

## A Human Rights Lawyer's Perspective on the Mental Health System

ISPS-US 13<sup>th</sup> Annual Meeting  
 Making Contact with the Depths: Psychosis as it is Lived  
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1

## Law Project for Psychiatric Rights (PsychRights®)

- Public Interest Law Firm
- Mission: Mount Strategic Litigation Campaign Against Forced Psychiatric Drugging and Electroshock.
- Adopted Drugging of Children & Youth as Priority Few Years Ago

2

## Universal Declaration of Human Rights

- Everyone has the right to life, liberty and security of person.
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- Everyone has the right to freedom of thought
- Everyone has the right to freedom of opinion and expression

United Nations - 1948

3

## Involuntary Commitment Under U.S. Constitution

1. Confinement takes place pursuant to proper procedures and evidentiary standards,
  2. Finding of "dangerousness 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.'
- Kansas v. Crane*, 534 U.S. 407, 409-10, 122 S.Ct. 867, 869 (2002).
- Incapable of surviving safely in freedom. *Cooper v. Oklahoma*, 517 U.S. 348, 116 S.Ct. 1373, 1383 (1996).

4

## Forced Drugging Under U.S. Constitution

### Court Must Conclude:

1. Important governmental interests are at stake,
2. Will significantly further those state interests - substantially unlikely to have side effects that will interfere significantly (with achieving state interest),
3. Necessary to further those interests. The court must find that any alternative, less intrusive treatments are unlikely to achieve substantially the same results, and
4. Medically appropriate, i.e., in the patient's best medical interest in light of his medical condition. The specific kinds of drugs at issue may matter here as elsewhere. Different kinds of antipsychotic drugs may produce different side effects and enjoy different levels of success.

*Sell v. United States*, 539 U.S. 166, 177-8, 123 S.Ct. 2174, 2183 (2003) (Competence to Stand Trial Case).

5

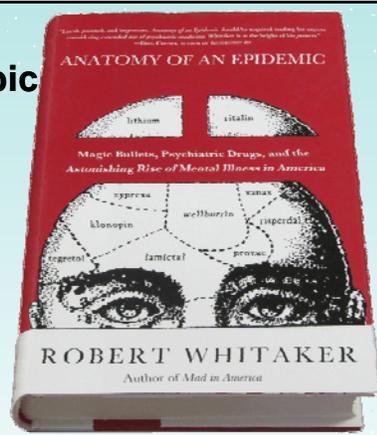
## Rights of Foster Children Under US Constitution

- Under the Fourteenth Amendment to the Constitution of the United States, children and youth in state custody have the right to be protected by and not harmed by the state.

[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs-e.g., food, clothing, shelter, medical care, and reasonable safety-it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause

*DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249, 57 USLW 4218 (1989)

## Psychotropic Drugs: Adults



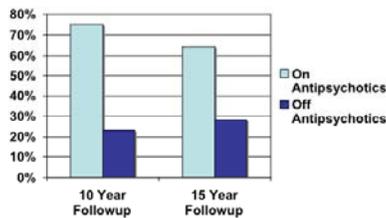
7

## While Some People find Neuroleptics Helpful, They Are:

- Causing Massive Amount of Harm
- Substantially Responsible for Cutting Life Spans by 25 Years on Average
- Cutting the Recovery Rate At Least in Half
- Substantially the Cause of the 6-fold Increase in Mental Illness Disability Rate
- Hugely and Unnecessarily Expensive
- Inflicting Tremendous Unnecessary Human Toll

8

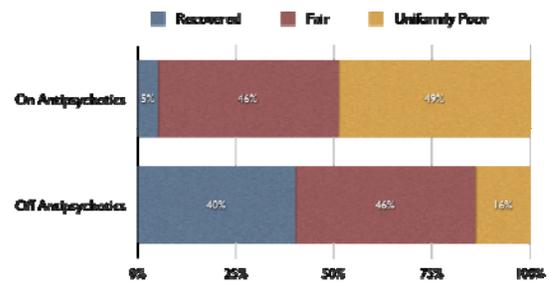
## Psychotic Symptoms



The schizophrenia patients who stayed on antipsychotics long-term were much more likely to continue to suffer from psychotic symptoms. Source: Martin Harrow and Thomas Jobe. "Factors Involved in Outcome and Recovery in Schizophrenia Patients Not on Antipsychotic Medications: A 15-year Multifollow-up Study." *The Journal of Nervous and Mental Disease*, 195 (2007):406-414.

