

Identifying and Assisting Lawyers and Judges with Cognitive
Impairments

National Council for Lawyer Assistance Programs

October 9, 2012

Susan Stone, JD, MD
Susan Stone and Associates
PO Box 220, 180 Bradley Lane
Rosanky, TX 78953
512-360-3557; fax 512-360-5062
sstonejdmd@me.com

James R. Van Norman, MD
Medical Director
Austin Travis County Integral Care
1430 Collier
Austin, TX 78704
512-440-4021, fax 512-440-4081
jim.vannorman@atcic.com

- Background

Attorneys and judges tend to be “in control” most of the time. This comes from years of intense training and discipline. Further, they learn, through that training, to “cover” any signs of uncertainty or discomfort. This makes the identification of cognitive impairments particularly difficult.

- What are “Cognitive Impairments”?

The term “cognitive impairment” is a fairly generic reference to a number of different disorders. The most common is dementia, characterized by increasing memory loss that goes beyond “senior moments.” We all lose names from time to time, or miss appointments, but it’s when an individual puts the car keys in the sugar bowl that you should begin to worry. The most common form of dementia is Alzheimer’s Dementia. Only about 10% of Alzheimer’s Dementia is hereditary. The other causes are largely unknown. The second most common form of dementia is related to cardiovascular “mini” infarcts, or minor strokes. One way to differentiate these two is that Alzheimer’s dementia tends to be slowly progressive, while cardio-vascular dementia progresses in a “stair-step” way, with intermittent declines over time.

There are many other causes of cognitive impairment. One obvious cause is alcohol and substance abuse. Psychiatric disorders other than dementia may also cause cognitive impairment as we will delineate below. Others include medical issues, such as thyroid disorder, some vitamin deficiencies, rheumatoid disorders, cancer and head trauma.

- Identification of Cognitive Impairments

As stated above, signs of cognitive impairment may be subtle, and difficult to distinguish from normal aging processes. Warning signals include behavioral changes, memory lapses that go beyond

word or name loss, changing work habits, decrease in hygiene levels, speech irregularities, and disorganized thought processes.

- Facts About Psychiatric Illness

Although much progress has been made recently regarding community awareness around mental health issues, a great deal of stigma and misinformation continues to exist. While many years ago psychiatric illness was considered to be a product of purely environmental factors, such as inadequate parenting, we are increasingly confirming that these are biologic illnesses, similar to diabetes and hypertension. We know that there are hereditary factors that contribute to the development of these illnesses, in that they tend to run in families. Mental illnesses are what we call “multifactorial.” Someone with a family history of mental illness has a genetic predisposition to develop one, and after that there are a variety of contributory factors that determine whether the illness will develop. We do know that mental illness causes a difference in the way neuro-chemicals are handled in the brain. Recent development of brain chemical imaging studies, such as Positron Emission Tomography, have confirmed this fact.

Although most people don't want to talk about their mental health issues, they are exceedingly common. In fact, there is a 50% lifetime chance that an individual will develop some form of psychiatric illness.

- Diagnosis

Unfortunately, there is no simple blood test or scan in the diagnosis of psychiatric illness. Diagnosis is generally based on a clinical psychiatric interview. The clinical interview is essentially the process of gathering history about the reasons for concern, observation of behavior and conducting a mental status examination.

- Suicide

A common misperception in the general public is that asking about suicide makes people more likely to commit suicide. This is absolutely not the case. It has been well documented in the literature that just the reverse is true. Furthermore, attorneys often see individuals when they are at high risk of suicidal thoughts, particularly when there is criminal justice involvement. At even the slightest hint, it is important to ask. Just as essential is to keep a list of resources to which you can refer if the answer gives you any kind of discomfort.

- Mood Disorders

- ✚ Major Depression

While the term “depressed” is thrown around casually in our society, Major Depression is a serious, life threatening disease that impacts up to 25% of the US population. The characteristic symptoms of depression in adults include apathy, lack of motivation, sadness, hopelessness, helplessness, lack of energy and sleep and appetite disturbance, presentation of depression in children and adolescents is somewhat different..

Individuals with Major Depression often develop suicidal ideation. This is actually a symptom of the illness, just like increased thirst and urination are symptoms of diabetes.

- ✚ Bipolar Disorder

Bipolar Disorder, which used to be referred to as “Manic Depression” is characterized by alternating mood swings between major depression, as described above and mania. Mania is characterized by decreased need for sleep, increased energy, grandiose delusions, impulsive behavior and euphoria. There are other forms of mania that are less classic, such as mixed mania,

which is essentially a combination of manic energy with depressed mood, and hypo-mania, which is a more subtle and milder form of mania. Bipolar disorder can present with long periods of time between episodes, or by what's called "rapid cycling," where mood swings can happen over short periods of time.

Many people believe that, in part, substance use somewhat relieves the uncomfortable symptoms of the illness, a phenomenon referred to as "self-medication."

- Psychotic Disorders

Psychosis is not, in and of itself a psychiatric "diagnosis," but instead a term used to describe a cluster of symptoms that can be present in connection with a number of mental illnesses.

Psychotic symptoms include auditory hallucinations (hearing voices), visual hallucinations (seeing things that aren't there), delusional perceptions ("fixed false beliefs"), and loosening of associations (disorganized thought processes). While we used to diagnose all individuals with these symptoms as having schizophrenia, we now increasingly recognize that mood disorders can also present with prominent psychotic symptoms. The one exception to that is loosening of associations, which is more common with schizophrenia.

