

## Legal Insanity: Explorations in Psychiatry, Law, and Ethics

By Gerben Meynen. Basel, Switzerland: Springer International, 2016. 196 pp. \$109.99

This fascinating book is part of a series of multidisciplinary publications, the International Library of Ethics, Law, and the New Medicine. The author, a psychiatrist, theologian, and philosopher, brings his vast knowledge to the greatest dilemma of law and psychiatry: insanity. The author poses basic questions and then answers them from his scholarly and eclectic perspective. He covers the long history of insanity and the insanity defense, describing its fluid and global concepts.

Meynen begins by discussing the history of moral and legal responsibility. The concept of mitigation or elimination of criminal responsibility has long been part of human culture. Yet, he notes, it is not universal today. For example, Sweden has abolished the concept, as have several states in the United States. Likewise, the qualifications for the successful use of the insanity defense, as well as the burden of proof, varies by state and country. Meynen emphasizes what every forensic psychiatrist knows, that insanity is a legal concept, not a medical one. He recognizes that some jurisdictions define their insanity defense by relying solely on psychiatry, yet he questions whether this is a good idea. He avers that other areas of inquiry, such as law and culture, must be considered. For example, the *Durham Rule*, followed in New Hampshire, holds that a defendant is not guilty if the criminal act is the product of mental disease or defect. Meynen makes the strong argument that this definition leaves the proof of insanity to the psychiatrist. Norway's Penal Code defines insanity as a criminal act committed while a person was psychotic, unconscious, or had a severe intellectual handicap. In The Netherlands, mental health experts appear before a judicial panel and offer their observations about the defendant's degree of criminal responsibility.

Meynen discusses various state and national definitions of insanity and offers arguments for and against each formulation. He summarizes how

perceived mental illness has played into these definitions:

... we have to distinguish between two things first, establishing the presence of severe mental disorder in the past and, second, evaluating the specific effect of that disorder—as required by the legal standard—related to the crime at the time of the crime . . . . The time of the crime may be a period of several seconds, minutes, hours, but usually not much longer. This is different from standard psychiatric assessments, in which the condition in the past is being diagnosed—e.g., a depressive episode—where such a high temporal resolution is not achieved (p 45).

Meynen describes the complexities of insanity defense assessments in comparison with typical psychiatric assessments, writing, “In sum, an insanity assessment is more challenging than ordinary psychiatric diagnostic practice for three reasons: first, it concerns a past mental state; second, it often concerns a short period of time; third, most jurisdictions require assessing a specific effect of that mental disorder regarding the criminal act” (p 46).

The author notes that the insanity defense includes factors that complicate its use: the role of expert testimony in an adversarial process, the impact of malingering, arguments against mental illness itself, particular benefits of being a wealthy defendant, and the rarity of raising the insanity defense. He offers that none of these factors, as important as they are, obviates the legitimacy of legal insanity.

Wearing his philosopher's hat, the author also weaves into this crucible concepts of free will, moral insensitivity, irrationality, and decision-making.

The chapter of greatest interest explores the frontiers of neurolaw. Meynen discusses how certain discoveries, if given too much credence in a court of law, will obfuscate the concept of insanity rather than clarify it. He writes, “Neurolaw researchers do not necessarily favor the use of neuroscience in the courtroom. In fact, many are critical or skeptical of the value neuroscience currently has for the law” (p 115). He takes a cautious approach to this field, especially as it relates to arguments for or against insanity as a concept and as a defense. He predicts how functional magnetic resonance imaging can be used or abused and calls for more research. The author recognizes important research on adolescent brain development and discusses how these discoveries impact legal insanity.

Finally, Meynen lists the central concerns that must be considered when evaluating or revising legal insanity in a jurisdiction: insanity as part of the overall legal system; medicine versus law; standards, or

lack thereof; components of the standards; consistency with moral institutions and theory; clarity of criteria; reliability; mental disorder as a criterion; degrees of responsibility; burden of proof; and similarities with other legal systems.

*Legal Insanity: Explorations in Psychiatry, Law, and Ethics* stimulates thinking beyond the borders of forensic psychiatry. It places the controversial topic within the greater concepts of culture and society, philosophical inquiry, general medicine, and the law. This book is valuable for clinicians who have grappled with legal insanity in their work and for those new to the field of forensic psychiatry who have many questions about this historical, fluctuating, perplexing, and provocative topic.

Meynen provides uncommonly rich inquiry beyond what forensic professionals are taught. He writes well and includes a comprehensive list of references, although some of them are outdated. Occasionally, his sections on philosophy and morality are too detailed for practitioners. However, the book provides a wide-ranging foundation and clinical information that enhance understanding of this important field.

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Disclosures of financial or other potential conflicts of interest: None.

DOI:10.29158/JAAPL.003820-19

## **Drug Dealer, MD: How Doctors Were Duped, Patients Got Hooked and Why It's So Hard to Stop**

By Anna Lembke, MD. Baltimore: Johns Hopkins University Press. 2016. 172 pp. \$19.99

*Drug Dealer, MD* is a comprehensive and systematic look into several factors that contribute to the current opioid epidemic. This book is divided into 10 chapters. The first two chapters offer a common definition of addiction, which is familiar to mental health professionals, and a narrative describing the advent of prescription analgesics as a gateway to addiction. Chapter three discusses the physical and psychological components of pain in the context of both

acute and chronic pain syndromes. The next two chapters are focused on the effect of direct-to-consumer marketing on the promotion of medication consumption and then addiction as the driver of malingering. Chapters six and seven discuss the changing roles of “patient” and “physician” in society. The book then describes a view of the commoditization of medicine and the role insurance companies play in discouraging treatment of addiction. The final chapter is one in which Lembke calls for change in the “cycle of compulsive prescribing” (p 149).

In chapter eight, Lembke tries to explain how we ended up in an opioid crisis. She lays considerable weight on the patient–physician relationship being crippled and co-opted by the intervention of the Centers for Medicare and Medicaid Services, state medical boards, hospital legal counsel, patients’ legal counsel, patient relations, billing, disability claims, The Joint Commission, private insurance, and Big Pharma, resulting in medicine being treated as a profit-driven industry to the detriment of patient care. In the closing chapters, the author laments the lack of systemic investment (i.e., monetary and educational) in treatment of addiction, and calls for deep change within the segregated, managed-care system of health care delivery.

Dr. Lembke is the Chief of Addiction Medicine and Assistant Professor at Stanford University School of Medicine. In this text she draws on her 20 years of clinical experience, related in vignettes throughout the book, as well as interviews with colleagues, pharmacists, social workers, nurses, hospital administrators, insurance executives, journalists, economists, advocates, and patients and their families.

Lembke cites staggering statistics that illustrate the rise of the opioid epidemic. She describes how the Centers for Disease Control and Prevention declared a prescription drug epidemic after deaths from opioid pain medications quadrupled between 1999 and 2013. She also notes that pharmacy sales of opioid analgesics quadrupled from 1999 to 2011. In 2010, deaths resulting from opioid overdose exceeded those from motor vehicle collisions for the first time ever in the United States (pp 4–5).

Lembke describes that, although 40 million people in the United States are affected by addiction (more than cardiovascular disease at 27 million people and diabetes at 26 million), there have been staggeringly few health care dollars allocated to addiction