9

## Spectrum of Outcomes in Harrow's Study



Source: Harrow M. "Factors involved in outcome and recovery in schizophrenia patients not on antipsychotic medications." *Journal of Nervous and Mental Disease* 195 (2007):406-14.

## NIMH Withdrawal Studies

Chlorpromazine dosage (before withdrawal)	Number of patients	Relapsed	Percentage
Placebo	30	2	7%
Under 300 mg.	99	23	23%
300 to 500 mg.	91	47	52%
Over 500 mg.	81	63	65%

In these two studies, there was a group of schizophrenia patients who weren't on antipsychotic medication at the start (the placebo group). The patients on chlorpromazine at the start were then withdrawn from the drug. The results indicated that exposure to drug heightened a patient's biological vulnerability to relapse. Source: Prien, R. "Discontinuation of chemotherapy for chronic schizophrenics."  *Hosp Community Psychiatry* 22 (1971):20-3.

11

## SSRI Antidepressants

- Increase Suicidality & Violence
- Addictive
- Mostly No Better than Placebo
- Lose "effectiveness" over time
- Cause Mania → Bipolar Diagnoses
  - Explosion of "Rapid Cycling Bipolar Disorder"

Source: Brain Disabling Treatments in Psychiatry, Breggin, Springer, 2008; Anatomy of an Epidemic, Whitaker, 2010.

12

### The Transformation of Bipolar Disorder in the Modern Era

	Pre-Lithium Bipolar	Medicated Bipolar Today
Prevalence	1 in 5,000 to 20,000	1 in 20 to 50
Good long-term functional outcomes	75% to 90%	33%
Symptom course	Time-limited acute episodes of mania and major depression with recovery to euthymia and a favorable functional adaptation between episodes	Slow or incomplete recovery from acute episodes, continued risk of recurrences, and sustained morbidity over time
Cognitive function	No impairment between episodes or long-term impairment	Impairment even between episodes; long-term impairment in many cognitive domains; impairment is similar to what is observed in medicated schizophrenia

This information is drawn from multiple sources. See in particular Huxley, N. "Disability and its treatment in bipolar disorder patients." *Bipolar Disorders* 9 (2007): 183-96.

13

## Anticonvulsants Misbranded as Mood Stabilizers

- o Can Cause:
  - Hostility, Aggression, Depression & Confusion
  - Liver Failure
  - Fatal pancreatitis
  - Severe & lethal skin disorders
- o May Cause
  - Mild cognitive impairment with chronic use

Source: Brain Disabling Treatments in Psychiatry, Breggin, Springer, 2008

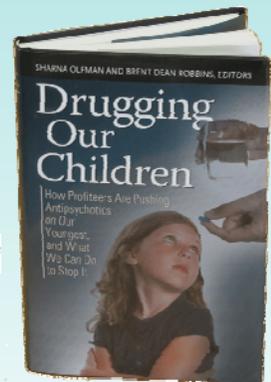
14

## Benzodiazepines

- o Effective for only a few weeks
- o Highly Addictive
  - Some People Simply Can Not Get Off Them
- o Can cause mania
- o Can cause violence

15

## Psychotropic Drugs: Children & Youth



Critical Think Rx A prescription for critical thinking about psychotropic medications

## Children & Youth Without Any Credible Scientific Support:

- o 1 in 7 on some kind of psychotropic drug(s)
- o No long term stimulant benefit; short term benefit mainly for adults
- o Prozac Boys Study: 23% developed manic like symptoms; 19% more drug induced hostility
  - Bipolar Rate soars – Harvard's Joseph Biederman
    - From close to none in 1995 to 800,000 by 2003
    - Then come the neuroleptics & anticonvulsants misbranded as mood stabilizers.
- o A little Over 1% Now on Neuroleptics, even some six month olds. From < 50,000 in 1987 to 4. 4 Million in 2006.
- o Child MH Disability Rate Soars from Essentially Zero in 1987 to 600,000 by 2007.

