

Mental Health Matters

The newsletter of the Illinois State Bar Association's Section on Mental Health Law

Editor's note

BY SANDRA BLAKE

In February of this year, I read an article in *Kane County Connects*, a daily online newsletter, announcing that the Aurora Public Art Commission was collaborating with The Awakenings Project for the current Art at City Hall exhibit. Artwork from The Awakenings Project, which is an exhibit featuring the work of artists who are living with mental illness, was to be on display until August 11, 2017,

at Aurora City Hall, 44 E. Downer Place. Being the procrastinator that I am, I was able to visit the exhibit in its last weeks. What a privilege to have been able to see it!

Aside from the amazing display of talent, I was deeply moved by what I saw in so many of the works. A large portion of my practice is defending recipients against involuntary treatment or admissions. In

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Alternative court aims to keep the mentally ill from repeat criminal acts

BY JUDITH MILLER, ESQ.

"You came here with a felony, which makes life harder. But you got through, and there are many people here today who are proud of you. Now you have the opportunity to get this felony expunged."

These words of praise and hope—spoken by Judge Clint Hull to one of the 20 mentally-ill criminal defendants in Treatment Alternative Court (TAC) where he presides—are standard fare in a program designed to help defendants reach psychiatric stability, achieve positive

behavioral changes and reduce criminal recidivism. On this particular day, Judge Hull was addressing a defendant on his graduation day.

Graduation from TAC marks the defendant's successful completion of an individualized two-year treatment program that includes frequent court appearances, medication, therapy and skill-building to secure employment. Upon successful completion, the court may dismiss the original charges against the defendant, terminate the sentence, or

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that capacity, I frequently hear psychiatrists explain the symptoms of certain mental illnesses, and have had clients try to explain their conditions, but the imagination only goes so far. The works at this exhibit allowed me to truly understand. Photos of several are included in this publication, but they cannot do justice to the in-color and in-real-life works. I encourage *Mental Health Matters* subscribers to read the article on The

Awakenings Project and take in an exhibit or enjoy one of the many other demonstrations of talent by Awakenings artists.

Readers will also enjoy the article on the Kane County TAC Court, a successful program that implements a team effort to help criminal defendants with mental illness to achieve psychiatric stability, achieve positive behavioral changes and reduce criminal recidivism. ■

Alternative court aims to keep the mentally ill from repeat criminal acts

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discharge the defendant from any further proceedings in the original prosecution.¹

"It takes money, resources and a belief in the program," Judge Hull added as he listed the defendant's accomplishments over the two-year period. "All of us have challenges. We have good and bad days," said Judge Hull to the graduating defendant. "You worked hard. You faced the challenges. You have a lot to offer."

The graduate responded with comments such as, "It was hard at first; I was grumpy. Thank you for the feedback. Thank you for uplifting my spirits." Then, looking over at his treatment team, and with a big smile, he said, "That's a big team."

A TAC team is big, indeed. It is comprised of the prosecutor, public defender, case coordinator and probation officer, a mental health representative from the jail, and a psychologist from the Kane County Diagnostic Center. The team also includes a representative from one of the county's mental health service providers: Association for Individual Development (AID) in southern Kane County; Ecker Center for Mental Health in the north; and Gateway Alcohol and Drug Treatment Center, for those with the added diagnosis of addiction.

Together with Judge Hull, the team coordinates to develop a plan that will bring the litigant psychiatric stability, achieve positive behavioral changes and reduce criminal recidivism.² "Team meetings

become intensive problem-solving meetings," said Judge Hull, who uses the team's assessments to determine what rewards, consequences, incentives or sanctions to dispense from the bench. These may include fines, costs, restitution, jail time, therapy, medication, educational or vocational counseling, and close court monitoring.³

TAC Court started in Kane County in February 2006, when there were only two other mental health courts in Illinois and no governing statute. Justice Donald Hudson, chief judge at the time, decided to utilize an available federal grant to bring this innovative concept in procedural justice to the 16th Judicial Circuit. The responsibility to establish TAC and preside over it was given to Judge Tim Sheldon (now retired), who utilized a federal grant to start up the program for 10 mentally ill criminal defendants facing nonviolent misdemeanor offenses.⁴

