Discussion Questions

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Q1. **Diagnosis vs. doctrine.** The Bergink consensus would make postpartum psychosis a distinct diagnosis with a 12-week window. *McHoul* asks about capacity, not diagnosis. Would the new label change anything in a courtroom, or only in the clinic? I.e. is diagnosis sufficient in the law?

Q2. **Lucid conduct as proof.** Under *Lawson*, the Commonwealth can prove responsibility through planning and rational conduct. Periods of lucidity can be used as evidence. Spinelli (reading 3) warns that patients can appear well between psychotic episodes, and Clancy's ex-husband said the day of the killings was "one of her best days." Should the law treat apparent lucidity as evidence of capacity in a waxing-and-waning illness?

Q3. **Sufficiency and retrial.** If six experts agree she was mentally ill, can conduct evidence alone let a rational jury find capacity beyond a reasonable doubt? *Kostka*lets jurors reject experts but also lets them discount examinations done long after the crime. Under *Berry*, the answer decides whether she can be retried - i.e. if evidence is insufficient, then she cannot be retried due to double jeopardy attaching.

Q4. **The chart as a witness.** The prosecution used Clancy's own disclosures to providers to argue she concealed symptoms, and the defense used the same chart to argue she was overmedicated and misdiagnosed. What should clinicians document when a postpartum patient reports intrusive thoughts, knowing the chart may be read to a jury? What if we know that privilege is weaker than patients may assume (once she raises her mental state as a defense, those notes largely become evidence)?

Q5. **Room for reform?** Illinois (Public Act 100-0574, 2018) lets courts consider postpartum depression or psychosis as a mitigating factor at sentencing. England's Infanticide Act 1938 creates a lesser offense for a mother who kills her child under 12 months old. Should Massachusetts adopt either approach?