

# INTERNATIONAL MEDICAL NEWS GROUP



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WILLIAM RUBIN, EDITOR

August 5, 1986

Psych 9/86 Ahmann Osheroff vs.  
Chestnut Lodge

In reply refer to: C 94171

Mr. Phil Hirschkop  
108 N. Columbus St.  
Box 1226  
Alexandria, VA 22313

Dear Mr. Hirschkop:

I thought you might like to see a copy of the article on your work that we are planning to run. We make every effort to assure accuracy but would still appreciate your checking this copy. As this is a news report, not a journal paper, our publishing it in no way implies authorization on your part. Although no one will hold you responsible for what we print, I know you share our concern that what we print is accurate.

If there are any factual errors, please correct them on the enclosed printout and return it to us or call collect between 10 A.M. and 5 P.M. (East Coast time).

It is likely that this article will be used in an early issue, so we would need any corrections by August 14.

We would appreciate your sending us photographs that might illustrate the article, as well as your photograph. This material can, of course, be returned.

Thank you for your cooperation.

Cordially,

Felicia Rosenblatt  
Copy Editor

FR/rm  
Enclosure

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Mr. Hirschkop

1 x??Have changes been made since originally issued to IMNG???

2 AC's entered by /// DATE /// SOURCE ///

3 EDITOR's CHANGE entered by ///

4

5 slug # 094171

6 psych - 9/85 - ahmann (rew) - osheroff

7 v. chestnut lodge - c-aucx Stone

8

AUG 5 1986

9 THE LONG-STANDING controversy

10 over the efficacy of biologic versus  
11 psychodynamic treatments for mental  
12 illness will move out of professional  
13 circles and into the courtroom if the  
14 lawsuit of Osheroff v. Chestnut Lodge  
15 comes to trial later this year.

16 The suit, which Dr. Alan A. Stone,  
17 the Touroff-Glueck Professor of Law  
18 and Psychiatry at Harvard University,  
19 Cambridge, Mass., calls a landmark  
20 case, could open the doors to negli-  
21 gence suits against psychotherapists, an  
22 area in which there are few legal  
23 precedents.

24 In the lawsuit, a former psychiatric  
25 patient is suing Chestnut Lodge, a pri-  
26 vate psychiatric hospital in Rockville,  
27 Md., for negligence because the physi-  
28 cians there treated him according to a  
29 psychodynamic and social model and  
30 failed to prescribe drug therapy.

31 The patient, himself a physician, was  
32 in his early forties when admitted to  
33 Chestnut Lodge in 1979 because of  
34 intractable, severe depression. He was  
35 diagnosed as having "agitated depres-  
36 sion in a narcissistic character disorder" and was treated with psychoana-  
37 lytically oriented psychotherapy. No  
38 specific drug therapy was initiated dur-  
39 ing his 7-month stay, according to  
40 Chestnut Lodge records.

42 Within weeks after transfer to an-  
43 other hospital and treatment with anti-  
44 depressant drugs, the patient improved  
45 and was able to return to his medical  
46 practice. Phil Hirschkop, one of the  
47 plaintiff's attorneys, told Clinical  
48 Psychiatry News in a telephone in-  
49 terview.

50 The State of Maryland Health Claims  
51 Arbitration Board found Chestnut Lodge  
52 liable and awarded the plaintiff  
53 \$250,000 in damages in January 1984.  
54 Chestnut Lodge is appealing to have  
55 the judgment set aside, and the plain-  
56 tiff is appealing to have the award  
57 increased.

58 The case was held up for about a  
59 year pending resolution of procedural  
60 problems. A jury trial is set for Mont-

61 gomery County Circuit Court, Rock-  
62 ville, and, barring an out-of-court set-  
63 tlement, will start in December of this  
64 year, said Mr. Hirschkop, of Alexan-  
65 dria, Va.

66 Among the points at issue in the  
67 suit, according to the attorney, is the  
68 choice of treatment for the plaintiff  
69 during his stay at Chestnut Lodge and  
70 how that treatment was carried out.