In 2008 the Illinois General Assembly codified the use of mental health courts with the Mental Health Court Treatment Act.⁵ In doing so, the legislature recognized "that a large percentage of criminal defendants have a diagnosable mental illness and that mental illnesses have a dramatic effect on the criminal justice system in the State of Illinois."⁶ The Act focuses on persons with mental illnesses, and those with co-occurring mental illness and substance abuse problems.⁷ It set out to meet the critical need

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ILLINOIS BAR CENTER
424 S. SECOND STREET
SPRINGFIELD, IL 62701
PHONES: 217-525-1760 OR 800-252-8908
WWW.ISBA.ORG

EDITOR

Sandra M. Blake

MANAGING EDITOR / PRODUCTION

Katie Underwood

✉ kunderwood@isba.org

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for a program that would reduce the number of such persons in the criminal justice system, reduce recidivism among them, provide appropriate treatment to them and reduce the incidence of crimes committed by them.⁸

The Act did not require judicial circuits to establish a mental health court program, but simply authorized the chief judges of each judicial circuit to do so; and if choosing to do so, to follow the operating format articulated in the Act.⁹ Today, twenty-three counties in Illinois have mental health courts. Cook County has six such courts.¹⁰

“Participants wind up in the program by pleading guilty to a felony and being placed on two years’ probation,” explained Judge Hull. “They must be approved by the state’s attorney’s office, found to have a mental illness by the county diagnostic center, and connected with a treatment provider that can meet their needs.”

As stated in the Act, the felonies must be nonviolent and probationable.¹¹ That rules out anyone convicted of first or second degree murder, and most categories of criminal sexual assault, arson, kidnapping and stalking.¹² It also rules out any offense involving the discharge of a firearm.¹³

Although the Act allows a defendant with a misdemeanor to participate in TAC Court, there are no such defendants currently in Kane County’s TAC Court. “We focus on high risk-high need individuals,” explained Judge Hull. That means focusing on those litigants who are at the highest risk of re-offending and at the highest need of treatment. “We look for nonviolent offenders who do not have the resources to address and manage their mental illness,” says Judge Hull. “We look for litigants who could benefit from learning to manage their mental conditions, stabilize their lives, and avoid criminal behavior.”

According to Kane County TAC Coordinator, Lindsay Liddicoatt, the current make-up of TAC defendants in the 16th Judicial Circuit include those who have plead guilty to retail theft, residential burglary, drug possession, resisting an officer, and aggravated battery to a police officer, nurse or EMT. Their mental illnesses include bi-polar disorder, schizoaffective disorder, schizophrenia, post-traumatic stress disorder, and major clinical

depression.

Judge Hull explained that TAC Court looks for cases in which the offender’s unmanaged mental illness is a major contributing factor in a nonviolent crime—even if the person doesn’t know it. To find such cases, any number of individuals within the justice system may initiate the process. Therefore, a recommendation can come from a probation officer, mental health officer in the jail, a judge, a treatment provider or the public defender. The recommendation triggers a multi-step application process that begins with a screening by the State’s Attorney’s Officer and a voluntary acceptance by the litigant. Before the process goes any further, Liddicoatt reviews all relevant documents and meets with the litigant to evaluate whether he or she is willing to follow all the rules of TAC and cooperate with the treatment team. If Liddicoatt gives the green light, the application is sent to the Kane County Diagnostic Center where a full diagnostic assessment is made. It is the responsibility of the Diagnostic Center to determine whether or not the litigant has a treatable mental illness. “TAC is not intended for litigants with personality disorders,” explained Liddicoatt. “The best candidate is someone with a persistent, chronic, and treatable mental illness.”

Once these criteria are met, the litigant meets with a team of service providers at one of the treatment facilities available in Kane County: either Ecker Center, AID, or Gateway. The team assesses whether the treatment facility has the resources to address the particular issues facing the litigant. In turn, the litigant learns just what will be required to successfully graduate from the program.

After each of these steps is completed, all the information is brought to TAC where Judge Hull decides whether to grant the motion to enter the program. At this point, the litigant must plead guilty.

