

A History of Subspecialization in Forensic Psychiatry

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Forensic psychiatry became officially recognized as a subspecialty by the American Board of Medical Specialties on September 17, 1992, under the designation of "Added Qualification in Forensic Psychiatry." The historical roots wind through extended time in the complicated interplay of psychiatry and the law. A recognized need for special education, training, and experience, with the assurance of competence, became clearly defined in the mid-20th century. This was brought into perspective in a joint effort by the American Academy of Forensic Sciences and the American Academy of Psychiatry and the Law. At the present time there are 38 fellowship programs with approximately 50 positions available. Within a short time (two to three years), fellowship experience will be a requirement to sit for the examination.

The American Board of Medical Specialties (ABMS) with the assent of the American Psychiatric Association (APA) agreed to the recognition of forensic psychiatry as a subspecialty on September 17, 1992. The American Board of Psychiatry and Neurology (ABPN) will henceforth offer an examination for "added qualification in forensic psychiatry" to those who satisfy the preconditions of certification. The terminology of "added qualification in forensic psychiatry" (rather than "Board of") represents a concession to professional concerns (es-

pecially the specter of fragmentation) within the basic specialty of psychiatry and neurology.

Well before the recent official action of the American Board of Medical Specialties, the professional and academic attainments of forensic psychiatry had essentially met or exceeded the expectations of a recognized subspecialty.

Within the time frame 1969 to 1976, the American Academy of Forensic Sciences (AAFS; psychiatry section) and the American Academy of Psychiatry and the Law (AAPL) made a joint effort to establish a *de novo* group to define a frame of reference for recognizing competence and professionalism in psychiatry and the law.* Through this effort the American

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*From time to time, the AAFS (psychiatry section) and AAPL have worked in partnership with common goals. Many members belong to both organizations and work on projects of mutual interest.

Board of Forensic Psychiatry (unrelated to the APA or ABPN) was founded in 1976. The APA, bound by professional realities of the day, was not indifferent to the events of forensic psychiatry and appeared to look upon the American Board of Forensic Psychiatry with an attitude of unofficial assent.¹

As a matter of perspective, the American Board of Psychiatry and Neurology (1935), under the aegis of the American Board of Medical Specialties, has officially recognized only two divisions within psychiatry: the American Board of Child Psychiatry (1957), with "Adolescent" joined thereto (1987), and the American Board of Pediatric Neurology (1968). Administrative Psychiatry was recognized by a certificate of special competence by the APA (not the ABPN) in 1953. No other group, however well structured or qualified, has been granted formal recognition. (Of recent date APA has recognized Geriatric Psychiatry and Medical Addictions—Added Qualifications in).

In the short 16 years between the founding of the American Board of Forensic Psychiatry and the final approval by the American Board of Medical Specialties (1976–1992) forensic psychiatry experienced rapid growth and defined itself academically and ethically, as well as in the extended professional community. In many respects the Board in its various functions represents the progenitor of that which is now official.

Dr. Ezra Griffith, president of the American Board of Forensic Psychiatry at the time of transition (November 27, 1992) noted the following.

The 253 Diplomates of the American Board of Forensic Psychiatry should be proud of the fact that they have contributed to the collective recognition of forensic psychiatry by the APA, ABPN, and the ABMS. Since the establishment of the ABFP in 1976, the standards of practice of forensic psychiatry and the numbers of those practicing have increased substantially. The Diplomates of this Board have established standards of teaching, research and the practice of forensic psychiatry to a point that it now has passed the test and become an official subspecialty.[†]

A Brief Look at the Issue of Specialization and Subspecialization

Throughout the history of medicine and psychiatry, the attainment of identity and status in a given specialty has been hard wrought—perhaps more so in forensic psychiatry, which is based upon the relationship of two disparate professions bound in duty by a civic and cultural ideal, working at times harmoniously, but all too often fiercely at odds in philosophy and sense of obligation. "The history of conflict between psychiatry and the law is long, dark and painful, and through great spans of time even tragic."^{2‡}

Although the history of psychiatry and forensic psychiatry can be traced to centuries past, it was only in the early years of this century that specialties, as presently defined, came into existence. The circumstances of origin were difficult. The features of competency in a given

[†]Summation in letter to each member certified by the American Board of Forensic Psychiatry (dated November 27, 1992).

