

[YOUR EXAMINATION NUMBER: _____]

**UNIVERSITY OF NEW HAMPSHIRE
SCHOOL OF LAW**

“LAW & MENTAL HEALTH”

**Final Examination
Spring 2017**

**THIS IS AN “OPEN BOOK, OPEN COMPUTER”
EXAMINATION.**

**STUDENTS SHOULD NOT BE RESTRICTED IN THE USE
OF THEIR PERSONAL COMPUTERS, BOOKS, NOTES,
OR ANY OTHER SOURCES OF INFORMATION.**

It has been a distinct privilege to work with you this semester! Please accept my best wishes for good luck with all of your examinations and for a restful summer holiday.

This examination contains forty (40) multiple choice questions, of which you are asked to answer thirty (30). It further contains three (3) short essay questions, the first two of which are each chosen from three (3) different options, and the third of which you have received the opportunity to review and prepare in advance.

MULTIPLE CHOICE QUESTIONS (*ANSWER ONLY 30 OF THESE!*)

(2% each; 60% total)

Please circle the letter associated with the “best” answer to each question.

01. “Jurisprudent Science” ...
- [a] Addresses whether the lawyer’s ethical code is beneficial for litigants.
 - [b] Addresses whether the doctor’s assessment procedures comport with the requirements of the law.
 - [c] Addresses whether codified legal procedures properly take into account a criminal defendant’s psychiatric status.
 - [d] None of the above.
02. “Intellectual Disability” ...
- [a] Was formerly termed “Mental Retardation.”
 - [b] Is considered a form of “Borderline Intellectual Functioning.”
 - [c] Is solely determined by reference to IQ scores.
 - [d] All of the above.
03. “Dependent Personality Disorder” ...
- [a] Reflects a pattern of submissive and clinging behavior.
 - [b] Features prominently in *Miranda* waiver evaluations.
 - [c] Is a “Cluster C” personality disorder.
 - [d] All of the above.

04. An examinee's "Global Assessment of Functioning" ...
- [a] Is reported on Axis II of his or her multiaxial diagnosis.
 - [b] Is reported on Axis III of his or her multiaxial diagnosis.
 - [c] Is reported on Axis IV of his or her multiaxial diagnosis.
 - [d] Is no longer utilized for the DSM-5.
05. According to Shapiro, the "Two Stages" of the expert witness role are ...
- [a] Non-biased assessment and advocacy for one's opinion.
 - [b] Comprehensive literature review and non-biased assessment.
 - [c] Comprehensive literature review and advocacy for one's opinion.
 - [d] None of the above.
06. "People-First" designations ...
- [a] Reject diagnostic labeling because of the stigma attached to mental illness.
 - [b] Direct clinicians to understand a litigant as a real person before attempting to conduct a diagnostic evaluation.
 - [c] Establish that a litigant is a "person with" a disability, not *vice versa*.
 - [d] Specify that the needs of the litigant take precedence over those of the evaluating clinician.
07. "Organic" explanations for mental impairment are most typically associated with a _____ theoretical orientation to psychotherapeutic treatment.
- [a] Cognitive-Behavioral.
 - [b] Biological.
 - [c] Developmental.
 - [d] Psychodynamic.

08. The _____ is primarily a screening test for neuropsychological impairment.
- [a] Luria-Nebraska Battery.
 - [b] Bender Visual-Motor Gestalt Test.
 - [c] Halstead-Reitan Battery.
 - [d] Peabody Picture Vocabulary Test.
09. The _____ is (or has been) used a projective personality test.
- [a] Rorschach Ink Blot Test.
 - [b] Thematic Apperception Test.
 - [c] The Bender Visual Motor Gestalt Test.
 - [d] All of the above.
10. “Common patterns of irrational thinking” are a primary focus of...
- [a] Psychodynamic psychotherapy
 - [b] Client-Centered psychotherapy.
 - [c] Cognitive-Behavioral psychotherapy.
 - [d] None of the above.
11. The SCOTUS case that first established the trial competency notion of a “reasonable degree of rational understanding” was...
- [a] *Dusky v. U.S.*
 - [b] *Wilson v. U.S.*
 - [c] *U.S. v Duhon.*
 - [d] *Cooper v. Oklahoma.*

12. In the seminal English case of *R. v. McNaughten*...
- [a] The defendant suffered from a paranoid delusion.
 - [b] The resulting test focused upon the “nature and quality of the act.”
 - [c] The resulting test focused upon the defendant’s understanding of “wrong.”
 - [d] All of the above.
13. Persons deemed “incompetent to stand trial” ...
- [a] Have the right to waive this status and go forward based upon the stigmatizing nature of mental illness.
 - [b] Can be committed to in order to have their competency “restored.”
 - [c] Cannot be “civilly” committed as these are criminal proceedings.
 - [d] Have the right to waive this status if an advantageous plea bargain is in the offing.
14. The “Durham/Product Test” for insanity...
- [a] Focuses upon the ability to distinguish “right” from “wrong.”
 - [b] Is the only test for insanity that does include “mental illness” as a requisite component.
 - [c] Identifies mental disease as a “but-for” cause of the act in question.
 - [d] Focuses upon “substantial capacity.”
15. _____ is a *clinical* factor in interrogation susceptibility.
- [a] Intellectual incapacity.
 - [b] Immaturity.
 - [c] Dependent personality.
 - [d] All of the above.

