

**FOCUS:  
MENTAL HEALTH**

**Jamie A. Rosen**

Each May, Mental Health Awareness Month invites reflection, not only on public understanding of mental illness but also on the institutions that govern treatment, rights, and accountability. Few systems feel this pressure more acutely than the legal system. Courts, legislatures, and lawyers operate at the intersection of public safety, civil liberties, healthcare delivery, and disability rights. By 2026, mental health law has become both more expansive and more contested—reaching into criminal dockets, civil courts, workplaces, schools, and digital platforms.

The evolving mental health legal system is marked by a central tension—how to expand access to care while respecting autonomy and constitutional protections. Recent reforms, a few of which are summarized below, suggest a shift away from purely crisis-driven responses toward preventive, community-based, and rights-focused models.

**Involuntary Commitment**

Across the country, many states are actively revisiting standards for involuntary hospitalization and court-ordered outpatient treatment in response to rising rates of untreated serious mental illness, public safety concerns, and gaps in continuity of care. In New York, recent high-profile revisions to the Mental Hygiene Law expanded the criteria for emergency hospitalization beyond imminent physical danger to include an “inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, necessary medical care, personal safety or shelter.”<sup>1</sup> The reforms also broadened the pool of professionals authorized to initiate psychiatric evaluations, permitting psychiatric nurse practitioners to certify involuntary admissions.<sup>2</sup>

The state also strengthened assisted outpatient treatment under Kendra’s Law by increasing funding and enhancing court oversight.<sup>3</sup> One of the many goals with this expansion is to improve coordination between hospitals and community providers. The transition from psychiatric inpatient care back into the community is a particularly fragile period, and without a reliable safety net—timely follow-up, coordinated

# The Evolving Mental Health Legal System: Trends, Reforms, and Challenges for 2026

services, and support to ensure treatment compliance—patients are left vulnerable to relapse, disengagement, and crisis.

Policymakers and mental health advocates alike have emphasized the need for legal frameworks that allow earlier clinical engagement when individuals are clearly unable to meet basic needs or are cycling repeatedly through emergency and inpatient settings without long-term stabilization. At the same time, civil liberties organizations and disability rights advocates raised concern that broader involuntary standards may increase coercive care, strain already limited resources, and undermine patient trust if not paired with adequate community-based services and safeguards.<sup>4</sup>

**Guardianship**

New York does not yet have a centralized public guardian system comparable to other states for adults who are incapacitated and have no family, friends, or financial resources to serve as decisionmakers on their behalf. Instead, guardianship appointments are governed under Mental Hygiene Law Article § 81, with judges drawing from a list of private attorneys and nonprofit organizations willing to accept cases—often pro bono or with minimal compensation.<sup>5</sup>

Investigations and court data have repeatedly shown that this model has produced severe shortages, long delays in appointments, and inconsistent quality of oversight, particularly for older adults, people with serious mental illness, and individuals experiencing homelessness or institutionalization.<sup>6</sup>

As of early 2026, lawmakers are advancing the New York State Good Guardianship Act, which would establish a statewide, publicly-funded network of nonprofit guardians operating under uniform standards. The legislation—introduced in both chambers during the 2025–2026 session—would function as New York’s closest equivalent to a public guardianship system. The bill explicitly seeks to address the current patchwork system by expanding nonprofit guardianship programs into underserved regions and reducing reliance on unpaid or overextended private practitioners.<sup>7</sup>

The proposal has received strong backing from advocacy groups, including Guardianship Access New York and Project Guardianship, as well as bipartisan legislative sponsors who have linked guardianship reform to broader aging, disability, and mental health policy goals outlined in the state’s Master Plan for Aging.<sup>8</sup> Supporters argue that funding—estimated at roughly \$15 million

annually—would yield longterm cost savings by preventing hospital readmissions, nursinghome placements, and emergency interventions that often follow prolonged gaps in legal decisionmaking authority.<sup>9</sup>

Despite this momentum, funding for the Good Guardianship Act was not included in Governor Kathy Hochul’s Fiscal Year 2027 Executive Budget.<sup>10</sup> While the governor’s budget maintains broad investments in mental health and aging services, guardianship reform remains absent from the proposed spending plan.