Liddicoatt explained that it is often the requirement of a guilty plea that keeps litigants from immediately embracing the TAC option. “They fight it, at first,” she said. “But once they go through the application process and have so many professionals helping them, they begin to understand.” Part of what they come to understand—and

appreciate—is that successful completion of the TAC program frees them of a felony conviction. Rather than going through life with a felony on their record, they can start fresh.

Now with more than a decade of statistics available since the inception of TAC in the 16th Judicial Circuit, Kane County has contracted with Aurora University to conduct a full analysis of the impact of TAC. Pursuant to the Mental Health Treatment Act, the county’s study will include an analysis of recidivism rates.¹⁴

But for many who work within the judicial system among mentally ill defendants, a formal study is not necessary to convince them of the efficacy of TAC. They have had more than a decade of TAC graduates to reflect upon, and they have seen concrete results. Seth Shenberg, a mental health clinician at the Kane County jail, provides anecdotal evidence in favor of TAC as he recalls the many mentally ill defendants who would circle in and out of jail—numerous times, maybe 10 or 15 times over the span of many years before TAC was an option—until they got into TAC. After these repeat offenders graduated from TAC, Shenberg said, he never saw them again. ■

1. 730 Ill. Comp. Stat. 168/35(b).

2. “Mentally Ill Defendants Benefit from Kane County Treatment Alternative Court” information sheet, 2017.

3. 730 Ill. Comp. Stat. 168/25.

4. Kate Thayer, *A different kind of treatment*, Kane County Chronicle, May 18, 2008, at 3A.

5. 730 Ill. Comp. Stat. 168/.

6. 730 Ill. Comp. Stat. 168/5.

7. 730 Ill. Comp. Stat. 168/5.

8. 730 Ill. Comp. Stat. 168/5.

9. 730 Ill. Comp. Stat. 168/15.

10. Illinois Mental Health Courts, *available at* <http://www.ilcoe.us/problem-solving-courts/illinois-mental-health-courts/>.

11. 730 Ill. Comp. Stat. 168/20(b)(1) and (3).

12. 730 Ill. Comp. Stat. 168/20(b)(3).

13. *Id.*

14. 730 Ill. Comp. Stat. 168/40.

Judith Miller is the legal services director at Administer Justice, a non-profit civil legal aid clinic located in Kane and DuPage counties. She currently serves as the chair of the KCBA Access to Legal Services Committee. Judith earned her juris doctorate in 2008 from Northern Illinois University College of Law. She is licensed to practice in the state of Illinois, the U.S. Tax Court, and the U.S. Bankruptcy Court. For more information about Administer Justice, visit www.administerjustice.org.

The Awakenings Project facilitates empowerment, advances recovery

BY IRENE LAMB O'NEILL AND ROBERT KING LUNDIN

The Awakenings Project is a grass-roots initiative. Its mission is to assist artists with psychiatric illnesses develop their craft and find an outlet for their creative abilities through the fine arts, music, literature and drama. The Project raises public awareness and acceptance of the creative talents of people living with psychiatric disorders.

The Awakenings Art Show, later to become The Awakenings Project, was first conceived in 1996. Robert Lundin, then a member of the board of directors of the National Alliance on Mental Illness of Illinois (NAMI-IL), became involved with the planning committee for NAMI-IL's annual convention. Intrigued and inspired by the work of Kay Redfield Jamison (*Touched with Fire: Manic Depressive Illness and the Artistic Temperament*, 1993), he thought an art show might give NAMI an activity by which it could serve its consumer constituency through advocacy and involvement. Lundin thought The Awakenings Art Show might uncover talented artists who were otherwise neglected by the art world. He also expected to inspire some consumers to take their rightful place in society as productive creators, helping to raise the ambitions and self-worth of consumer artists, as well as providing education to people who viewed the show.

Lundin enlisted the help of NAMI-IL staff members who shared his enthusiasm about the idea. As they set about organizing the show, they contacted friends and colleagues whom they thought *might* have mental illnesses to bring them on board. Among the first to become involved were Trish Evers, a professional artist with a studio close to

Lundin's home, and Irene O'Neill, who co-owned an art gallery and worked at Lucent Technologies. O'Neill became the co-director, a role she still enthusiastically maintains. With skilled help from the artistic community—including Ben Beyerlein, Anton Witek, William Alexander, Chet Witek—the show went on.