- Substance Use Disorders

Substance Use Disorders in the DSMIV-TR are categorized as disorders of intoxication, abuse and/or dependence. There is a very high incidence of substance use disorders individuals with psychiatric illnesses – as high as 90% in some studies. Many mental health professionals hypothesize that this is an attempt to control the uncomfortable psychiatric symptoms, a phenomenon known as "self-medication."

- Treatment

- Bio-Psycho-Social Interventions

Although, as stated above, most mental illnesses are biologic in nature, effective mental health interventions also require focusing on psychological and social factors, as well. Interestingly, there is a significant body of research that shows that focusing on these factors also improves outcomes for individuals with diabetes, so this strategy is not unique to the mental health field.

- Psychopharmacology

- ✚ Antidepressants

There are five classes of antidepressant medications currently on the market. They all work on different neurotransmitter systems in different combinations. SSRI medications, such as Prozac, Zoloft, Paxil, Lexapro and Celexa are probably the most common medications chosen for this population. This is partly because they are effective with few side effects and are not lethal in overdose. SNRIs, such as Cymbalta and Effexor have similar advantages to the SSRIs for this population. MAOIs such as Nardil and Parnate, while quite effective anti-depressants, but they require dietary restrictions that limit the ingestion, among other things, of pizza and beer. Tricyclic antidepressants, such as Desipramine and Nortriptyline are quite effective but also quite lethal in overdoses. Wellbutrin is a novel antidepressant that has the advantage of decreased risk of sexual side effects.

- ✚ Mood Stabilizers

Mood stabilizers have traditionally been used, in addition to antidepressants, in bipolar disorder. The theory behind this is that, while anti-depressants control the depressive phase of the illness, they are much less effective in treating the more impulsive and agitated parts of the manic phases. Lithium was the first

medication shown to be effective as a mood stabilizer. While a very safe and effective medication, and the only mood stabilizer that has been shown to decrease suicides, it has gained a bad connotation in general society.

More commonly used mood stabilizers in current practice are anti-convulsant medications such as Depakote, Tegretol and Lamictal. While these medications were designed to treat seizures, and are only FDA approved for that use, they have been shown in numerous studies to be effective mood stabilizers. One careful consideration with regard to these medications (and Lithium) is that they are all highly prone to cause serious birth defects and must be discontinued in the event of pregnancy.

In addition to management of bipolar disorder, mood stabilizers are often used to treat impulse control disorders and intermittent explosive disorder. Both of these disorders are gaining increased recognition in the mental health field, and mood stabilizers can significantly help control the symptoms, which include explosive temper out of context, and severe inability to control impulses in the absence of other illness.

Anxiolytics

The primary kind of anxiolytics (drugs that specifically target anxiety) are benzodiazepine medications such as Valium, Xanax and Klonopin. While they are very effective medications, they carry the risk of tolerance and dependence. Tolerance means that, in some people, increasing dosages of the medication may be needed to achieve the desired effect. For this reason, anxiolytics are usually used for short term relief of anxiety, and they are rarely used in children.

Anti-psychotic Medications

Traditional anti-psychotics, such as Haldol, Prolixin and Thorazine were found to be effective in the late 50's and early 60's in decreasing psychotic symptoms such as auditory hallucinations and delusions. While there were a number of unpleasant side effects, the discovery of these medications was one of the primary reasons for the argument of deinstitutionalization of mental health patients from hospitals into the community.

In the 1990s, a new generation of anti-psychotic medications was introduced, promising better response, with fewer side effects. Examples of these "new generation antipsychotics" include Risperidal, Geodon, Abilify, Zyprexa and Seroquel. Some of the more problematic side effects of traditional anti-psychotics, such as tardive dyskinesia and Parkinson-like symptoms were greatly diminished, and patients were thought to respond better, at least in the beginning, to their anti-psychotic effects.

Recent studies, however, have shown a number of new troubling side effects connected to the use of these new generation medications. Individuals taking these medications have a high risk of weight gain, as well as an increased risk of developing diabetes and metabolic problems such as increased cholesterol and triglycerides. Furthermore, a few recent studies published in the past year or two have found them not necessarily better than the older agents. This combination of factors has caused some psychiatrists to rethink automatically utilizing these agents as first line treatment.

Whether talking about traditional or new generation anti-psychotics, these are very powerful medications with significant important side effects. For this reason, they should generally be reserved for severe psychotic illness. Recent marketing strategies by drug manufacturers, however, have promoted using these medications to control behaviors short of the severity level of psychosis.

Assistance: ACHE

Assisting Lawyers and Judges with Cognitive Impairments
ACHE



Ask:

It is a common myth that asking about behavioral changes and/or suicide may increase the emotional damage and/or disability. The literature clearly shows that this is not the case; most individuals with psychiatric illness are relieved to be asked.

Concern:

While it is easier to deny and “work around” a colleague with cognitive impairment, it can be career and sometimes life saving to take the difficult step raising the issues and expressing your concern.

Help:

The next step is to help the individual understand what you are seeing, and to seek out referrals for treatment.

Engage:

Friends and family members can be invaluable resources for engaging the individual into the appropriate forms of care.

Conclusion

Cognitive impairments, including dementia, psychiatric illness, substance use and co-occurring disorders are increasingly being recognized in professional settings. Diagnosis and individualized interventions require a thorough analysis of biologic, psychological and social factors. Assistance requires taking the steps to ask, confront, refer and engage support factors.