APA Official Actions

Position Statement on Misuse of Psychiatric Examinations and Disclosure of Psychiatric Records in Sexual Harassment Litigation

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POSITION:
The American Psychiatric Association recognizes that fair adjudication sometimes requires disclosure of psychiatric records or compulsory psychiatric examinations of parties in civil litigation. Such disclosures or examinations may be appropriate, for example, in cases in which a plaintiff claims to have suffered a psychiatric illness as a result of the defendant’s illegal conduct. While permitting disclosure of records or compulsory psychiatric examinations, however, the legal system must also provide adequate safeguards to assure that this process is not used inappropriately as a means of deterring aggrieved individuals from vindicating their legal rights.

In recent years, it appears that plaintiffs who have sought damages for sexual harassment in the workplace under federal and state civil rights laws have sometimes been required to disclose psychiatric records or submit to compulsory psychiatric examinations even though they have not alleged that they suffered a diagnosable mental disorder, and even though they have indicated no intention of presenting testimony of a mental health professional in support of their claims. Instead, the defendant’s request for disclosure of psychiatric records or a compulsory psychiatric examination in these cases has been predicated solely on a desire to assess the plaintiff’s credibility or motivation for filing a sexual harassment complaint. The American Psychiatric Association believes that mandatory disclosure of psychiatric records and/or compulsory psychiatric examinations under these circumstances constitute an abuse of psychiatry because these practices impose an unreasonable burden on the privacy of plaintiffs in sexual harassment litigation, and inevitably deter people who are unwilling to pay this price from seeking to vindicate their legal rights.

When plaintiffs claim diagnosable mental conditions as a result of the alleged harassment and compulsory psychiatric examination is required or psychiatric testimony is admitted into sexual harassment litigation, the psychiatrists involved must adhere to the ethical standards of their profession.

Authors:
Council on Psychiatry and Law

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