The Awakenings Art Show debuted at the 1997 annual convention of NAMI-IL, attracting nearly 50 exhibitors. That number increased to 70 by the next year. Awakenings has since exhibited at seven NAMI-IL conferences and two NAMI-National conferences.

In 1998, a Chicago gallery hosting The Awakenings Art Show misprinted the art show's name as "The Awakenings Project" in its promotional literature, and the name stuck.

Awakenings has been riding the crest of a trend in recent years. The collecting of fine art created by persons living with mental illnesses has become fairly widespread, with several associations curating and showing pieces at national venues. Other literary magazines devoted to people with mental illnesses have appeared on the landscape.

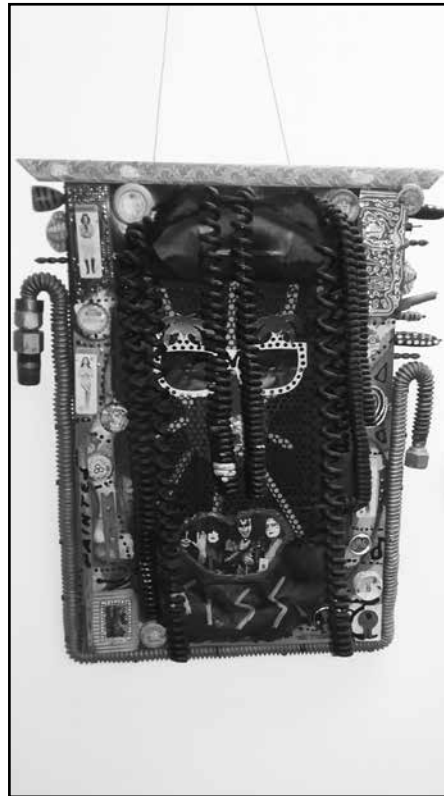
Some researchers conclude that among scores of celebrated artists, writers and musicians there exists some positive relationship between affective disorders and being endowed with creative genius. Though the Awakenings Project does not purport to be a breeding ground for artistic geniuses, there does appear to be important and widespread interest in artistic endeavors among people with psychiatric disorders.

Epidemiological research suggests that as much as 10% of the population



Art by Irene Lamb O'Neill

of the United States may experience a major mental illness in their lifetimes. As many as 25% of women and 12% of men experience an episode of major depression sometime during their lives. Fully 1% of the population meets the diagnostic criteria for schizophrenia, while another 1 to 2% fit into the bipolar (manic-depression) category. There have been significant advancements in the treatment of severe and persistent mental illnesses through medicine and psychotherapy, helping people to overcome disabilities related to these illnesses and to recover. Recovery and empowerment can be advanced even



Art by (From left): Irene Lamb O'Neill, Anton Witek, and Robert King Lundin

further by participation in self-help efforts such as The Awakenings Project.

The Healing Power of Creativity

People familiar with psychiatric illnesses understand the painful loss of purpose and self-esteem that often accompanies these disorders. The arts can heal some of these wounds, providing individuals who struggle with these disabling illnesses hope, purpose and a sense of identity. Self-expression through art—whether it be in the form of painting, writing poetry or short stories, playing a musical instrument or composing a piece of music, or writing, producing or playing a role in a dramatic production—is a purposeful and optimistic activity. The artists plan exhibits, look forward to upcoming shows, grow and develop their artistic talents. They receive positive feedback, field questions about their art, and also make sales or win commissions. Writers, on the other hand, find vindication in seeing their work published

in an attractive and reputable journal, *The Awakenings Review*.

The Support of Community

Joining together with other artists, writers, musicians and thespians in a focus on creative activity has healing power and helps individuals struggling with mental illness overcome the social isolation that their illness often imparts. The community and network of support reaches far beyond the walls of the studio, resulting in long-lasting friendships and collaborative relationships.

