

Is All Psychiatry Forensic? Association between Mental Disorders and Legal Proceedings

ARTHUR SUMAN NOGUEIRA¹

<https://orcid.org/0000-0003-2553-8360>

THIAGO FERNANDO DA SILVA¹

<https://orcid.org/0000-0003-2472-9288>

ANTONIO DE PÁDUA SERAFIM^{1,2}

<https://orcid.org/0000-0002-0676-1500>

GUSTAVO BONINI CASTELLANA¹

<https://orcid.org/0000-0001-5179-5198>

DANIEL MARTINS DE BARROS¹

<https://orcid.org/0000-0003-4751-823X>

¹Department and Institute of Psychiatry, Forensic Psychiatry and Psychology Program, University of São Paulo School of Medicine, São Paulo, Brazil

²Postgraduate Program in Health Psychology, Methodist University of São Paulo, São Bernardo do Campo, Brazil

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ABSTRACT

Background: Psychiatric disorders cause significant impact to the individual, leading to lack of productivity and involvement with the legal system.

Objectives: The present study aims to determine the association of mental disorders and an individuals' odds of involvement with the legal system

Methods: Through a descriptive cross-sectional study, 126 patients selected according to convenience sampling were interviewed for the study on their appointment days at University of São Paulo School of Medicine hospital. They were divided into a case group (n = 63) with patients from the outpatient clinic of the Department of Psychiatry and a control group (n = 63), with patients from the outpatient clinic of Department of Internal Medicine. These patients were asked to answer a questionnaire on sociodemographic information, age, medical diagnosis, and legal proceedings as related to their diagnoses.

Results: We found high difference between the groups, in longer absences 57.10% of psychiatric patients, with only 33.3% in clinical group. This difference also appears in the requirement for forensic medical exams - 65.1% of psychiatric patients versus 44.4% of clinical patients.

Discussion: This data clearly shows that involvement of psychiatric patients in legal matters is quite common, and therefore it is increasingly important for psychiatrists to be aware of legal implications when evaluating their patients.

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Introduction

Psychiatric disorders may cause significant impact to the individual, leading to isolation, lack of productivity in regular daily activities and legal implications [1,2]. Although all persons are subject in some way to legal issues, be it within the scope of civil, criminal, labor or family law, the legal system views the psychiatric patient in a particular way, as his/her illness may be relevant to the case in question [3]. In terms of labor law, mental illnesses are a major cause of leave and disability allowance in many countries. In Brazil, there are 45.1 claims of mental illness per 10,000 workers, with 8.5% of the cases specifically indicating work as the cause of illness [4]. The World Health Organization estimates that there is a 30% rate of minor mental disorders and a 5-10% rate for severe mental disorders in the working population [5]. Mental disorders are increasing worldwide and the literature notes that individuals are increasingly taking longer leave times [6,7].

According to a Brazilian study [8], in terms of epidemiology, depressive episodes and stress are among the most studied disorders among the working population. The study analyzed years

of missed work days among the working population covered under the Brazilian National Institute of Social Security (INSS) from 2003 to 2004. In 2004, mental illnesses represented 9.8% of the total sick leave pay.

Though there exists significant research on the topic, there remains a significant gap in the global literature regarding the overall prevalence of legal proceedings for individuals with mental disorders. The present study aims to determine the association of mental disorders and an individuals' odds of involvement with the legal system. To do so, the percentages of legal proceedings among outpatients at the psychiatric clinic were compared to those in the internal medicine clinic at University of São Paulo School of Medicine hospital.

Methodology

Through a descriptive cross-sectional study, 126 patients were interviewed for the study on their appointment days at University of São Paulo School of Medicine hospital. The appointments were previously scheduled at random times, and interviews were



administered following the doctor's appointments. They were divided into a case group (n = 63) and a control group (n = 63).

The case group consisted of patients from a general psychiatry ambulatory, comprising diagnosis such as mood disorders, anxiety disorders and psychotic disorders. This ambulatory is an academic center of secondary mental health care.

The control group consisted of patients from the outpatient clinic of Department of Internal Medicine, comprising diagnosis such as hypertension, asthma, diabetes mellitus and chronic heart failure. This ambulatory is also an academic center of secondary health care.

The criteria for participation in the study were any outpatients at the general psychiatry ambulatory and the outpatient clinic of Department of Internal Medicine who were willing answer the questionnaire, older than 10 years. The criteria for exclusion were those not comfortable in participating or those not undergoing clinical treatment for any pathology.

Our sample consisted of 126 individuals selected according to convenience sampling. Because of the literature gap regarding the subject, sample size could not be previously calculated, once there was no data available to estimate the probable difference between groups.

These patients were asked to answer a questionnaire on sociodemographic information, age, medical diagnosis, and legal proceedings as related to their diagnoses.

