient institute these changes in the patient's life, MFY defends the court case and pursues rent arrears grants from government agencies and private charities. In cases where a patient's behavior leads to a court case, the health care providers can reassess the patient's treatment plan and alter medications, increase services, or change how services are provided, all of which can work to correct the problematic behavior. While all this is being completed, MFY represents the patient in court and may request as a reasonable accommodation that the landlord give the patient a chance to correct the behavior. In cases where the health care providers can ascertain the legal issue before commencement of an action, MFY requests appropriate reasonable accommodations in order to forestall any court case. For example, MFY has requested and obtained accommodations to allow patients to keep pets that are serving as emotional-support animals and accommodations to allow health care providers to adjust patients' treatment and thereby reduce or eliminate problematic behavior. In each housing case that is litigated,

¹⁴For a complete guide to the types of supportive housing models operating in New York City, see Center for Urban and Community Services & Residential Placement Management System, *Supportive Housing Options NYC: A Guide to Supportive Housing Models for People Living with Mental Illness* (2011), <http://bit.ly/djyolh>.

¹⁵For an unfortunately still-accurate summary of the difficulties that tenants with mental illness face in keeping their housing, see Michael Allen, *Separate and Unequal: The Struggle of Tenants with Mental Illness to Maintain Housing*, 30 CLEARINGHOUSE REVIEW 720 (Nov. 1996).

the contribution of the mental health care providers is crucial to the patient's continued housing and is integrated into the legal strategy to serve the patient fully.

In one recent case a patient who resided in public housing did not notify his treatment providers that any litigation was happening until after an administrative decision terminating his tenancy had already been issued. The treatment team immediately recognized not only that legal assistance was needed but also that, with some changes in the patient's treatment plan, the problems (an unauthorized occupant and marijuana in the apartment) would never have occurred. The treatment team contacted MFY, and MFY asked that the administrative hearing be reopened because the patient had not had a guardian *ad litem*; this was necessary for him to participate in the hearing fully. Because we worked in partnership with the treatment team, the patient's treatment provider gave us a detailed letter setting forth both the patient's inability to understand the proceeding that had occurred and the increased supports that the team would provide to prevent any recurrence of the problems. This request being denied at the administrative level, MFY appealed to the New York trial court. In *Davis v. New York City Housing Authority* the court vacated the administrative decision and remanded for a new hearing with a guardian *ad litem*.¹⁶ Thus MFY preserved not only the patient's tenancy but also his right to adequate due process.

MFY also collaborates with other legal services providers to advance the legal rights of patients we see through our partnership. For example, in 2009 our office was contacted by the Goddard Riverside SRO Law Project, a Manhattan organization providing free legal services to low-income residents of single-room-occupancy buildings on the city's West Side. At the time the Goddard Riverside SRO Law Project represented a client who was being evicted on the basis of a stipulation signed by her appointed

guardian *ad litem*. The client had never read the stipulation and did not consent to it. Because such an overstepping of the bounds of a guardian *ad litem*'s role could have adverse consequences for all litigants with mental illness, MFY worked with the Goddard Riverside SRO Law Project on legal strategy and filed an amicus curiae brief in support of Goddard Riverside SRO Law Project's motion to vacate the underlying stipulation. The joint effort resulted in *1234 Broadway Limited Liability Company v. Lin*, holding that a stipulation involving a person for whom a guardian *ad litem* has been appointed must be approved by the court and upholding the right of one with mental illness to make one's own decisions regarding one's housing court case.¹⁷

Other Matters. The mental health–legal partnership also provides legal assistance to patients on a panoply of other civil legal problems. Some of the patients the partnership sees are facing consumer law issues. A patient may have overspent during a manic phase or lent an ATM (automated teller machine) card to a friend who misuses it. People with or without mental illness are similarly vulnerable to identity theft. Again, MFY works with its health care partners to ensure that the health care professionals working with patients can spot patients' potential consumer issues. MFY and its health care partners work together to advocate informally where appropriate, for example, advocating that creditors stop harassment, which can be extremely detrimental to mental health stability. When patients appear in court, MFY represents them or provides in-depth legal advice on navigating the court system.

Many mental health patients have recently been asking their health care professionals about advance directives both for end-of-life planning and for clarifying wishes regarding mental health treatment should the patients become incapable of making those decisions at a later point. To respond to this concern, MFY created training materials to ex-

¹⁶*Davis v. New York City Housing Authority*, 2010 N.Y. Misc. LEXIS 6197 (N.Y. Sup. Ct. Dec. 8, 2010).

¹⁷*1234 Broadway Limited Liability Company v. Lin*, 883 N.Y.S.2d 864 (N.Y. Civ. Ct. 2009).

plain advance directives to patients and has discussed the materials with patients at several different providers. At the same time MFY has provided the health care professionals with sample psychiatric advance directives that are valid in New York so that the providers can work with the patients in filling out the forms properly.

MFY further provides legal advice on a host of other issues, including immigration questions as they affect the right to various government benefits, surrogate decision makers, and child support. Because of our close working relationship with health care providers, the mental health–legal partnership will respond to other issues swiftly and effectively as they arise.