16. Which of the following is *not* a category of psychiatric malpractice?
- [a] Failure to renew the doctor's license to practice.
 - [b] Misdiagnosis of psychiatric disorders.
 - [c] Negligent use of somatic treatments.
 - [d] Negligence in supervision.
17. Which of the following statements is *true*?
- [a] Not all harms are legally compensable.
 - [b] The "locality rule" is the predominant approach to establishing psychiatric and psychological standards of care.
 - [c] The "standard of care" equates to the "standard of proof" in malpractice cases.
 - [d] The last of the "malpractice tribunals" was subjected to "sunset provisions" in the preceding decade.
18. The American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct* contains _____ to "law" or "legal."
- [a] No references.
 - [b] Only two references.
 - [c] Five references.
 - [d] Over 50 references.

19. Seeking “collateral and third party information” ...
- [a] Extends beyond the proper role of the forensic psychologist, which is limited to testing and interview of litigants—not bothering “civilians.”
 - [b] Can occur when authorized by the lawyer who hired the expert.
 - [c] Can only be authorized by court order.
 - [d] Is now disfavored by ethical guidelines due to its lack of reliability.
20. Similar to other jurisdictions, the board regulating psychological practice in New Hampshire considers the following when imposing sanctions:
- [a] The seriousness of the offense.
 - [b] The psychologist’s state of mind when committing the offense.
 - [c] Willingness to cooperate with the board.
 - [d] All of the above.
21. “Indeterminate Sentencing” ...
- [a] Involves tailoring individualized punishment to each offender’s needs.
 - [b] Calls for prescribing specific maximum and minimum sentences for particular offenses.
 - [c] Has faced criticism for excessive uniformity in sentencing practices.
 - [d] None of the above.
22. Characteristics of the “ideal” Guardian include...
- [a] Availability.
 - [b] Competence.
 - [c] Empathic intuition.
 - [d] All of the above.

23. When an offender is predicted to be violent, but actually remains nonviolent, this is an example of a _____ prediction.
- [a] True positive.
 - [b] False positive.
 - [c] True negative.
 - [d] False negative.
24. In *Donaldson v. O'Connor*, the SCOTUS held that involuntary committed persons have a right to treatment that will provide _____.
- [a] A measurable decrease in psychiatric symptoms.
 - [b] A substantial decrease in psychiatric symptoms.
 - [c] A reasonable opportunity for cure.
 - [d] A guarantee of a cure.
25. The “Right to Refuse Treatment” is a consideration involving ...
- [a] Substitution for prior judgment.
 - [b] Substitution for present judgment.
 - [c] Substitution for future judgment.
 - [d] None of the above.
26. Which is *not* an aspect of Malingering?
- [a] Fabrication.
 - [b] Minimization.
 - [c] Exaggeration.
 - [d] Faking.

27. “IEP” stands for ...
- [a] Intensive Educational Program.
 - [b] Individualized Education Program.
 - [c] Internalized Educational Process.
 - [d] Individual Educational Psychologist.
28. A stress-induced “heart attack” could form the basis of a ...
- [a] Mental-mental claim.
 - [b] Physical-mental claim.
 - [c] Mental-physical claim.
 - [d] All of the above.
29. Being “regarded” as having a mental impairment is a focus of ...
- [a] The Americans with Disabilities Act.
 - [b] The ADA Amendments Act.
 - [c] The Rehabilitation Act of 1973.
 - [d] All of the above.
30. Which of the following is *not* a focus of substantive IDEA coverage?
- [a] Juvenile delinquency.
 - [b] Autism.
 - [c] Learning disabilities.
 - [d] Emotional disturbance.

31. Primary risk factors for elder abuse do *not* include ...
- [a] The presence of dementia.
 - [b] Noncompliance with activities of daily living.
 - [c] Substantial age disparity between caregiver and patient.
 - [d] Lack of rapport between caregiver and patient.
32. Child custody evaluators in many jurisdictions may be subjected to ...
- [a] Claims of fraud.
 - [b] Charges of malpractice.
 - [c] Investigation by state licensure boards.
 - [d] All of the above.
33. As determined by the SCOTUS in *McKeiver v. Pennsylvania*, due process requirements of juvenile proceedings ...
- [a] Exempt from the death penalty those committing murder prior to age 21.
 - [b] Exempt from the death penalty those committing murder prior to age 16.
 - [c] Do not include the right to trial by jury in the adjudicative phase.
 - [d] Include the right to trial by jury in the adjudicative phase.
34. According to the *Guidelines for Psychological Evaluations in Child Protection Matters*, psychologists ...
- [a] Generate billing in accordance with established accounting principles.
 - [b] Obtain parental permission for all evaluations performed in this context.
 - [c] Are immune from malpractice suits, but not board complaints.
 - [d] None of the above.

