

Law Project for Psychiatric Rights v. State of Alaska ([3AN 08-10115 CI](#))

Questions and Answers

by [Jim Gottstein](#)

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Q. Why did PsychRights file this lawsuit?

A. The State of Alaska, through various agencies, is improperly giving a very high percentage of children and youth in foster care very harmful psychiatric drugs and Medicaid is also paying to give a lot of these drugs to poor and disadvantaged children and youth. The massive overdrugging of America's children and youth with these drugs is an unfolding national horror, not generally known. We think children and youth have the right not to be harmed this way and that is why PsychRights filed the lawsuit.

Q. What, specifically are you asking for?

A. An injunction against the State from giving or paying for these drugs to children and youth without proper consideration, including that less harmful approaches have been tried and failed. Specifically we are asking for a court order prohibiting the State from giving or paying for these drugs to be given to Alaskan children and youth unless and until:

- (i) evidence-based psychosocial interventions have been exhausted,
- (ii) rationally anticipated benefits of psychotropic drug treatment outweigh the risks,
- (iii) the person or entity authorizing administration of the drug(s) is fully informed, and
- (iv) close monitoring of, and appropriate means of responding to, treatment emergent effects are in place,

Q PsychRights' [Complaint](#) paints a horrible picture regarding the harm caused by these drugs and their lack of effectiveness. How can this be true?

A. I know it seems hard to believe, which is a big reason why the Complaint is so long. I could have filed what is known as a "Notice Pleading," which is very bare bones, but I felt we had to lay it out chapter and verse. 90% or more of the scientific allegations comes from [Critical ThinkRx](#), which was developed under a grant from the Attorneys General Consumer and Prescriber Grant Program that the Alaska Attorney General is a member. The short answer is that the pharmaceutical companies have lied about these drugs, including the ways they communicate to doctors and the doctors have allowed themselves to be misled. This includes the drug companies paying "Key Opinion Leaders" to propagate erroneous information in journal articles and medical education programs. Some of this has even been covered in the mainstream since we filed the lawsuit.¹ Also, the FDA, as currently configured, is not protecting the public. We go into this on pages 14 through 20 of the [Complaint](#).

¹ See, e.g., [Top Psychiatrist Didn't Report Drug Makers' Pay](#), New York Times, October 4, 2008; [Popular Radio Host Has Drug Company Ties](#), New York Times, November 22, 2008;

- Q. Do you have any idea what percentage of Alaskan children and youth in foster care are being given these drugs? I have been [asking that question since 2004](#), and have never been given a straight answer. By all accounts the State is not even keeping track and this is something we will seek to find out in discovery. Other states that have looked at it have found extremely high drugging rates. [Texas 60%](#), [Massachusetts 66%](#), [Florida 50%](#). It is absurd to think all these children have "mental illness." They are being drugged because they are upset and bothering people.
- Q. I notice that in all your e-mails and letters you talk about children in state custody, but the Complaint includes "paying for" the drugs. Why the change?
- A. In thinking about it, in addition to the children and youth in State custody being harmed by these drugs without any countervailing benefit, there are a lot of children and youth on Medicaid who are also being harmed. The State also shouldn't be paying to harm children and youth even if they aren't in foster care so we added it to the [Complaint](#).
- Q. In PsychRights' initial [News Release](#), you are quoted as saying, "It is outrageous that the Commissioner of the Department of Health and Services wanted to talk with PsychRights about what might be done to avoid the lawsuit, but wasn't allowed to do so by the Attorney General's Office." What is that about?
- A. I ran into the Commissioner of Alaska's Department of Health and Social Services a couple of weeks before filing the lawsuit and he said he wanted to talk about reaching a resolution without PsychRights filing the lawsuit. However, under Lawyers' ethical rules I can't talk to the Commissioner, or other officials with decision making authority, unless the Attorney General's Office consents. I asked the Alaska Attorney General's Office for such consent, of course inviting their participation, and they didn't respond² so we were unable to talk before PsychRights filed the lawsuit. However, we were finally able to meet in early January of 2009 to talk about possible settlement.
- Q. What was the outcome of that meeting?
- A. It is not considered proper to talk about what was discussed in settlement meetings, but I encourage people to ask [Commissioner Hogan](#) about the State's response to the improper over-medicating of children and youth under its control.

[Research Center Tied to Drug Company](#), *New York Times*, November 24, 2008; and [Senator Questions Doctors' Ties to Drug Companies](#), *The Dallas Morning News*, September 24, 2008.

² See, [August 20, 2008, e-mail to Assistant Attorney General Stacy Kraly, with a copy to Attorney General Colberg](#); [August 20, 2008, e-mail from Steve Van Goor, Bar Counsel, Alaska Bar Association](#); and [August 22, 2008, e-mail to Assistant Attorney General Stacy Kraly, with a copy to Attorney General Colberg](#).