Statistical analysis was initially performed using the Kolmogorov Smirnov test to examine data distribution. The variables of interest were analyzed using the chi-squared test or the Fisher Exact test. For descriptive variables we used Tukey's range test.

Institutional review board approval for this study was obtained from the Hospital das Clinicas research ethics committee, from University of Sao Paulo Faculty of Medicine (number: 1.904.105). All participants or their legal guardians signed an informed consent (there were participants under 18 years old).

Results

The samples of psychiatric patients showed a discrete majority of male patients, an opposite pattern in comparison to the clinical patients, resulting in a small but significant difference between both groups (Table 1). Although most psychiatric patients were not

employed, with the opposite being true for clinical patients, this was not significant.

Nearly two thirds of the patients, both psychiatric (61.9%) and clinical (63.5%), had previously required a medical certification to justify absence from work, a very similar number between groups. As expected, the major cause of sick leave in the first group is mental disorders (71.8%), while in the second group they represent a minority (10%) (Table 2).

When analyzing longer absences, differences between the groups begin to emerge - while 57.10% of psychiatric patients were on leave for more than 15 days, only 33.3% of clinical patients were in same situation, a statistically significant difference. The rate for subsequent return to work did not differ between groups.

This difference between the groups also appears in the requirement for forensic medical exams - 65.1% of psychiatric patients were medically evaluated in this manner, versus 44.4% of clinical patients.

Regarding involvement in a legal matter due the illness, there was also a difference between the groups: 34.9% of psychiatric patients have been in this situation (in 90.9% of cases due to mental disorder), versus 9.5 % of clinical patients (83.3% due to clinical illnesses).

Discussion

The present study shows that patients with mental disorders have greater involvement in various legal spheres due to their illnesses, as compared with patients with clinical illnesses. In both groups, there is a significant number of non-employed patients, with no difference between clinical and psychiatric patients. This is expected given the socioeconomic profile of the population that utilizes Brazil's public health service.

Although there was no difference in the need for medical certifications for mental disorders or clinical illness, patients with psychiatric diagnoses needed more time off, which partly explains the greater need for a forensic medical exams. In Brazil, when a worker is absent for more than 15 days, he or she must undergo a forensic medical exam to receive public health insurance sick leave pay. When comparing longer leaves, psychiatric patients were more often out for longer than 15 days, as compared to clinical patients, possibly because of the greater clinical response time for psychiatric

Table 1: Sociodemographic characteristics of psychiatric and clinical patients (n=126)

Sociodemographic Variables	Psychiatric patients (n=63)		Clinical patients (n=63)		Total		P value
	n	%	n	%	n	%	
Sex							
Male	35	59.30%	24	40.70%	59	46.80%	0.495
Female	28	41.80%	39	58.20%	67	53.20%	
Work							
Yes	14	42.40%	19	57.60%	33	26.20%	0.311
No	49	52.70%	44	47.30%	93	73.80%	
Age	frequency		frequency				
10-40 years old	20		10				0
40-80 years old	43		50				
80 years old and above	0		3				
Age Average	48.54		60.19				
Ownership Average	18.52		16.22				0.006

Table 2. Questionnaire on legal data (n=126). São Paulo, 2018

Questionnaire	Psychiatric Patients (n=63)	Clinical Patients (n=63)	P value
Question 1 - Have you ever needed a medical certification to justify your absences?			0.854
Yes	61.90%	63.50%	
No	38.10%	36.50%	
For what reason?			0.000
Psychiatric	71.80%	10.00%	
Other	28.20%	90.00%	
Question 2 - Were you ever absent from work for more than 15 days?			0.007
Yes	57.10%	33.30%	
No	42.90%	66.70%	
Were you able to return to work?			0.643
Yes	64.90%	70.40%	
No	35.10%	29.60%	
Question 3 - Did you ever need a forensic medical exam?			0.02
Yes	65.10%	44.40%	
No	34.90%	55.60%	
Question 4 - Have you ever been involved in a legal matter due to your illness?			0.001
Yes	34.90%	9.50%	
No	65.10%	90.50%	
If so, what type of illness is it?			0.001
Clinical	9.10%	83.30%	
Psychiatric	90.90%	16.70%	

conditions. However, when comparing the rate of return to work, the groups show no difference, which is aligned with the fact that psychiatric treatment, although lasting longer, has similar effectiveness in restoring an ability to work [9].