[‡]Gregory Zilboorg, in commenting upon the hastened and pre-judged execution of Charles Guiteau (1881) for the assassination of President Garfield.

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discipline were uncertain, and there were few adequate graduate educational programs.^{3,4}

Ophthalmology was the first to adopt a specialty board (1917). Certification in ophthalmology then served as a prototype for boards that sought recognition. The four "original" boards included Ophthalmology, 1917; Otolaryngology, 1924; Obstetrics and Gynecology, 1930; and Dermatology and Syphilology, 1932. Thereafter the pace of specialization accelerated with nine new boards approved between 1933 and 1938 (Pediatrics, 1933; Orthopedic Surgery, 1935; Psychiatry and Neurology, 1935; Radiology, 1935; Urology, 1935; Internal Medicine, 1936; Pathology, 1936; Surgery, 1936; and Anesthesiology, 1938).^{5,8}

Forensic psychiatry was yet to be discovered, and the differentiation of "clinical testimony" as opposed to "forensic expert testimony" was not recognized at this time of history. Yet the impetus to create a board in psychiatry was not unrelated to forensic concerns. As president of the American Psychiatric Association, Dr. James V. May in 1933 urged that a qualifying board be set up to certify specialists in psychiatry and neurology, stressing the need of such certification as a means

of eliminating the inadequately trained pseudo-expert who had done much to discredit expert testimony.⁶

The American Board of Psychiatry and Neurology was founded in 1935, with forensic psychiatry temporarily bound into the fabric of this authority. The boards, in and of themselves, represented an educational landmark. Dr. David A. Little, Jr.⁷ in a retrospective assessment states:

The establishment of the specialty boards presaged, reflected and fostered a fundamental change in the practice of medicine, the era of specialization. They were at least as important in relation to graduate medical education as the Flexner Report had been in the development of quality undergraduate medical education. A very strong argument can be made that they were even more important in the way in which medical practice has evolved in this country during the past three-quarters of a century.

Passing through two to three decades of new and changing formulations of etiology, dynamics, and diagnosis, the general psychiatrist gave little attention to the slowly gathering vigor and increasing significance of forensic psychiatry. Two commentators of the 1960s, Dr. Edward Glover⁸ and Drs. Alexander and Selesnick⁹ expressed concern regarding this neglect.

[Glover] It is necessary to recognize the existing state of influence of Forensic Psychiatry . . . Psychiatry has done little more than extend the accustomed range of operation to certain pathological forms of social and antisocial behavior—designated as criminal. This territory is far from being explored. Only a small nucleus of trained investigators has been formed, scarcely sufficient to deal with the very fringes of the subject.

[Alexander and Selesnick] Nowhere is the relationship between psychiatry and social

⁸Authority in the structure of education, training, and experience for certification arose (1933) in the conjoint effort of the American Medical Association, the American Hospital Association, the Association of American Medical Colleges, the Federation of State Medical Boards, and the National Board of Medical Examiners . . . With the cooperative effort of the four original Boards they established the Advisory Board of Medical Specialties and this in turn (1933) became the American Board of Medical Specialties (ABMS). This board and the AMA Council on Medical Education cooperate in matters of decision regarding problems within the educational process.

problems more apparent and more in urgent need of clarification than in forensic psychiatry.

Just a short time later, the lively interest and momentum driving forensic psychiatry was rapidly attracting attention. In approximately a decade beyond the assessment of Glover and Alexander and Selesnick, Dr. Jonas Robitscher¹⁰ appraised the status of forensic psychiatry in and of itself.

Forensic Psychiatry (social-legal psychiatry) has burst its boundaries . . . It has extended out to cooperate with other disciplines . . . it has developed its own literature and teaching materials . . . it has involved itself with the body politic and the life of society; it has become the connection between psychiatry and a host of institutions—the courts, the prisons, administrative bodies, social agencies and legislatures . . .

