Forensic psychiatry, also known as psychiatry and the law, is a subspecialty of psychiatry with a separate 1-year, Accreditation Council for Graduate Medical Education-approved fellowship training program and subspecialty board certification by the American Board of Psychiatry and Neurology.\textsuperscript{1} Forensic psychiatrists practice at the interface of psychiatry and the law and apply scientific and clinical expertise in legal context, involving civil, criminal, correctional, regulatory, or legislative matters.\textsuperscript{2} Psychiatrists in the forensic role must honestly and respectfully balance competing duties to people and to society.\textsuperscript{2}

Forensic psychiatry is distinctive and, except for correctional psychiatry, does not constitute psychiatric medical practice even though it is governed by the ethical principles of psychiatry and medicine. Forensic examiners do not have a physician-patient relationship with the person who is being evaluated (referred to as the evaluee, who is not considered a patient). Under the auspices of the physician-patient relationship, treating physicians serve patients’ interests. However, forensic examiners do not treat or serve evaluees’ interests, but must be honest and strive for objectivity while assisting with expert opinions and legal processes.\textsuperscript{2} An expert opinion may or may not further an evaluee’s interests. For example, in a civil legal dispute, an evaluee (referred to as plaintiff in civil cases) seeking monetary compensation for psychic damages may not collect the desired compensation if the forensic examiner determines that the evaluee does not suffer from the alleged damages. In a criminal process, the evaluee (referred to as defendant in criminal cases) typically seeks to avoid responsibility/culpability by having criminal charges dismissed. However, the forensic examination may reveal that the evaluee was indeed culpable at the time of the alleged crime and the evaluee may face conviction and criminal punishment.

Forensic examiners should only perform forensic or independent mental health examinations on people they have not treated, because “wearing two hats” (ie, serving a person as a treating physician and as a forensic examiner) may adversely affect the treating relationship.\textsuperscript{2} For example, a treating physician may have to disclose confidential information obtained under treatment conditions when serving as an expert witness.

The psychiatrist in a forensic role is not providing treatment to the evaluee and, as such, medical insurance ordinarily cannot be billed for forensic services. Forensic examiners typically have fee schedules that they share upfront with hiring parties (eg, attorneys). Such fee schedules typically assign an hourly rate for the interview/examination, records review, collateral interviews, and report preparation, as well as for time spent on preparing and appearing for deposition and courtroom testimony. Fees vary depending on examiners’ training, seniority, and experiences as well as regional market rates. Some forensic examiners may also accept flat fees for more routine examinations, such as examinations for competency to stand trial for correctional entities or public defender offices. Forensic examiners are not to accept fee agreements stipulating payment is to be received after favorable legal outcomes (so-called contingency fees),\textsuperscript{2,3} as this would call into question the examiner’s objectivity.

Because forensic examiners are not treating evaluees, forensic services should not be covered under ordinary clinical malpractice insurance. However, although it may make sense for forensic examiners to carry
some other type of liability insurance, many entities require forensic examiners to carry clinical malpractice insurance. Some insurers offer policies covering clinical treatment as well as forensic work.

Forensic evaluation reports do not constitute medical records and are not included in the evaluee’s medical records. In addition, forensic examiners have no access to an evaluee’s medical records because they are not part of the clinical treatment team. Forensic examiners who wish to review an evaluee’s medical records must present a HIPAA (Health Insurance Portability and Accountability Act)-compliant medical record release signed by the evaluee. Regarding the release of forensic reports, ethical principles require that forensic examiners obtain an evaluee’s consent to release the completed report; forensic examiners must adhere to the usual minimum disclosure standards when discussing the evaluee’s case with others.

Another important area that distinguishes the forensic examination is the notion of malingering and/or falsification by an evaluee. On balance, evaluees aim to suit their own interests to, for example, obtain disability benefits or avoid criminal responsibility. To further their cases, evaluees may exaggerate problems or hide information. On the other hand, examiners should also be concerned about any self-defeating behaviors on the part of the evaluee as these could be due to depression or psychosis. Evaluees suffering from depression may no longer care or perhaps believe that they do not deserve a favorable outcome. Psychotic patients may have delusional beliefs that they deserve to be punished. Thus, forensic examiners must seek and review collateral sources of information, including prior medical and other records, as well as interview witnesses and other informants. It is important to be mindful that more neutral collateral sources, which are less likely to favor the evaluee, are better suited for the objective examination.

Prior to beginning the forensic examination, examiners must obtain consent from the evaluee for the forensic or independent medical examination as well as provide the evaluee with the proper disclosures about the examination’s purpose and nature. Forensic examiners must explain that (1) they are not engaging in a physician-patient relationship with the evaluee; (2) they are not providing treatment to the evaluee; (3) medical insurance typically cannot be billed for such examinations; (4) there is limited confidentiality because reports will be submitted to the referring entity(ies); and (5) the evaluation may not help or advance the evaluee’s interests.

Although correctional psychiatry is a part of forensic psychiatry, one must be mindful that caring for inmates constitutes treatment. Correctional psychiatrists, similar to military psychiatrists, must master a dual-reporting line because they serve both patients and the correctional system or the military, respectively, and may have to disclose patient information when there is a concern or issue affecting institutional safety.

This issue of Psychiatric Annals presents article topics on civil and criminal competencies, psychiatric disability evaluations, a history of the insanity defense, patient management at forensic hospitals and correctional settings, and violence risk assessments to further understand the unique topics and concerns in forensic psychiatry. The issue also includes a Case Challenge, “A 28-Year-Old New Mother with Insomnia and Anxiety,” and a Feature Article, “Sex Offenders: General Information and Treatment,” which both expand on the forensic psychiatry topic.

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Britta Ostermeyer, MD, MBA, FAPA, a practicing board-certified forensic psychiatrist, is the Paul and Ruth Jonas Chair in Mental Health and Professor and Chairman in the Department of Psychiatry and Behavioral Sciences at the University of Oklahoma College of Medicine. Dr. Ostermeyer has training in neurology, psychiatry, forensic psychiatry, hospital administration and physician leadership, motivational interviewing, and electroconvulsive therapy. She is also a certified Lean Six Sigma greenbelt champion. Dr. Ostermeyer has published approximately 170 scholarly articles and other medical writings and has received a number of education, service, and leadership awards, including the Gold Award for Service Achievement from the American Psychiatric Association and the Community Excellence Award from the Texas Hospital Association for her pioneering work in integrated mental health services in the primary care setting. She has been the principal investigator (PI) or co-PI on more than 20 research and service grants, including PI and Medical Director of the Texas Demonstration to Maintain Independence and Employment grant.

Address correspondence to Britta Ostermeyer, MD, MBA, FAPA, Department of Psychiatry and Behavioral Sciences, University of Oklahoma Health Sciences Center, P.O. Box 26901, WP3470, 920 Stanton L. Young Boulevard, Oklahoma City, OK 73126-0901; email: Britta-Ostermeyer@ouhsc.edu.