James B. Gottstein, an Alaska lawyer who has been involved with mental health issues for 20 years, says that the use of legal force to compel unwilling patients into locked psychiatric hospitals and, force brain damaging drugs and other brain damaging treatments such as Electroshock on them over their desperate, but hopeless objections is widespread.

He says that the scientific basis for these forced treatments is apparently non-existent, and they are permanently damaging hundreds of thousands, if not millions, of people. No other field of medicine allows this sort of forced treatment and more revealing perhaps, in no other field of medicine do the doctors need to obtain court orders in order to obtain and retain patients. He adds that a Catch-22's for the patient is that the courts have not only abdicated to "professionals" their responsibility to protect the rights of people coming before them, but also condones perjury in furtherance of this abdication.

This outright disregard of the law, he says, is done in the name of "we know what is right for the person" and therefore it is okay to ignore the law

There is a growing revolt among principled psychiatrists over the abuses of forced psychiatry, he says. It will only be suggested that one should be very skeptical of the validity of a process that relies on lies to achieve its results.

While using different specific language, Gottstein says, most states provide that people can be involuntarily committed to a mental institution if the person is: (1).Mentally ill, and (2).a danger to him/herself or others.

In many states, he says, the dangerousness is supposed to be fairly immediate or "imminent." Also, many states provide that even if the person is not dangerous, he/she can be committed if he/she is unable to take care of him/herself. He says that the U.S. Supreme Court case of Foucha v. Louisiana, in 1992 held that "The State may [in addition to punishment for a crime] also confine a mentally ill person if it shows 'by clear and convincing evidence that the individual is mentally ill and dangerous." In the 2002 case of Kansas v. Crane, he notes, the US Supreme Court reiterated:

"[w]e have consistently upheld such involuntary commitment statutes" when (1) "the confinement takes place pursuant to proper procedures and evidentiary standards," (2) there is a finding of "dangerousness2 either to one's self or to others," and (3) proof of dangerousness is "coupled ... with the proof of some additional factor, such as a 'mental illness' or 'mental abnormality.' "

Gottstein says that the "gravely disabled" (or similar) standard for involuntary commitment is unconstitutional, or at least, he believes, the U.S. Supreme Court has not said it is constitutional.

He says that it appears that that the scientific reliability of diagnosing someone with a mental illness is very questionable. Even more questionable, he says, is the ability to reliably predict dangerousness. Thus, a vigorous attack on the scientific basis of psychiatric (expert) testimony on these elements can be mounted and that attacks can be made on the way that the psychiatrist arrived at his or her opinion. For example, he asks, what was the standard for determining dangerousness? What authoritative work was used that sets the criteria? What level of dangerousness? Gottstein says that the way that most of these commitment orders are obtained is quite simple. They lie about meeting the legal requirements for getting the orders.

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Comment: I do say this, but it seems very stark here.

With respect to the mental illness diagnosis, itself, when a psychiatrist decides that a person has a mental illness and that person disagrees, according to the psychiatrist that disagreement just shows the person lacks "insight" and is in itself proof of the mental illness..

The 1982 Supreme Court decisions of Youngberg v. Romeo, Mills v. Rogers and Rennie v. Klein have been widely accepted as holding that federal constitutional safeguards involving a person's right to refuse psychiatric medications are mostly defined by state law and that federal protection was limited to whether the treatment is "a substantial departure from accepted professional judgment, practice or standards."

Gottstein says that the Professional Judgment standard never was supposed to apply to forced medication cases for the moment, it is probably reasonable to assume that contests over forced medication will largely take place, or at least begin in state courts for the time being.

Under the "professional judgment" standard, he says, if scientifically invalid pharmacology is "accepted practice" then, it doesn't matter that it is invalid.

Many, if not most of the states, require the psychiatrist to accurately describe the potential dangers of the medications they are proposing. Then, there is the psychiatric practice of lying in the courts.

He notes that psychiatrists, with the full understanding and tacit permission of the trial judges, regularly lie in court to obtain involuntary commitment and forced medication orders:

> [C]ourts, he says, accept . . . testimonial dishonesty, . . . specifically where witnesses, especially expert witnesses, show a "high propensity to purposely distort their testimony in order to achieve desired ends."
>
> Experts, he notes on his web site, frequently . . . and openly subvert statutory and case law criteria that impose rigorous behavioral standards as predicates for commitment . . .
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> This combination, he says, helps define a system in which (1) dishonest testimony is often regularly (and unthinkingly) accepted; (2) statutory and case law standards are frequently subverted; and (3) insurmountable barriers are raised to insure that the allegedly "therapeutically correct" social end is met In short, the mental disability law system often deprives individuals of liberty disingenuously and upon bases that have no relationship to case law or to statutes.

The psychiatrists involved, he says, explicitly acknowledge that they regularly lie to the courts in order to obtain forced treatment orders.

He says it would probably be difficult to find any American Psychiatrist working with the mentally ill who has not, at a minimum exaggerated the dangerousness of a mentally ill person's behavior to obtain a judicial order for commitment.

Dr Torrey, E. Fuller writes that this lying to the courts is a good thing. Torrey also quotes Psychiatrist Paul Applebaum as saying when "confronted with psychotic persons who might well benefit from treatment, and who would certainly suffer without it, mental health professionals and judges alike were reluctant to comply with the law," noting that in "'the dominance of the commonsense model,' the laws are sometimes simply disregarded."

The part of the Revised Code of Washington dealing with mental illness (Title 71) says that persons suffering from a mental disorder may not be involuntarily committed for treatment of such disorder except as allowed

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Comment: I said that someone else has suggested this. I haven't gotten into it deeply enough (yet) to form my own opinion on the issue.

Comment: This is a little garbled too, no doubt because my article is not clear. The point I was making is that the U.S. Supreme Court has been interpreted to say two things that seem questionable. One of them is that federal rights are defined by state law. The point here is that even if that ultimately turns out not to be true, it is most likely that the cases are going to occur in state courts based on state law.

Comment: Later I point out that this doesn't make any sense and could be attacked on that basis.

Comment: This is a quote from one of Michael Perlin's Law Review Articles

Comment: This is also from Perlin's Law Review Article

Comment: This is a quote Torrey, E. Fuller's 1997 book *Out of the Shadows: Confronting America's Mental Illness Crisis*

by state law or court ordered evaluation and treatment not to exceed 90 days pending a criminal trial or sentencing..

When they are held involuntarily, hospitals are supposed to consider prior mental history.

The law says that its intent is (1) to prevent inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment; (2) to provide prompt evaluation and timely and appropriate treatment of persons with serious mental disorders; (3) to safeguard individual rights; (4) to provide continuity of care for persons with serious mental disorders; (5) to encourage the full use of all existing agencies; professional personnel, and public funds to prevent duplication of services and unnecessary expenditures; (6) to encourage, whenever appropriate, that services be provided within the community and 7) to protect the public safety.

In 1998, the Legislature added: "It is the intent of the Legislature to: (1) clarify that it is the nature of a person's current conduct, current mental condition, history and likelihood of committing future acts that pose a threat to public safety or himself or herself, rather than simple categorization of offenses, that should determine treatment procedures and level; (2) improve and clarify the sharing of information between the mental health and criminal justice systems; and (3) provide additional opportunities for mental health treatment for persons whose conduct threatens himself or herself, or threatens public safety and has led to contact with the criminal justice system.2

The law further states the intent of the Legislature to enhance continuity of care for persons with serious mental disorders that can be controled or stabilized in a less restrictive alternative commitment and 3to encourage appropriate interventions at a point when there is the best opportunity to restore the person to or maintain satisfactory functioning.