Early efforts to develop a certifying agency in forensic psychiatry had failed.[¶] In 1969 a group of psychiatrists interested in the study and practice of forensic psychiatry founded the American Academy of Psychiatry and the Law under the leadership of Dr. Jonas Rapoport. Within this organization, forensic psychiatry began to experience a sense of vitality and a crystallization of thought in a cooperative educational effort. The combined effort of the AAPL with that of the psychiatric section^{||} (now the psychiatry and behavioral science section) of the AAFS represented a modality of structure that gave a defining purpose to psychiatry in relation to law and helped provide a climate in which the American Board of Forensic Psychiatry could become a reality.

[¶]For a limited account of the historical detail preceding the formation of the ABFP (1976) see extension to Notes and References.

^{||}The designation of “psychiatric section” of AAFS was changed to the “psychiatric and behavioral sciences section” at the annual meeting of AAFS in February 1985.

Concurrent social changes heightened society’s interest in the psychiatric aspects of criminal behavior.^{11, 12} The U.S. Department of Justice, in the Nixon administration’s “war against crime,” created the Law Enforcement Assistance Administration (LEAA) in 1969 to allocate funds to the states for research to support local crime-fighting programs. There was an urgent need for experts and scientists who might guide the organization of government to a successful resolution in matters of crime and law.

It is the consensus of legal scholars and leading practitioners of law that legal proof is rapidly evolving into a multidisciplinary mosaic of law, science and technology. As a consequence of our modern age, in which increasing specialization is deemed a desirable means of solving difficult problems, scientific evidence and expert testimony have become indispensable in many types of criminal investigation and in the trial of criminal cases.¹³

Part of the money available (a total of 753 million dollars, 32% of the Department of Justice budget), amounting to \$437,652, was allotted to the AAFS and the Forensic Sciences Foundation to develop a program of specialty certification for each specialty division within the academy.[#] The money was equally distributed to each specialty for a three-year study and developmental period.^{14, 15}

Within the administration of this authority, Dr. Maier Tuchler, as president of the AAFS (1969) and founder of the

[#]The Academy of Forensic Science is a consortium of specialties in the forensic sciences. Each represents a section of the academy; each an entity unto itself, with overlapping courtesies of cooperation and recognition. These include, in addition to psychiatry and the behavioral sciences, forensic toxicology, odontology, pathology, anthropology, jurisprudence, criminalistics, and questioned document examination. Each division sought to develop its own certification board.

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Forensic Sciences Foundation, found himself in a position to develop an agenda for the study and implementation of a program for certification in forensic psychiatry. He requested the support of the American Academy of Psychiatry and the Law. It was in this joint effort of AAFS (psychiatric and behavioral sciences section) and AAPL that the parameters of education, training, and experience through an examination and certification process for forensic psychiatry was defined.¹⁶

As a matter of historical interest, membership of the founding group was drawn from each organization with a geographic distribution representing eastern, western, and middle states (4-3-3). Each member was associated with the academic community; all were certified by ABPN and had contributed to forensic psychiatry in a significant way. Most had made contributions to the literature and all were persons of reputation in the community at large.¹⁷

Drs. Maier Tuchler and Irwin Perr as host anchors met with Drs. Walter Bromberg, Bernard L. Diamond, Seymour Pollack, Stanley Portnow, Jonas Rappeport, and Robert Sadoff in Washington, DC on June 12 and 13, 1976. At this first organizational meeting, the essential elements of the board were agreed upon. Articles of incorporation were recorded in the District of Columbia on June 15, 1976. At a later date, the original organizational group was enlarged with the addition of Drs. Zigmond Lebensohn, Herbert Modlin, and John Torrens. On June 21, 1977, the full board of directors included: Maier I. Tuchler, Walter Bromberg, Bernard Diamond, Zigmond M. Lebensohn, Herbert C. Modlin, Irwin N.

Perr, Seymour Pollack, Stanley L. Portnow, Jonas Rappeport, Robert L. Sadoff, and John K. Torrens.

The essential elements of the organizational agenda included:

1. Directors (9–12) will be forensic psychiatrists selected from recommendations of nominating organizations and the directors.

2. All candidates for certification in forensic psychiatry must be first certified by the American Board of Psychiatry and Neurology. (This has remained firm without exception.)

3. All candidates must have training and experience in forensic psychiatry. (Subsequent action by committees of the board established standards for both.)