35. Which of the following is *not* recommended in the *Standards of Practice for Lawyers Representing Children in Custody Cases*?
- [a] Adapting all communications to the child’s age.
 - [b] Seeking to minimize the child’s interference in directing representation.
 - [c] Discussing each substantive order and its consequences with the child.
 - [d] Making a separate determination as to whether the child has “diminished capacity.”
36. “Addictions without substance” are those that ...
- [a] Primarily focus on behavioral issues.
 - [b] Lack appropriate scientific substantiation.
 - [c] Involve alcohol as opposed to drugs.
 - [d] None of the above.
37. Premising legal dispositions solely on the notion of a defendant being “addicted” versus “not addicted” is ...
- [a] A “false dichotomy” of addiction.
 - [b] Frequently encountered in contemporary criminal practice.
 - [c] Confined to “drug” as opposed to “alcohol” addiction.
 - [d] None of the above.
38. According to the *Criminal Justice and Mental Health Standards*, consultants ...
- [a] Are best advised to leave client interviewing to counsel.
 - [b] Refrain—for ethical reasons—from addressing trial strategy or tactics.
 - [c] Evaluate the ability withstand cross-examination.
 - [d] All of the above.

39. According to the *Model Rules of Professional Conduct*, prosecutors ...
- [a] Should report a defense attorney's use of an expert known to be fraudulent.
 - [b] Must report a defense attorney's use of an expert known to be fraudulent.
 - [c] May refrain from reporting a defense attorney's use of an expert known to be fraudulent.
 - [d] Must refrain from reporting a defense attorney's use of an expert known to be fraudulent.
40. Cognitive distortions *leading to lawyer impairment* include ...
- [a] "It's their business, not mine, if they use drugs."
 - [b] "I know just how much to take, and I never take more."
 - [c] "Everyone I know uses alcohol or drugs more than I do."
 - [d] All of the above.
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ESSAY QUESTIONS (SECTION ONE)

(10% each; 20% total)

There are two (2) groups of questions in this section. Please answer only one (1) question from each group.

Group One: Please answer *only* one (1) of the following three (3) questions. Your answer should not exceed 500 words. Only the first 500 words will be graded.

1. What are “Therapeutic Jurisprudence” and “Jurisprudential Science?” Please explain each of these notions with reference to its specific components and to its relevance to the intersection of the fields of law and mental health.
2. Please describe the different “truth-finding” and “truth-impeding” mechanisms of the various helping professions, and the relevance of these notions to counsel’s attempts to deal with different types of mental health expert witnesses.
3. What standardized diagnostic system do mental health professionals typically use to convey what may be wrong with a litigant? Please describe any caveats the lawyer should bear in mind when reviewing assertions made by mental health professionals employing this system.

Group Two: Please answer *only* one (1) of the following three (3) questions. Your answer should not exceed 500 words. Only the first 500 words will be graded.

1. Your personal injury client is going to undergo psychotherapy prior to trial, and you have already stipulated that the psychotherapist is going to testify as a fact witness concerning the outcomes of this treatment. What practical considerations does this situation raise for you and for your client?
2. In your role as a criminal prosecutor, you are informed by your supervisor that the defense psychiatrist in one of your cases—and the psychologist who formerly treated the defendant—may have acted “unethically.” For *each* doctor, please (a) identify what sources of guidance exist for determining what “unethically” might mean, and (b) provide a potential example of ethically questionable conduct.
3. Your client, the defendant in a capital murder case, has just been evaluated negatively by the most feared state hospital psychologist in your jurisdiction. Fortunately, your client’s family has afforded you substantial funding to address this situation. What specific steps are you—and anyone assisting you—going to take now?

ESSAY QUESTIONS (SECTION TWO) (20% total)

Please answer the following question, which was conveyed to you earlier this semester. Your answer should not exceed 500 words. Only the first 500 words will be graded.

Please describe the “Therapeutic Jurisprudence” and “Jurisprudent Science” implications of the law and mental health topic of your choosing, referring specifically to what you have identified as (a) relevant therapeutic, neutral, and/or antitherapeutic aspects of legal rules, legal procedures, and legal roles for your topic; and (b) relevant jurisprudent, neutral, and/or antijurisprudent aspects of mental health science, mental health practice, and mental health roles for your topic.