71 Also at issue is the question of in-  
72 formed consent for long-term psycho-  
73 therapy.

74 The plaintiff is asking for punitive as  
75 well as compensatory damages.

76 Several well-known psychiatrists tes-  
77 tified at the arbitration board hearing  
78 on behalf of the plaintiff, including Dr.  
79 Donald Klein, professor of psychiatry  
80 at Columbia University College of Phy-  
81 sicians and Surgeons, New York; Dr.  
82 Bernard Carroll, professor of psychia-  
83 try at Duke University School of Medi-  
84 cine, Durham, N. C.; and Dr. Gerald  
85 Klerman, professor of psychiatry at  
86 Cornell University Medical College,  
87 New York. They testified that the plain-  
88 tiff had a biologically based depression  
89 that required biologic treatment.

90 These psychiatrists may be called  
91 again to testify at the jury trial, or new  
92 outside experts may be added to the  
93 witness list, Mr. Hirschkop said.

94 Dr. Stone said that the central irony  
95 in the case is that Chestnut Lodge is  
96 being sued for malpractice for not treat-  
97 ing a patient with drugs, but in Massa-  
98 chusetts, Colorado, and other states,  
99 judges have ruled that patients have the  
100 right to refuse drug treatment, and  
101 "doctors are being forced to treat them  
102 in a way Osheroff claims is negligent."

103 If the plaintiff argues successfully  
104 that psychodynamic therapy without  
105 drug treatment is outside the standard  
106 of care for patients like the one in this  
107 case, despite support for that approach  
108 by a respectable minority of physicians,  
109 "it would have an incredible impact on  
110 all those doctors who want to approach  
111 these patients whose diagnosis is de-  
112 batable with psychoanalytically oriented  
113 psychotherapy," Dr. Stone said in a  
114 telephone interview.

115 The argument concerning informed  
116 consent also has the potential for con-  
117 siderable impact. "If the court were to  
118 decide that psychotherapists have to tell  
119 patients there are alternative treatments  
120 and what the efficacy of those treat-

121 ments is, that would put psychothera-  
122 pists who aren't biologically oriented  
123 in a difficult situation." They, along  
124 with psychologists and social workers,  
125 will see this as a requirement to refer  
126 patients away, he said.

127 Just as it's hard to prove psychother-  
128 apy is beneficial, it's hard to prove  
129 psychotherapy is harmful. No patient  
130 has won a suit against his psychothera-  
131 pist by claiming that he, the patient, is  
132 worse off for having been treated and  
133 that he should be compensated--unless  
134 there was some unethical behavior on  
135 the part of the physician, Dr. Stone  
136 said.

137 The Osheroff case would be a signif-  
138 icant breakthrough in suing psychother-  
139 apists, he said.  
140 end

141

142

143

144 Dr. Alan A. Stone  
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UNCORRECTED GALLEY--Typographical Errors Will Be Corrected  
In this printout version, accents over characters do not appear.  
All characters will appear properly on the final typeset version  
of this article. Abbreviations in lower case letters will  
appear as small capitals.

{+1}	will appear as a superior numeral
{-1}	will appear as an inferior numeral
{B}	will appear as a beta
{a}	will appear as an alpha
{u}	will appear as a Greek mu
{*}	will appear as a bullet

MEMORANDUM

TO: Phil

FROM: Jonathan

RE: International Medical News Group -  
Article on Osheroff case

DATE: August 6, 1986

I have reviewed the article on the Osheroff case that is to run in Clinical Psychiatry News. The only factual correction that I would point out is in line 36. The article states that Osheroff "was diagnosed as having 'agitated depression in a narcissistic character disorder' ...". The differential diagnosis of Chestnut Lodge was a depression and a character disorder, not "in" a character disorder. I think there is merely a typographic error; however, it does have significance in the way the case is viewed. We have, of course, contended that even if Osheroff had a character disorder, treatment of the depression would not in any way affect treatment of the character problem. In other words, the two are separate and distinct and one does not arise out of the other.

As an editorial criticism, I think the article may give too great an emphasis on the issue of medication vs. psychotherapy and not enough to the issue of the improper type of psychotherapy practiced by the Lodge. For example, I would question the statement in lines 106-108 that there is a "respectable minority of physicians" that would support the type of psychotherapy that Osheroff was subjected to at the Lodge. Even if a minority of physicians might support the use of psychotherapy for the treatment of depression, I doubt whether a respectable minority would support the type of psychotherapy inflicted upon Osheroff. These comments, however, are more editorial criticisms of what apparently is Dr. Stone's view of the case. Otherwise, I think it is a good article.

Don't forget to send them your photograph.