4. There will be no grandfather clause. (The board was to set up a self-examination process.)

The goal was to establish a standard of competence, extending to the level of excellence. Every device of structure and function was designed to comply with and meet the highest expectations of a certifying agency. Suggestions and regulations of the AMA, ABMS, APA, and ABPN were observed. The original intra-board self-examination required three basic examinations with a cross-reference of checks and balances of such a nature that a deficiency of any one member of the board would have required careful self-appraisal and resignation.^{18**}

**It is to be noted that the American Board of Forensic Psychiatry was not a component part of either AAPL or AAFS. Both organizations contributed to the function of the Board in professional affiliation, administration and education, but this is largely a matter of contiguity in professional heritage of origin, and extended relationship of experience.

The American Board of Forensic Psychiatry was thus established in 1976. Under certain circumstances, in keeping with developments of the immediate past, it might have been given recognition by the APA and the ABPN. However, the speed and the threat of "fragmentation" (e.g., in internal medicine) strained the certifying procedure to the point of necessitating a period of restraint. By coincidence the following decision of the American Board of Medical Specialties was made within the same year of origin of the American Board of Forensic Psychiatry.

In March, 1975 the ABMS, "believing" that certification in sub-specialty areas devalues the primary certificate, creates additional problems in distribution of physician manpower and increases the cost of medical care to the public, adopted a firm policy that required a rigorous review of the justification for any new areas of special competence. The ABMS also urged its constituent primary boards to similarly review existing areas of special competence for which they were responsible.¹⁹

Despite such doubts, the board, once founded, achieved wide professional recognition and functioned with a professional competence equal to the measure of other highly respected boards in medicine.

The 1990s: Moving to Subspecialization

Advancing to the 1990s, the concept of subspecialization began to be debated with a sense of urgency among psychiatric organizations. The strongest arguments for subspecialization were based upon the recognition of an underlying explosion of knowledge beyond containment by previous and traditional boundaries. Most of the leaders in psychiatry

became concerned that delay in subspecialization would diminish the professional status and potential of psychiatry.²⁰⁻²⁴

By the 1990s training programs in forensic psychiatry were in place largely because of the efforts of the AAPL assisted by the AAFS (psychiatric and behavioral sciences section). As an extension of this process, Dr. Phillip Resnick had organized and established as a council of AAPL, the Association of Directors of Forensic Psychiatry Fellowships (1987).²⁵

The basic principles of the Accreditation Council for Graduate Medical Education served as an essential document of reference in working through a formulation of standards and procedure by the original Joint Committee on Accreditation of Fellowship Programs in Forensic Psychiatry, chaired by Dr. Richard Rosner.²⁶ In their standards, the didactic core curriculum postulated is not far removed from the modality of an educational ideal suggested by Dr. Park Dietz,²⁷ in which the training covers: (1) Criminal behavior; (2) the assessment of functional disability due to mental disorder; (3) the development, behavior, and well-being of children; and (4) the legal aspects of psychiatric practice. The cumulative effort of this committee over a 10-year period has resulted in the formation of the Accreditation Council on Fellowships in Forensic Psychiatry. The council is a constituent part of AAPL and is supported by AAFS.

As a basic premise . . . the function of the Council includes the creating of Standards for Fellowship Programs in Forensic Psychiatry, the dissemination of those standards and the evaluation of whether or not a specific program ap-

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plying for accreditation is substantially in compliance with those standards.

As of this writing, there are 38 fellowship programs (32 in the United States and 6 in Canada). Within the fellowship program there are approximately 50 positions available with some of these in the category of "potential." Most programs accommodate one to two fellows, with a stipend ranging on average from \$20,000 to \$40,000. The University of Toronto offers \$95,000; the University of California, San Francisco, offers \$85,000; the University of Pennsylvania offers training in exchange for service. A list of accredited programs and further information can be obtained from the American Academy of Psychiatry and the Law, One Regency Drive, P.O. Box 30, Bloomfield, CT 06002-0030 (telephone, 203-242-5450).^{28††} (See *Addendum* and *References* for list of currently available programs.)

The present, somewhat limited opportunity for fellowship training suggests that on-the-job experience, self-study, and supervision under experienced colleagues will serve as a transitional modality of training for at least a short while. The advantages and disadvantages are outlined by Rosner in *Psychiatric Clinics of North America*.²⁹

New examinations by ABPN will be given in 1994 (written but probably not oral).^{††} Those who devote a portion of their practice to forensic psychiatry and have a traditional modality of training will be eligible to take the examination.