17

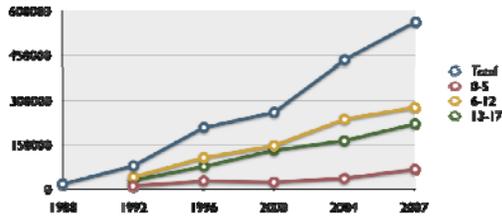
## Why?

- o Drug Companies Targeted Children & Youth Market
- o Many Financial Incentives to Drug Poor Children & Youth (On Medicaid)
  - Schools
  - Foster Parents
  - Psychiatrists
- o Disempowered parents
  - God Help Foster Children & Youth

18

## Psychiatric Drugs & Children: A Monumental Disaster

Children on SSI Disability Due to Mental Illness



Prior to 1992, the government's SSI reports did not break down recipients into subgroups by age. Source: Social Security Administration reports, 1988-2007.

## Adverse Effects From ADHD Medications

- **Physical:** Drowsiness, appetite loss, lethargy, insomnia, headaches, abdominal pain, motor abnormalities, tics, jaw clenching, skin problems, liver disorders, weight loss, growth suppression, hypertension, and sudden cardiac death.
- **Emotional:** Depression, apathy, a general dullness, mood swings, crying jags, irritability, anxiety, and a sense of hostility from the world.
- **Psychiatric:** Obsessive-compulsive symptoms, mania, paranoia, psychotic episodes, and hallucinations.

## Adverse Effects of SSRIs in Children

- **Physical:** Insomnia, sexual dysfunction, headaches, gastrointestinal problems, dizziness, tremors, nervousness, muscle cramps, muscle weakness, seizures, and akathisia (associated with increased risk of suicide).
- **Emotional/Psychiatric:** Psychosis, mania, behavioral toxicity, panic attacks, anxiety, apathy, an emotional dulling. Also, doubling of risk of suicidal acts.

## Adverse Effects From ADHD Medications

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- **Psychiatric:** Obsessive-compulsive symptoms, mania, paranoia, psychotic episodes, and hallucinations.

## Iatrogenic Pathways to Bipolar Diagnosis

### Stimulants → Bipolar Diagnosis

- In Canadian study, six percent of ADHD children treated with stimulants for average of 21 months developed psychotic symptoms.
- In a study of 195 bipolar children, Demitri Papolos found that 65% had "hypomanic, manic and aggressive reactions to stimulant medications."
- University of Cincinnati reported that 21 of 34 adolescent patients hospitalized for mania had been on stimulants "prior to the onset of an affective episode."

Source: Cherland, "Psychotic side effects of psychostimulants," *Canadian Journal of Psychiatry* 44 (1999):811-13. Papolos, "Bipolar disorder, co-occurring conditions, and the need for extreme caution before initiating drug treatment," *Bipolar Child Newsletter* 1 (Nov. 1999). DeBello, "Prior stimulant treatment in adolescents with bipolar disorder," *Bipolar Disorders* 3 (2001):53-67.

### Antidepressants → Bipolar Diagnosis

- In first pediatric trial of Prozac, 6% of treated children suffered a manic episode; none in placebo group.
- Harvard University researchers find that 25% of children treated for depression convert to bipolar within four years.
- Washington University researchers report that within 10 years, 50% of prepubertal children treated for depression convert to bipolar illness.