The Discovery of Confidence

Persons with severe mental illnesses often experience stigma and discrimination by a society that views mental ill health in a different light than physical ill health. Caricature portrayals of people with mental illnesses are heavily biased toward bizarre or violent behavior (which is actually no more prevalent than in the general public). Understanding and acceptance of people

with mental ill health can be advanced through projects like Awakenings. Exhibits, writings, performances, and community activities make a statement that persons with mental illness are highly capable and talented people wishing to contribute positively to society. Social researchers agree that gaining or regaining power over our lives is essential to overcoming stigma and achieving our greatest potential. Art is one mechanism to facilitate empowerment and foster recovery. The personal growth and improvement in socialization skills, confidence and self-esteem in the Awakenings participants is phenomenal.

Giving Back Through Contributing

One of the most rewarding things Awakenings artists do is to help others and give back to the community. For two years, Awakenings artists worked weekly with other artists, residents of Wheaton Care Center (WCC), to bring



Art by Faith Burmania



Art by Trish Evers

out their potential to create sometimes functional and always beautiful pieces of artwork. With support from a grant received in 2008 from the now defunct Hinsdale Center for the Arts, acting as a re-granting agency of the Illinois Arts Council, Awakenings was able to expand its Arts in Nursing Homes Project to include both WCC and DuPage County Convalescent Center (DPCC). The groups were project-oriented, and each member of the group created a functional and beautiful piece of artwork with a little help from Awakenings. There were fabulous, well-attended opening receptions at both WCC and DPCC.

One of the larger projects Awakenings completed was a mural on the psychiatric unit at Good Samaritan Hospital. It took over 20 artists several months to complete. On June 23, 2005, there was a celebration of Awakenings' first mural at **Good Samaritan Hospital, with an opening reception held as part of the Brighter Beginnings in Mental Health Program, sponsored by AstraZeneca Pharmaceuticals.**

Good Samaritan liked the first mural so well, that in the summer of 2007 the Awakenings artists were invited back to work on murals for the geriatric psychiatry unit. These were more realistic,

and meant to evoke memories in the elderly patients on the unit. There were awnings, porch swings, wildflowers, a diner sign, a tree with all seasons, and a grape arbor.

The Awakenings Project has grown over the years to encompass several efforts, including Awakenings Fine Arts, *The Awakenings Review*, Awakenings Music and Awakenings Drama. The Awakenings Art Show is now a regular activity of the Awakenings Fine Arts program, along with the operation of a working art studio. At the Awakenings studio, artists have access to a "drop-in" environment providing a supportive, creative environment including work space, friendship, and solitude for those who seek it. The studio, located in Elgin, Illinois, since July 2008, is also used for other functions, such as writing workshops, play rehearsals and receptions.

Awakenings was the winner of the **"Outstanding Contribution to Recovery by a Non-Profit Organization"** award from the Irwin Foundation at Celebration Recovery in 2006. Awakenings also won a **"Stigma Busters"** award from Ecker Center at the Elgin Country Club in 2010, and in 2015, was selected for the **2015 Best of Elgin Award for Non-**

Profit Organization. The Best of Elgin Award Program was created to honor and generate public recognition of the achievements and positive contributions of businesses and organizations in and around Elgin. Their mission is to raise the profile of exemplary companies and entrepreneurs among the press, the business community, and the general public. The selection process does not include nominations, voting, contests or surveys. The Award Program uses only empirical data supplied by independent third-parties as input into their award algorithm.

Visit www.awakeningsproject.org for information on the group's events, exhibits and activities, including a CD of music and poetry by Awakenings artists and open studios. Follow *The Awakenings Project Group* on **Facebook** by looking up the group or page. ■

This article was adapted from content on The Awakenings Project website.

Upcoming CLE programs

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January

Tuesday, 01-09-18 Webinar—Fight the Paper. Practice Toolbox Series. 12:00-1:00 PM.

Wednesday, 01-10-18 – LIVE Webcast—On My Own: Starting Your Solo Practice as a Female Attorney. Presented by WATL. 12-2 PM.

Thursday, 01-11-18 – ISBA Chicago Regional Office—Six Months to GDPR – Ready or Not? Presented by Intellectual Property. 8:45 AM – 12:30 PM.