Broader Issues Affecting the Community. As the partnership recognizes issues, we also work collectively to resolve systematic problems faced by mental health consumers. In the early 2000s some of our mental health partners recognized that their patients were having difficulty affording transportation to attend their programs and continue their recovery. Moreover, without transportation, patients found it difficult to navigate community life in New York City. MFY and our partners talked to numerous mental health patients, and MFY explored the law governing half-fare metrocards provided to those with disabilities by the New York City Metropolitan Transit Authority. These cards enabled those with disabilities to use New York City buses and subways at half the regular rate. Finding that the law did not adequately cover those with serious mental illness, we brought a lawsuit on behalf of several of our partners, including Fountain House, National Alliance for the Mentally Ill of New York City, and Community Access. The lawsuit, *Fountain House Incorporated v. Metropolitan Transportation Authority*, was a class action on behalf of poor, psychiatrically

disabled New Yorkers who were being denied the reduced fares given to other disabled passengers through unnecessarily burdensome application and verification procedures.¹⁸ The suit was settled by a stipulation requiring the Metropolitan Transit Authority to streamline its application form and procedures, to disseminate reduced-fare information to mental health advocates, and to submit to continued monitoring. As a result, thousands of SSI recipients with serious and persistent mental illness obtained half-fare cards for the subways and buses to bring them to their treatment.

The larger issues confronted by the mental health–legal partnership do not always take the form of litigation. Public education and awareness are important elements of the partnership as well. In 2008 MFY attorneys became frustrated with the way that judges treated testimony by people with mental illness. In discussions with our mental health partners, we focused on the ways that stigma against those with mental illness can affect how they are perceived in administrative settings and court hearings. We collaborated with Dr. Claudia Sickinger, a former public psychiatry fellow of the New York State Psychiatric Institute at Columbia University Medical Center, to write an article drawing attention to the difficulties those with mental illness face in obtaining a fair hearing and making recommendations for corrections.¹⁹ Similarly, after MFY attorneys and our partner mental health providers were confused in the courts and when talking to patients about the roles of guardians and guardians *ad litem*, we authored another article, discussing how New York State law surrounding guardians *ad litem* is different from more comprehensive guardianship under the New York State Mental Hygiene Law.²⁰ Distinctions between the two surrogate roles are frequently misunderstood by courts to the detriment of litigants with mental ill-

¹⁸ Complaint, *Fountain House Incorporated v. Metropolitan Transportation Authority*, CV-03-2579 (E.D.N.Y. May 22, 2003).

¹⁹Kevin M. Cremin et al., *Ensuring a Fair Hearing for Litigants with Mental Illness: The Law and Psychology of Capacity, Admissibility, and Credibility Assessments in Civil Proceedings*, 17 BROOKLYN JOURNAL OF LAW AND POLICY 455 (2009).

²⁰N.Y. MENTAL HYG. LAW §§ 81.01–81.44 (McKinney 2011); Jeanette Zelfhof et al., *Protecting the Rights of Litigants with Diminished Capacity in the New York City Housing Courts*, 3 CARDOZO PUBLIC LAW, POLICY, AND ETHICS JOURNAL 733 (2006).

ness, and the article recommends corrective action.

The capacity to assist mental health patients in individual cases, on larger issues, and in nonlitigation advocacy would not be possible without the mental health–legal partnership in which MFY has been involved for the past twenty-seven years. The collaboration between mental health professionals and MFY attorneys brings to light issues that would otherwise go unnoticed, while keeping the patients' health and ongoing recovery at the forefront.

Lessons

According to the National Institute of Mental Health, 25 percent of adult Americans—57.7 million people—suffer from a mental disorder in a given year.²¹ In the postdeinstitutionalization era, most people with psychiatric disabilities live in the community and are involved in outpatient mental health treatment. Many of these people face short-term hospitalization when mental illness becomes acute. At the same time mental health consumers living in the community face legal issues that can be destabilizing and ultimately devastating if assistance is not available. By entering into a mental health–legal partnership, MFY Legal Services, outpatient mental health treatment providers, and hospitals providing short-term inpatient care collectively meet the legal needs of mental health patients as soon as those issues arise and thus mitigate outside stressors and facilitate ongoing stability and recovery.

In the course of our partnership, we have learned the best ways to create and maintain a meaningful program. Communication and relationship building are key to developing trust and understanding. Our experience has been that some medical professionals distrust lawyers and fear being sued. They misperceive our intentions and think that our work could involve litigation against them. We need to clarify the types of cases we do, the goals of our work, and how we can benefit the hospital or other provider: by facilitating proper and timely discharges and obtaining government benefits—including Medicaid—we help the provider more effectively utilize scarce resources.

Also needed is a continuing dialogue for better understanding of the constraints, pressures, and deadlines of the two disciplines. Lawyers need to convey to the clinicians how courts and administrative agencies work: those forums impose deadlines, and we operate under deadlines that we cannot necessarily adjust. Similarly lawyers need to listen to treatment providers about such constraints as medication management and the limitations of even the best treatments. And we frequently need to discuss conflicting ideas among the lawyer, clinician, and patient about our advocacy and litigation goals and strategies.

Working in conjunction with community-based mental health centers and hospitals to take care of the legal needs of mental health consumers, the MFY mental health–legal partnership was ahead of its time when it was created in 1983. The partnership has since served thousands of mental health consumers.

²¹See National Institute of Mental Health, Any Disorder Among Adults (July 29, 2010), <http://1.usa.gov/fs4dAk>.



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