Source: Emalie, "A double-blind, randomized, placebo-controlled trial of fluoxetine in children and adolescents with depression," *Arch of General Psychiatry* 54 (1997):1031-37. Martin, "Age effects on antidepressant-induced manic conversion," *Arch of Pediatrics & Adolescent Medicine* 158 (2004):773-80. Faedda, "Pediatric onset bipolar disorder," *Harvard Review of Psychiatry* 3 (1995): 171-95. Geier, "Bipolar disorder as prospective follow-up of adults who had prepubertal major depressive disorder," *Amer J of Psychiatry* 158 (2001):125-7.

## Adverse Effects With Atypicals

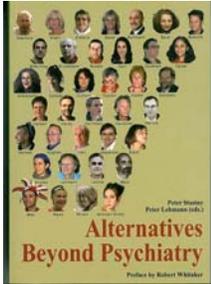
- Psychosis.
- University of Maryland: Nine percent of children treated with antipsychotics for median time of 484 days developed tardive dyskinesia.
- Brain shrinkage and cognitive decline long-term.
- Metabolic dysfunction, obesity, type-II diabetes, hormonal abnormalities, movement disorders, cardiovascular problems, emotional blunting, sedation, and cognitive problems. Adverse events worse in children and adolescents than in adults.
- Early death

## Summary of Long-term Worries With Psychotropics in Children and Youth

- Increased risk of disability (bipolar pathway)
- Physical ailments
- Emotional lethargy
- Cognitive decline
- Early death

## Solutions Are Many (Adults)

- Psychosocial Approaches
  - ISPS
  - Hearing Voices Network
  - Soteria
  - Open Dialogue
  - Peer Directed
  - Strategic Therapy
  - Etc.



26

## Hearing Voices Network:

- Question is not “what is wrong with you?,” but “what happened to you?”
- Help People Deal with Voices
- Similar Approach for Unusual Beliefs

27

### Five-Year Outcomes for First-Episode Psychotic Patients in Finnish Western Lapland Treated with Open-Dialogue Therapy

Patients (N=75)	
Schizophrenia (N=30)	
Other psychotic disorders (N=45)	
Antipsychotic use	
Never exposed to antipsychotics	67%
Occasional use during five years	33%
Ongoing use at end of five years	20%
Psychotic symptoms	
Never relapsed during five years	67%
Asymptomatic at five-year followup	79%
Functional outcomes at five years	
Working or in school	73%
Unemployed	7%
On disability	20%

Source: Seikkula, J. "Five-year experience of first-episode nonaffective psychosis in open-dialogue approach." *Psychotherapy Research* 16 (2006):214-28.

2

## The Soteria Project

**Study**

First-episode schizophrenia patients treated conventionally in a hospital setting with drugs versus treatment in the Soteria House, which was staffed by non-professionals and involved no immediate use of antipsychotic medications. Results are from 1971-1983 cohorts, with 97 patients treated conventionally and 82 patients treated in Soteria House.

**Results**

- At end of six weeks, psychopathology reduced comparably in both groups.
- At end of two years:
  - Soteria patients had better psychopathology scores
  - Soteria patients had fewer hospital readmissions
  - Soteria patients had higher occupational levels
  - Soteria patients were more often living independently or with peers

**Antipsychotic Use in Soteria Patients**

- 76% did not use antipsychotic drugs during first six weeks
- 42% did not use any antipsychotic during two-year study
- Only 19 % regularly maintained on drugs during follow-up period

J Nerv Ment Dis 1999; 187:142-149  
J Nerv Ment Dis 2003; 191: 219-229

### The Long-Term Benefit of Exercise for Depression

Treatment During First Four Months	Percentage of Patients in Remission at End of Four Months	Percentage of Remitted Patients Who Relapsed in Six-Month Followup	Percentage of Patients Depressed at End of Ten Months
Zoloft alone	69%	38%	52%
Zoloft plus exercise therapy	66%	31%	55%
Exercise therapy alone	60%	8%	30%

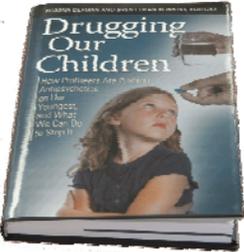
In this study by Duke researchers, older patients with depression were treated for 16 weeks in one of three ways, and then followed for another six months. Patients treated with exercise alone had the lowest rates of relapse during the following six months, and as a group they were much less likely to be suffering from depressive symptoms at the end of 10 months. Source: Babyak, M. "Exercise treatment for major depression." *Psychosomatic Medicine* 62 (2000):633-8, 100-11.