Friday, 01-12-18, Chicago, ISBA Regional Office—How to Handle a Construction Case Mediation. Presented by the Construction Law Section, co-sponsored by the Alternative Dispute Resolution Section. 8:30 am – 5:00 pm.

Friday, 01-12-18, Chicago, Live Webcast—How to Handle a Construction Case Mediation. Presented by the Construction Law Section, co-sponsored by the Alternative Dispute Resolution Section. 8:30 am – 5:00 pm.

Tuesday, 01-16-18 – LIVE Webcast—Proper Pleadings: Complaints, Answers, Affirmative Defenses, Motions for a More Definite Statement, Motions to Strike, and Motions for Judgement on the Pleadings. Presented by Labor and Employment. 1:30-3 PM.

Wednesday, 01-17-18 – LIVE Webcast—Clearing the Skies: How to Fly with the Mandatory Initial Pilot Program. Presented by Intellectual Property. 12-1 PM.

Thursday, 01-18-18 – ISBA Chicago Regional Office—Closely Held Business Owner Separations, Marital and Non-Marital. Presented by Business and Securities. 9AM - 12:30 PM.

Thursday, 01-18-18 – LIVE Webcast—Closely Held Business Owner Separations, Marital and Non-Marital. Presented by Business and Securities. 9AM - 12:30 PM.

Tuesday, 01-23-18 Webinar—Technology for Your Practice: Beyond the Buy – Understanding the Why. Practice Toolbox Series. 12:00-1:00 PM.

Thursday, 01-25-18 – ISBA Chicago Regional Office—Starting Your Law Practice. Presented by General Practice. 8:50 AM – 4:45 PM.

Tuesday, 01-30-18 LIVE Webcast—Concerted Activity in the Age of Social Media and Online Systems: Employee Rights, Employer Pitfalls, Remedies and Penalties. Presented by Labor and Employment. 2-4 PM.

Wednesday, 01-31-18 ISBA Chicago Regional Office—Recent Developments in State and Local Taxation - Explosive Issues and the Steady Drip, Drip, Drips. Presented by SALT. 9AM – 1PM.

Wednesday, 01-31-18 LIVE Webcast—Recent Developments in State and Local Taxation - Explosive Issues and the Steady Drip, Drip, Drips. Presented by SALT. 9AM – 1PM.

February:

Thursday, 02-01-18 – LIVE Webcast—Storm Water Regulation Under the National Pollutant Discharge Elimination System (NPDES). Presented by Environmental Law. 11AM – 12PM.

Thursday, 02-01-18 – LIVE Webcast—The Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) Permit Program. Presented by Business Advice and Financial Planning. 1:30PM – 2:30PM.

Friday, 02-02-18 – Normal, IL—Hot Topics in Agriculture Law – 2018. Presented by Agriculture Law. All-day.

Friday, 02-02-18 – ISBA Chicago Regional Office—2018 Federal Tax Conference. Presented by Federal tax. All Day.

Friday, 02-02-18 – LIVE Webcast—2018 Federal Tax Conference. Presented by Federal tax. All Day.

Feb 6 - June 26—Fred Lane's ISBA Trial Technique Institute.

Wednesday, 02-07-18 – Webinar—TITLE INSURANCE 101: HOW TO HANDLE COMMON TITLE INSURANCE AND COVERAGE ISSUES IN RESIDENTIAL REAL ESTATE TRANSACTIONS—A Primer for New Attorneys and Those 'New' to Real Estate Law Practice. Presented by Real Estate. Time: 2-3 PM.

Friday, 02-09-18 – SIU Carbondale—Central and Southern Illinois Animal Law Conference. Presented by Animal Law. 8:00AM to 5:30PM.

Monday, 02-12 to Friday, 02-16—ISBA Chicago Regional Office—40 Hour Mediation/Arbitration Training. Master Series, presented by the ISBA—WILL NOT BE ARCHIVED. 8:30 -5:45 daily.

Tuesday, 02-13-18 Webinar—Cloud Services. Practice Toolbox Series. 12:00-1:00 PM.

Monday, 02-19-18 – Chicago, ISBA Regional Office—Workers' Compensation Update – Spring 2018. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm. ■

MENTAL HEALTH MATTERS

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