

[YOUR EXAMINATION NUMBER: _____]

**UNIVERSITY OF NEW HAMPSHIRE
SCHOOL OF LAW**

“LAW & MENTAL HEALTH”

**Final Examination
Spring 2020**

**THIS IS AN “OPEN BOOK, OPEN COMPUTER, OPEN
EVERYTHING” 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 break.

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 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 choose the one option that corresponds to the BEST answer for each question. Again, answer only 30 of these! Only the first 30 of the responses you provide will be graded.

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. “Borderline Personality Disorder” ...

- [a] reflects a pattern of instability in personal relationships, self-image, and affects, and marked impulsivity
- [b] Features prominently in American movie and television entertainment.
- [c] Is a “Cluster B” 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. "Automatic thoughts" as contributors to mental impairment are most typically associated with a _____ theoretical orientation.
- [a] Biological.
 - [b] Cognitive-Behavioral.
 - [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. Which of the following is (or has been) used as 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. “Displacement” is a treatment focus in...
- [a] Cognitive-Behavioral psychotherapy.
 - [b] Client-Centered psychotherapy.
 - [c] Psychodynamic psychotherapy.
 - [d] None of the above.
11. The “burden of proof” for trial competency in Federal criminal cases ...
- [a] Varies by jurisdiction.
 - [b] Is upon the prosecution.
 - [c] Is upon the defense.
 - [d] None of the above.

12. The Model Penal Code test for criminal responsibility...
- [a] Incorporates the notion of mental disease or defect.
 - [b] Incorporates the notion of substantial capacity.
 - [c] Incorporates the notions of appreciation and conformity.
 - [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 recognized factor in interrogation susceptibility.
- [a] A record of prior arrests.
 - [b] Criminal responsibility.
 - [c] Trial competency.
 - [d] Dependent personality.

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.
 - [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. Potential civil plaintiffs may file board complaints against mental health professionals...
- [a] To obtain discovery at no cost to the plaintiff.
 - [b] To obtain restitution.
 - [c] To ensure that others are not similarly wronged.
 - [d] All of the above.
21. "Indeterminate Sentencing" ...
- [a] Is called for when the jury cannot settle upon a recommended sentence.
 - [b] Calls for prescribing specific maximum and minimum sentences for particular offenses.
 - [c] Creates 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 remain nonviolent, but actually becomes violent, this is an example of a _____ prediction.
- [a] True negative.
 - [b] False negative.
 - [c] True positive.
 - [d] False positive.

24. In *Donaldson v. O'Connor*, the SCOTUS held that involuntarily 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” include...
- [a] Gambling addiction.
 - [b] Opiate addiction.
 - [c] Alcohol Addiction.
 - [d] None of the above.
37. Gambling addiction afflicts approximately _____% of the general population.
- [a] 4.
 - [b] Less than 4.
 - [c] 14.
 - [d] 40.
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] "I may be using a little now, but I could develop an addiction."
 - [b] "I could be disbarred if I get caught."
 - [c] "No one uses alcohol or drugs more than I do."
 - [d] "It's their business, not mine, if they use drugs."
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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 in each instance should not exceed 500 words. Only the first 500 words will be graded.

1. Your favorite client—a clinical psychologist whose career seems to involve flitting from one personal and professional crisis to the next—has just received a board complaint that alleges some poorly defined form of “boundary violation” in addition to “overbilling,” “shoddy assessment practices,” and “cultural insensitivity.” What codified sources of guidance will you consult, and what are they likely to tell you? What implications might this board complaint have for your client’s professional and financial well-being, both now and in the future? Where might you turn for further support?
2. What are the main differences between “competency to stand trial” and “criminal responsibility”? Please describe how mental health professionals undertake to conduct evaluations of each of these two forensically relevant constructs.
3. How do mental health professionals go about assessing intelligence? To what sorts of legal matters might the results of such an assessment be relevant, and how would you instruct a forensic evaluator you wound up hiring under such circumstances? If you like the results, how would you ensure that your witness is in the best position to convey these at a hearing or trial?

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. As senior managing partner in a large personal injury law firm, you have noticed that one of your most promising young associates has started to show up late to court, has started to miss mandatory all-employee briefing sessions, and recently tried to borrow a large sum of money from another of your managing partners. During a brief meeting, the associate in question has insisted that “look, I can handle this.” What might be going on? What could or should be done about it? Is any of this potentially different because the person in question is an attorney?

3. In your well-funded role as Chief Prosecutor for a large Northeastern city with a healthy bottom line when it comes to criminal justice matters, you have just received the potentially damaging report of a defense-retained psychologist in a high-profile multiple homicide case. You don't think much of your usual ally: the state forensic hospital psychologist who turned in what you consider to be a vague and lackluster report. 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.