30

● ● ● | **Solutions Are Many**  
(Children & Youth)

**Critical Think Rx** A prescription for critical thinking about psychotropic medications

- Module 8: Evidence-Based Psychosocial Interventions for Childhood Problems
  - Help Parents
  - Help Children & Youth
    - Be Successful
    - Deal with Their Problems



31

● ● ● | **What The Data Dictates**

- Very Selective Use of Psych Drugs
- No Neuroleptics for Children
  - Extremely Limited for Other Drugs
- Other Approaches Work far Better for Most
  - Peers Are Often Far More Effective Than Non-peer Professionals
- No Force

32

● ● ● | **Why? . . .**

. . . Is society taking such a harmful, counterproductive approach?

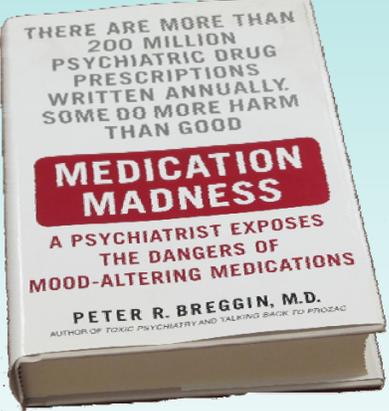
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● ● ● | **Fear and Absolution**

- Fear (Violence Myth)
  - People Diagnosed with Serious Mental Illness no More Prone to Violence
- Absolution
  - By Accepting "Medical Model," No one is Responsible

34

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35

● ● ● | **Other Factors**

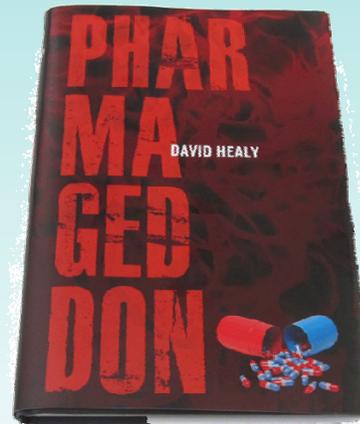
- Social Control
  - It is Not the Thinking, but Disturbing Behavior
- FDA Abdication/Capture by Industry
- Magic Pill/Drug Culture
- Psychiatry's Drive for Legitimacy
- Big Pharma Corruption of Research

36

## Big Pharma Corruption of Research

- Hiding & Spinning Negative Data/Studies
- Ghostwriting
- Publishing Studies Multiple Times
- Placebo Washout-Excluding Negative Data
- LOCF-Last Observation Carried Forward

37



38

## Hiding and Spinning Data



Erick Turner, formerly a reviewer with the FDA, has demonstrated that a third of the studies undertaken to get current antidepressants on the market for adults remain unpublished but even more worryingly a third of those published were studies the FDA regarded as negative but, like Study 329, companies published as positive.<sup>44</sup>

Pharmageddon, page 149

39

## Ghostwriting



Subsequently, in 2003, using the Current Medical Directions portfolio of Zolofit articles noted earlier, I submitted an article to the *British Journal of Psychiatry* on ghostwriting, whose key finding was that a majority of articles that deal with pharmaceutical products in leading journals are likely to be ghostwritten and that these articles do not faithfully report the data on hazards. A clearly nervous journal staff used at least five reviewers (instead of the usual two) and had the revised article re-reviewed—making up to ten reviews. The article was subsequently referred to the journal's legal department and after that the journal's copyeditors pored over the final version for longer than any other article I've ever written. It was finally published after a change in editors.<sup>44</sup>