This minimal qualification will last five or six years, following which time a fellowship of one year will be required as a prerequisite to sit for the examination.

It may be useful to conclude this brief history of subspecialization with consideration of the debate surrounding the ethics of forensic psychiatry. Within this debate the question of professional integrity, responsibility, technical sufficiency, and the problem of determinism versus free-will represent chief areas of dialogue.

The most powerful ethical critique comes from Dr. Alan A. Stone³⁰ (Dr. Stone is Touroff-Gluek Professor of Law and Psychiatry, Faculty of Law and Faculty of Medicine, Harvard University). His point of view may be reduced to the following agenda:

Do whatever you can to help your patient and *primum non nocere*, first of all do no harm . . . As physicians we know the boundaries of ethical debate. When we turn ourselves to forensic psychiatry, when we serve the system of justice we can no longer agree on the boundaries of the debate.

In the 1984 special issue on ethics of the *Bulletin of the American Academy of Psychiatry and the Law*,³⁰ 11 highly regarded forensic psychiatrists (and/or lawyers) developed a response to Dr. Stone. In so doing they open the subject to the variables of thought extant at this time.

There are many articles in this issue of the *Bulletin* that contribute to enlightenment, but perhaps add to the dilemma of interpretation in questions of insanity, responsibility, and professional involvement. These highly informative articles serve as an example of the uncertainty

^{††}Personal communication with Dr. Robert Weinstock, current chairman of Accreditation Council on Fellowships in Forensic Psychiatry.

within the “state of the art” at this time, but also indicate that forensic psychiatry has matured to a point where it can consider the unique ethical issues with which its practitioners are involved.

The magnitude of the complexity within professional subspecialties was well expressed by Dr. Gregory Zilboorg,³¹ historian to a previous generation:

The centuries of psychiatric history past are preliminary . . . In this era of specialization the history of medical psychology demands an almost encyclopedic training of the psychiatrist . . . The very nature of the (substance) with which (he or she) deals requires the highest degree of specialization and the broadest medical and cultural education.

This is perhaps the obligation and the promise of the future.

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Addendum

It is interesting to note that Isaac Ray in the early 19th century had speculated about and recommended to courts of law and the public the recognition of experts in psychiatry to testify in certain kinds of legal problems, especially those involving capital offenses (*A Treatise on the Medical Jurisprudence of Insanity: Preliminary Views*. Boston: Little and Brown, 1976 [c. 1838]).

In the period of 1948 to 1950 efforts within the American Medico-Legal Congress (later known as the American Academy of Forensic Sciences) failed . . . Leaders of the Medical Corrections Association (1954–1955) had to abandon a carefully drawn plan following a negative poll of psychiatrists (Forensic Science Foundation Certification Planning, Newsletter Feb 15, 1977). In the interval 1970 to 1975 the American Psychiatric Association declined, on a number of occasions, motions of consideration by the Council on Law and Psychiatry (Archives ABFP). Discussions within the American Academy of Psychiatry and the Law generated considerable ongoing debate (1969–

1976), but such matters were deferred until assurances were gained that a plan of certification would not defeat the educational priorities of the organization (statement of intent with summation of policy—Archives AAPL).

Following is a list of accredited programs in Forensic Psychiatry Fellowships as of January 1995:

- Albert Einstein College of Medicine, New York
- Case Western Reserve University, Ohio
- Center for Forensic Psychiatry, Michigan
- Federal Bureau of Prisons, North Carolina
- Medical College of Georgia
- New York University Medical Center, New York
- Rush-Presbyterian-St. Luke’s Medical Center, Illinois
- SUNY Health Science Center, Syracuse, New York
- UCLA Medical Center—Olive View, California
- University of California, San Francisco
- University of Colorado Health Sciences Center
- University of Florida
- University of Maryland School of Medicine
- University of Pennsylvania
- University of Rochester, New York
- University of South Carolina
- University of Toronto
- USC Institute of Psychiatry, Law and Behavioral Medicine, California
- University of Texas Medical Branch
- Yale University, Connecticut

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