The great difference found between both groups related to legal matters due to patients' health conditions is of note. Unlike the forensic exams needed for sick leave benefits, which are part of a simpler and quicker administrative process, legal cases are more complex. Resorting to them clearly indicates that certain diagnoses have greater chances of creating legal implications. In our sample, this was the case with 9.5% of clinical patients and to 34.9% of mental disorder patients. The fact that mental disorders may be legally significant is broadly recognized [10]. Mental disorders may influence civil capacity [11]; criminal liability [12]; ability to work [13]; and may possibly interfere in many other situations, such as paternity [14], ability to drive [15], and carrying of firearms [16], among others. With so many implications, it is expected that mental disorders will lead to greater legal entanglements but, as far as we know, this is the first time that the prevalence of legal involvement for patients with mental disorders has been evaluated. This is a very relevant subject for doctors and patients, as it is important to fully understand the implications of illness for patients, in order to provide comprehensive healthcare treatment. Additionally, since doctors may be asked to provide legally relevant clinical information on their patients, it is important to when patients are involved in a legal matter.

Since this study utilized a convenience sample, selecting patients who made themselves accessible during their medical care, we understand that there is a limitation in selection of the sample, which was not homogeneous in age nor gender. Also, due to the literature gap regarding the theme, sample size could not be previously calculated, once there was no data available to estimate the probable difference between groups. Still, the randomness of the selection and sample size allowed us to find significant differences between mental disorders and clinical diseases in terms of legal implications.

This data clearly shows that involvement of psychiatric patients in legal matters is quite common, and therefore it is increasingly important for psychiatrists to be aware of legal implications when evaluating their patients.

Conclusion

Patients with mental disorders are often involved in legal matters due to their diagnoses. It is important that psychiatrists be aware of this situation, both in order to offer their patients comprehensive health care, and to provide information on legal matters when requested.

References

1. Serafim ADP, Saffi F, Silva TGBD, Almeida CVD, Hokama E, Barros DMD, et al. Forensic neuropsychological assessment: A review of its scope. *Archives of Clinical Psychiatry (São Paulo)* 2015;42(2):63–67.
2. West ML, Vayshenker B, Rotter M, Yanos PT. The influence of mental illness and criminality self-stigmas and racial self-concept on outcomes in a forensic psychiatric sample. *Psychiatr Rehabil J* 2015;38(2):150-157.
3. Barros DM de, Castellana GB. *Psiquiatria Forense: Interfaces jurídicas, éticas e clínicas*. Elsevier Brasil. 2017.
4. Barbosa-Branco A, Bültmann U, Steenstra I. Sickness benefit claims due to mental disorders in Brazil: associations in a population-based study. *Cad Saude Publica* 2012;28(10):1854-66.
5. World Health Organization. *The World Health Report. Mental Health: new understanding, new hope*. 2001.
6. Bubonya M, Cobb-Clark DA, Wooden M. Mental health and productivity at work: Does what you do matter? *Labour Economics* 2017;46:150–165.
7. Woo JM, Kim W, Hwang TY, Frick KD, Choi BH, Seo YJ, et al. Impact of depression on work productivity and its improvement after outpatient treatment with antidepressants. *Value Health*. 2011 Jun;14(4):475-82.
8. Barbosa-Branco A, Oliveira PRA, Mateus M. Epidemiologia da incapacidade para o trabalho por doença mental no Brasil. *Anais do XI Congresso Mundial de Saúde Pública/VIII Congresso Brasileiro de Saúde Coletiva*. 2006.

9. Nigatu YT, Liu Y, Uppal M, McKinney S, Rao S, Gillis K, et al. Interventions for enhancing return to work in individuals with a common mental illness: systematic review and meta-analysis of randomized controlled trials. *Psychol Med* 2016;46(16):3263-3274.
10. Clark RE, Ricketts SK, McHugo GJ. Legal system involvement and costs for persons in treatment for severe mental illness and substance use disorders. *Psychiatr Serv* 1999;50(5):641-7.
11. Abdalla-Filho E. Psychiatric evaluation of civil capacity with the new Brazilian Statute of the person with disabilities. *Rev Bras Psiquiatr* 2017;39(3):271-273.
12. Burrows M, Reid WH. Psychiatric aspects of criminal responsibility: insanity and mitigation. *J Psychiatr Pract*. 2011;17(6):429-31.
13. Kinn LG, Holgersen H, Aas RW, Davidson L. "Balancing on Skates on the Icy Surface of Work": a metasynthesis of work participation for persons with psychiatric disabilities. *J Occup Rehabil* 2014;24(1):125-38.
14. Petfield L, Startup H, Droscher H, Cartwright-Hatton S. Parenting in mothers with borderline personality disorder and impact on child outcomes. *Evid Based Ment Health* 2015;18(3):67-75.
15. Kujansuu A, Rautiainen S, Hakko H, Kanamüller J, Sihvola N, Riipinen P. Drivers' psychiatric disorders and fatal motor vehicle accidents in Finland. *Journal of Psychiatric Research* 2017;84:227-236.
16. Rozel JS, Mulvey EP. The Link Between Mental Illness and Firearm Violence: Implications for Social Policy and Clinical Practice. *Annu Rev Clin Psychol* 2017;13:445-469.