Pharmageddon, page 122

40

## Publishing Studies Multiple Times



### SCIENCE EX MACHINA

In striking contrast to these publication difficulties, when marketing sertraline (Zoloft), Pfizer's efforts were geared to producing an average of two to three articles per month in significant journals,<sup>30</sup> many of which appear to have been ghostwritten.<sup>31</sup> In the case of the three leading SSRIs combined, this would mean six to nine articles per month—two per week. In the case of Lilly's Zyprexa, the four clinical trials that brought this drug on the market gave rise to 234 publications, all advocating the efficacy of the compound with none containing data on the increases in glucose or cholesterol levels or rates of suicide found in these trials that have since become the subject of legal actions.<sup>32</sup>

Pharmageddon, page 125

41

## Cooking the Data: Placebo Washout-Excluding Dropouts



placebo on this measure, the trial is considered negative. On this basis, the first Emslie study, which started in 1990 but was only published in 1998, was a negative study even though the published article claimed it was a positive study.<sup>33</sup>

A second study published in 2002 was also negative. After the first week of the study, all children who had a bad reaction to Prozac or a good response to placebo were excluded.<sup>34</sup> It is common for a company to load the dice in its favor by excluding anyone who responds to placebo in the initial phase of the trial, but it was almost unheard of at the time to take the extra step and exclude patients who reacted poorly to the experimental drug during the first week of their exposure to it. If they dropped out of the study, they should be counted as dropouts for adverse events, not eliminated from the study calculations entirely.

Pharmageddon, page

42

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## Cooking the Data: Last Observation Carried Forward (LOCF)

43 <http://psychrights.org/States/Alaska/CaseOne/30-Dave/ExH/Grace-Jackson-Zupreca/AlfDavid.pdf>

Psychiatric "Help"

THE DOCTOR WAS:  
 A. FOOLED   
 B. COMPLICIT

44

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## Involuntary System Operates Largely Illegally (Adults)

- Estimate (JG) No More Than 10% of Involuntary Commitments Meet Statutory and Constitutional Requirements
- Doubt Forced Drugging Can Ever Meet the Best Interest/Least Intrusive Alternative Standards
- Violations of Universal Declaration of Rights Rampant
  - Kangaroo Courts; "Public Pretenders"

45

ALASKA  
LAW REVIEW

Volume XXV June 2008 Number 1

Involuntary Commitment and Forced Psychiatric Drugging In the Trial Courts: Rights Violations as a Matter of Course

James B. Gottstein

46

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## Forced Psychiatric Drugging (& hospitalization) Can Constitute Torture

- *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, United Nations General Assembly, July 28, 2008*
  - See, especially, Paragraphs 61-65

47

SECOND EDITION

BRAIN-DISABLING TREATMENTS IN PSYCHIATRY

Drugs, Electroshock, and the Psychopharmaceutical Complex

PETER R. BREGGIN

48

## DeShaney Rights Enforceable Under Federal Civil Rights Law

42 USC § 1983 -- Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

## Drugging Children In Foster Care Largely Illegal

- DeShaney Case:
- Legal Representation is a Sham

## Most Psychiatric Drugging of Children Under Medicaid is Illegal

- [PsychRights' Medicaid Fraud Initiative Against Psychiatric Drugging of Children & Youth](#)

## Most Psych Drugs Given Children & Youth Through Medicaid is Illegal (Fraud)

- Prescriptions are Medicaid Fraud if not for a "medically accepted indication," meaning, one that is either approved by the FDA or "supported by citations" in one of three drug compendia, including DRUGDEX
- Anyone Can Sue On Behalf of Government to Recover for the Fraud and share in the recovery, if any.

## Senate Investigation/GAO Report

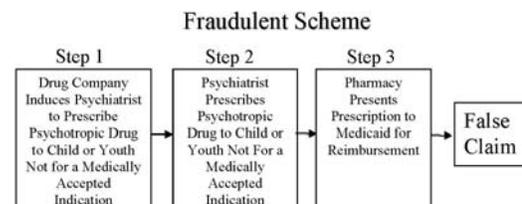
- PsychRights Proposing ([Briefing Paper](#) to Sen. Begich):
  - Announce that outpatient psychotropic drug prescriptions for use in children and youth that are not for medically accepted indications are not covered under Medicaid, and will no longer be reimbursed; except
  - Where abrupt withdrawal from drugs that are not for medically accepted indications can cause serious problems, then allow reimbursement for responsible tapering; and
  - Grant amnesty from False Claims Act liability for all past prescriptions that are not for medically accepted indications.