**Insurance Coverage and Mental Health Parity**

Insurance coverage remains a central fault line in mental health policy as of 2026, shaped by uneven parity enforcement and growing instability in Medicaid funding. Although the Mental Health Parity and Addiction Equity Act (MHPAEA) has for more than a decade required mental health and substance use disorder benefits to be offered on par with medical and surgical care, regulators and researchers continue to document persistent disparities in how coverage is administered. While explicit limits on visits or higher copays have largely disappeared, insurers have increasingly relied on nonquantitative treatment limitations, such as prior authorization requirements, that effectively constrain access to behavioral health services in ways not routinely applied to medical care.<sup>11</sup>

Reports to Congress released in early 2026 include higher denial rates, shorter authorization periods, and more frequent reviews for inpatient mental health services than for comparable medical admissions, underscoring the gap between parity laws and lived experience for patients seeking care.<sup>12</sup>

At the same time, the One Big Beautiful Bill Act, enacted in July 2025, set in motion reductions in Medicaid funding over the coming decade, alongside new eligibility restrictions and administrative requirements that begin to take effect in 2026.<sup>13</sup> Medicaid is the single largest payer of mental health services in the United States.<sup>14</sup> Federal funding cuts to Medicaid threaten provider participation and continuity of care for individuals with serious mental illness. Medicaid covers roughly one-third of nonelderly adults with mental illness and accounts for nearly a quarter of all behavioral health spending nationwide, making it essential to community mental health clinics, inpatient psychiatric units, and crisis services.<sup>15</sup> Analysts warn that these changes are likely to push

millions out of the program, reduce reimbursement rates, or force states to scale back behavioral health services.<sup>16</sup>

Together, uneven parity enforcement in the private insurance market and cuts to Medicaid leave many patients “covered” but practically unable to access timely, continuous mental health care.

**Employment, Disability and Workplace Mental Health Law**

Workplace mental health law is no longer confined to narrow debates about formal disability accommodations. In recent years, courts and regulators have made it increasingly clear that many mental health conditions—such as depression, anxiety, PTSD, and bipolar disorder—can qualify as disabilities under the Americans with Disabilities Act. As a result, employers are facing closer scrutiny over how they handle requests for time off, return-to-work expectations after medical leave, and adverse actions taken against employees who disclose mental health concerns or ask for accommodations. Retaliation claims, in particular, have become more common.

These legal developments also reflect a broader shift away from rigid workplace rules. Blanket attendance policies, inflexible productivity standards, and requirements that employees be “fully recovered” before returning to work are increasingly viewed as problematic when reasonable accommodations—such as modified schedules, gradual returns, or workload changes—could allow someone to continue working. Mental health-related leave often now sits at the intersection of overlapping laws, including the ADA and the Family and Medical Leave Act, requiring employers to engage in individualized, good-faith discussions rather than defaulting to one-size-fits-all solutions.

Remote and hybrid work arrangements have added another layer of complexity. While flexible work has opened doors for many people managing mental health conditions, it has also raised new questions about disclosure, privacy, and consistency. Employers must decide when remote work is a reasonable accommodation, how to document accommodation conversations conducted over email or video platforms, and how to protect sensitive medical information in increasingly digital workplaces. Uneven practices across teams or managers can quickly turn into compliance risks.

Mental health has also moved to the forefront within the legal profession itself. In response to elevated rates of depression, anxiety, burnout, and

substance use disorders among lawyers, many state bar associations now require or strongly encourage continuing legal education focused on mental health, substance use, and professional wellbeing. The Nassau County Bar Association Lawyer Assistance Program offers a wide range of confidential services to lawyers, judges, law students and their families struggling with mental health and substance use issues. Supporting lawyer wellbeing is tied to improved individual health and client protection.

**Technology and AI**

Perhaps the most rapidly evolving area of mental health law involves digital platforms and artificial intelligence. AI-enabled chatbots, therapy apps, and predictive risk tools are now widely used by consumers seeking mental health support, often without clinician involvement and outside traditional healthcare systems. These tools promise greater access, but they also blur longstanding acceptable standards for mental health treatment. Regulatory oversight is struggling to keep up, as these tools did not exist when our current health care and consumer protection laws were written.

In response to these gaps, state legislatures have started to enact laws aimed at increasing transparency and accountability in the use of AI for mental health-related purposes. These


laws often require clear disclosures that users are interacting with an AI system rather than a human, informed consent before data are collected or analyzed, and limits on fully AI-driven therapeutic interactions—particularly for high-risk use cases such as suicide prevention or crisis support.<sup>17</sup> Some laws also restrict how sensitive mental health data can be shared or monetized.<sup>18</sup>

Civil liability is emerging as a key issue in tort and constitutional law, as courts are increasingly being asked to determine who bears responsibility when AI systems provide harmful advice, reinforce delusional thinking, or fail to escalate crisis situations in time.<sup>19</sup> A growing number of wrongful death and product liability lawsuits allege that AI chatbots encouraged or failed to intervene in cases of self-harm, particularly involving minors.<sup>20</sup>

Liability questions become even more complex as regulators, such as the U.S. Food and Drug Administration, start to consider whether these AI tools qualify as regulated medical devices, when they are used for purposes such as symptom screening, risk assessment, clinical documentation, or even treatment recommendations.<sup>21</sup>

As mental health systems increasingly use AI to address the shortage of providers and access to care, we must remember that the use of technology does not displace the duty of care owed to patients.

