



## Psychiatry & Behavioral Science Section - 2016

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### I45 Hypnosis in the Court Room

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After attending this presentation, attendees will be aware of the application of hypnosis in the court room and its scientific and legal status.

This presentation will impact the forensic science community by providing legal and clinical information about this controversial technique used to bring evidence during a trial.

Hypnosis is a technique which has been practiced by mental health professionals for more than a century. It has been used in the diagnosis and treatment of a variety of psychiatric disorders, particularly those with an element of unconscious behavior or "automatism" (e.g., Dissociative Identity Disorder). Hypnosis is considered an induced state of consciousness requiring a degree of suggestibility and has been used in the courts to obtain evidence related to states of "automaticity" as well as to "recover" previously unavailable memories. Another controversial aspect of hypnosis is its implication in crimes in which the accused declares that his behavior was induced by hypnosis and therefore he did not have any control over it, raising a potential non-criminally responsible defense. This aspect continues to be debated, with some experts arguing that the criminal behavior happened in an "automatic" state, whereas other experts consider there is insufficient scientific evidence to support that hypnosis sufficiently alters the mind of an individual to thereby deprive him of his conscious volition. A similar issue arises in the case of Dissociative Identity Disorder, the theoretical basis of which is similar to hypnosis, although one is considered as a therapeutic technique and the other as a disease of the mind. The concept of dissociation, originally developed by Pierre Janet in the 19<sup>th</sup> century, will be examined with particular regard to its relationship to hypnosis.

The role of hypnosis in the courts has been a source of much controversy and, in recent years, many jurisdictions have come to exclude such evidence. For example, in 2007, the Supreme Court of Canada decided to no longer recognize hypnotically based evidence in the courtroom. This presentation will review many of the key Canadian and United States cases which have led to the current view of hypnosis in the courts.

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**Trial, Hypnosis, Evidence**