

The Elderlaw Forum: May Bipolar Elder Refuse Medication?

by Professor Michael Myers

May an elderly person who has not committed a crime be incarcerated in a mental facility indefinitely unless and until such time he agrees to take drugs prescribed by a state psychiatrist?

And what if the committed person's objection to taking drugs is based upon his allegiance to Christian Science, which professes that ills of the flesh are healed through prayer and faith in God rather than traditional medicine?

Or, what if the person objects on the grounds that the drugs are the equivalent of a chemical lobotomy and cause greater anxiety and depression, not less?

Those were the issues presented to the USD Senior Legal Helpline by a 65-year-old man who called from a Vermont mental hospital, to which he had been involuntarily committed. "They told me I can't leave this place until I promise to take these damn awful drugs after I return home," said the caller. "They make me feel like a zombie."

In the 1915 landmark case of *Schloendorff v. Society of New York Hospital*, the eminent Justice Cardozo stated: "Every human being of adult years and sound mind has a right to determine what shall be done with his own body." Since his pronouncement, however, 41 states have enacted involuntary commitment statutes authorizing officials to demand that people living in the community take "antipsychotic" drugs.

Mental health therapy in the United States has become a profit center, the byproduct of a financially-rewarding relationship between the American Psychiatric Association and the pharmaceutical industry, according to Roger Whitaker, author of "Mad in America; Bad Science, Bad Medicine and the Enduring Mistreatment of the Mentally Ill."

Whitaker describes psychiatry as "dysfunctional," rooted in the "physical-cause" model holding that anxiety, mood swings, depression and suicidal thoughts are the product of organic or chemical abnormalities within the body. He likes the "Quaker" model better. It relies upon a holistic mind, body and spirit approach.

He concedes that in some cases drug therapy helps, but contends that more often it is destructive, as confirmed in studies of older agents like Thorazine and Haldol, and more recently, in studies of newer drugs such as Zyprexa and Risperdal.

I advised the Vermont patient that the law was against him. Chemical lobotomies are mainstream medicine today, enforced by statutes.

(Pro bono legal information and advice is available to persons 55 and older through the USD Senior Legal Helpline, 1-800-747-189)

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