## \$ Billion Drug Company Settlements Haven't Stopped Psychiatric Drugging of Children & Youth

- \$1.4 Billion Lilly—Zyprexa (2009)
- \$2.3 Billion Pfizer, including Geodon (2009)
- \$520 Million AstraZeneca—Seroquel (2010)
- \$258 Million Janssen—Risperdal (2010)
- \$313 Million Forest Labs—Celexa & Lexapro (2010)
- Cost of doing business.
  - Caps Liability
- Doctors Still Prescribing It
- Medicaid Still Paying

 Centers for Medicare & Medicaid Services

Allowing Steps 2 & 3 of Fraudulent Scheme to Continue



## Medicaid Fraud Initiative

- Designed to Stop Harmful Practice by Causing Doctors (& other defendant classes) to Realize Inviting Financial Ruin if Continue
- Model Complaint
- Cases in Various States
  - 2 Alaska & 1 Illinois Cases Dismissed
  - Wisconsin Case Only Current One Known
- Still Viable Approach

55

## Model Medicaid Fraud Complaint

- Drafted for Former Foster Youth to be *relator*
  - But anyone with “non-public” information can be *relator*
- Defendants:
  - Prescribers & employers
  - Pharmacies

56

## Be Part of the Solution

- Promote & Work In Beneficial Programs
- Refuse to Participate in Harmful Programs/Practices
- Help People Withdraw from the Drugs
- Engage in Public Education
- Help People Escape Psychiatric Force
  - Court Testimony
- Prosecute Medicaid Fraud Cases

57

## Suggested Reading

- *Anatomy of an Epidemic*, by Robert Whitaker (2010).
- *Drugging Our Children*, Sharna Olfman & Brent Robbins, Eds. (2012)
- *Community Mental Health: A Practical Guide* (1994) by Loren Mosher and Lorenzo Burti
- *Psychiatric Drug Withdrawal*, by Peter Breggin, MD (2012)
- *Alternatives Beyond Psychiatry*, Peter Lehman & Peter Stastny, MD, Editors (2007).
- *Pharmageddon*, David Healy, MD (2012)
- *Agnes's Jacket: A Psychologist's Search for the Meaning of Madness*, by Gail Hornstein, PhD, Rodale Books, 2009.
- *Rethinking Psychiatric Drugs: A Guide to Informed Consent*, by Grace E. Jackson, MD, (2005)
- *The Myth of the Chemical Cure*, Joanna Moncrieff, MD (2008)
- *Brain Disabling Treatments in Psychiatry: Drugs, Electroshock, and the Role of the FDA*, Ed. 2 (2008) by Peter Breggin, MD.
- *Mad in America*, by Robert Whitaker (2001)

58

## Suggested Reading (cont.)

- *Soteria: Through Madness to Deliverance*, by Loren Mosher and Voyce Hendrix with Deborah Fort (2004)
- *Psychotherapy of Schizophrenia: The Treatment of Choice* (Jason Aronson, 1996), by Bertram P. Karon and Gary R. Vandenbos
- *Schizophrenia: A Scientific Delusion*, by Mary Boyle, Ph.D. (2002)
- *Let Them Eat Prozac*, by David Healy, MD. (2006).
- *Creating Mental Illness*, by Allan V. Horwitz (2002).
- *Commonsense Rebellion* by Bruce E. Levine (2001)
- *Blaming the Brain : The Truth About Drugs and Mental Health* (1998) by Elliot Valenstein.
- *Escape From Psychiatry*, by Clover (1999)
- *How to Become a Schizophrenic: The Case Against Biological Psychiatry*, 3d Ed., by John Modrow (2003)