**Conclusion**


Mental health law has become embedded in nearly every area of practice, from criminal justice and civil rights to employment, and technology regulation. The question facing courts and policymakers is no longer whether the legal system will engage with mental health issues, but how intentionally and responsibly it will do so. Mental Health Awareness Month serves as a reminder that mental health reform requires careful drafting, procedural safeguards and interdisciplinary collaboration. 

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2. Mental Hyg. Law § 9.05.
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4. See, NYCLU-Testimony-Joint-Legislative-Budget-Hearing-on-Mental-Hygiene-2025.2.5.pdf.
5. Mental Hyg. Law, Article 81.19.
6. Jake Pearson, We Found New York's Guardianship System in Shambles. Now State Lawmakers Say They Have a Plan to Help Fix It, February 4, 2026, ProPublica, available at NY Lawmakers Propose Plan to Help Fix Broken Guardianship System — ProPublica.
7. NY State Senate Bill 2025-S8654.
8. See, New York State Master Plan for Aging, NYS Department of Health, available at mpa-final-report-6-30-25.pdf.
9. New York State Good Guardianship Act Introduced, Press Release by Project Guardianship, December 2, 2025, available at New York State Good Guardianship Act\_Press Release.pdf.
10. Momentum Builds in Albany as the New York State Good Guardianship Act Advances, February 9, 2026, available at Momentum Builds in Albany as the New York State Good Guardianship Act Advances | Project Guardianship.
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12. Statement of U.S. Departments of Labor, Health and Human Services, and the Treasury, May 15, 2025, available at may-15-2025-statement-regarding-enforcement-of-the-final-rule-on-requirements-related-to-mhpaea.pdf.
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18. Id.
19. Shabna Ummer-Hashim, AI Chatbot Lawsuits and Teen Mental Health, October 27, 2025, available at AI Chatbot Lawsuits and Teen Mental Health.
20. Id.
21. Digital Health Advisory Committee (DHAC) Executive Summary, Generative Artificial Intelligence-Enabled Digital Mental Health Medical Devices, U.S. FDA, November 6, 2025, available at dhac\_november\_6\_2025\_executive\_summary\_fda.pdf.









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**May is National Mental Health Awareness Month, and the first week of the month is Lawyers Well-being Week.**

TO BUILD OVERALL WELL-BEING, LAWYERS AND LEGAL INDUSTRY PROFESSIONALS SHOULD TAKE STEPS TO ENSURE A BALANCE IN EACH DIMENSION OF THEIR LIVES.

 <b>EMOTIONAL</b>	 <b>INTELLECTUAL</b>	 <b>OCCUPATIONAL</b>	 <b>PHYSICAL</b>	 <b>SPIRITUAL</b>	 <b>SOCIAL</b>
<p>Develop ability to identify and manage emotions to support mental health, achieve goals, and inform decisions</p> <ul style="list-style-type: none"> <li>Seek help for mental health when needed</li> <li>Manage stress effectively</li> <li>Express feelings in healthy ways</li> <li>Build resilience and coping skills</li> </ul>	<p>Pursue creative or intellectually challenging activities that foster ongoing development</p> <ul style="list-style-type: none"> <li>Engage in continuous learning</li> <li>Seek new knowledge</li> <li>Challenge your mind</li> <li>Think critically and creatively</li> </ul>	<p>Personal satisfaction, growth and enrichment at work enhances overall wellness</p> <ul style="list-style-type: none"> <li>Celebrate small wins</li> <li>Practice healthy work/life balance</li> <li>Delegate work when appropriate</li> </ul>	<p>Taking care of your body improves overall health</p> <ul style="list-style-type: none"> <li>Get adequate sleep</li> <li>Nourish your body</li> <li>Participate in regular physical activity</li> <li>Limit addictive substances</li> </ul>	<p>Develop a sense of meaningfulness and purpose in all aspects of life.</p> <ul style="list-style-type: none"> <li>Connect actions to a deeper sense of purpose</li> <li>Reflect regularly on values and beliefs</li> <li>Practice gratitude and mindfulness</li> <li>Seek meaning through relationships</li> <li>Cultivate inner peace</li> </ul>	<p>Develop connections, a sense of belonging, and a reliable support network.</p> <ul style="list-style-type: none"> <li>Contribute to groups and communities</li> <li>Build meaningful relationships</li> <li>Stay connected with others</li> <li>Give and receive support</li> <li>Engage in community activities</li> </ul>

LAWYERS NEED TO TAKE CARE OF THEMSELVES SO THAT THEY ARE BETTER ABLE TO TAKE CARE OF THEIR CLIENTS AND THEIR PRACTICE.

LAP provides several opportunities to improve well-being. Feel free to join LAP's Counselors Connect or ADHD support groups, participate in the LAP Annual Walkathon on June 6, or attend a LAP Wellness workshop. Reach out to LAP for more info.

FREE CONFIDENTIAL HELP AVAILABLE (516) 512-2618 LAP@NASSAUBAR.ORG

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