

# INVOLUNTARY COMMITMENT TO TREATMENT IS AN EFFECTIVE TOOL

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“After a one year drop in 2018, U.S. opioid overdose deaths increased again in 2019, topping 50,000 for the first time according to the CDC.” (Associated Press 10-22-2020) There were 82,000 alcohol related deaths in 2018; they have never been higher. Overdose rates have risen by 30% during the pandemic. 23,000,000 Americans have substance use disorders (SAMHSA). 8,500,000 Americans have a substance use disorder (SUD) and co-occurring mental health disorders. Substance use disorders occur when a recurrent use of a substance causes clinically significant impairment.

Waiting for someone to want to get clean and sober is an ineffective strategy, and sadly, the strategy of families who are confused, exhausted and lack the information to act in the best interests of their loved ones. We can relate. However, too many people are dying to sit idly by.

Dr. McLean Bolton, the chief research scientist for neuronal disorders at the Max Planck Institute for Neuroscience in Jupiter, Florida (“MPFI”) advises that substance use disorder is a major disorder of the individual’s neurons. The brain of the addicted individual has been hijacked by the demands of the dopamine receptors in the nucleus accumbens and the ventral tegmental area craving more and more of the substance which creates dopamine (brain reward pathway). Repeated exposure to substances changes the way nerve cells in the nucleus accumbens communicate with the prefrontal cortex. The neural wiring between the nucleus accumbens and the executive decision-making part of the brain (frontal cortex) is radically altered so that the individual will forgo eating, sleeping, parenting children, employment, self-care, etc. in order for the dopamine receptors to be satisfied. In essence, the pre-frontal cortex becomes the servant of the nucleus accumbens, and will do anything to protect its process. This is the basis for the process of denial, minimizing, discounting, lying and other responses of the

individual to families who ask/beg the person to stop. The **family** must use their pre-frontal cortices in place of the loved one's because that person is unable to make sound decisions. We know that substance use disorder is often a family disease. Many times, it is difficult for families who have been affected by their loved one's substance abuse to act logically and rationally. Explaining the brain science to families is often helpful in their decision-making process when they are deciding on help for their impaired loved one.

So, what should a family do when faced with a loved one who is abusing substances, and who is out of control?

The first step is to understand that the family is dealing with an active disease process that does not resolve itself without intervention and treatment. Treatment **must** occur, or nothing changes.

Commentators have suggested that the death rates among folks with SUDs are so high that we need a form of benign paternalism to require these folks to get treatment. We cannot sit idly by any longer.

The evidence seems to strongly suggest that the highest success rates come from a combination of long term treatment coupled with internal and external constraints. We know that treatment works, and more treatment works better.

Principles established by the National Institute on Drug Abuse inform us that: 1.) the threshold of significant improvement is reached at about ninety days of treatment; 2.) folks with SUDs and co-occurring mental health disorders must have both disorders treated in an integrated way; and 3.) recovery from SUD is a long term process which frequently requires multiple episodes of treatment.

The HIMS program used by airline pilots reports a very high success rate (more than 80%) for helping airline pilots with SUDs to recover and get back to their jobs. We also know that individuals who have professional licenses tend to do better in treatment outcomes than the general population. Why?

Leverage. "Skin in the Game". If SUD individuals with professional licenses do not do what their licensing bodies require of them in terms of treatment, they face losing their licenses and their livelihood.

Science further informs us that involuntary commitment to treatment is at least as effective, if not more so, than voluntary commitment to treatment.

How does the family of the loved one whose brain has been hijacked get their loved one into treatment?

Several states have laws now which allow loved ones to get court orders requiring the individuals with SUDs to go to treatment and follow treatment protocols, rules and regulations or face going to jail until they comply.

In Florida, the Marchman Act creates "skin in the game" by the entry of a court order for treatment, the violation of which can result in incarceration. We have found that the threat of going to jail is enough to keep the person in treatment.

Legal pressure can increase treatment attendance and improve retention. Individuals under legal pressure tend to have better outcomes than those without that pressure.

The Marchman Act allows for the principles of treatment as described hereinabove to be met. The Court can order the person to treatment for 90 day periods. It can require both substance use treatment and co-occurring mental health disorder treatment. It can be invoked for frequent returns to treatment.

There are some features of the Marchman Act which makes it helpful to use. The process is confidential. There are no court records available to any subsequent employer or school to review. Someone searching the name of the impaired individual will not find that a Marchman Act case ever occurred. There is no Florida residency requirement. As long as the impaired individual is present in the State of Florida for any reason, he/she can be subject to a treatment order. Any single individual with knowledge of the substance abuse may file the petition; it need not be a family member. The process to get an emergency order for assessment and stabilization is extremely quick. The treatment order can be extended for subsequent periods of up to 90 days each.

We have an enormous problem in this country with tens of millions having substance use disorders, and a substantial number having co-occurring mental health disorders. The problem is a disorder of the individual's neurons. Recovery does not happen without the intervention to create leverage upon the individual to go and stay in treatment. The science is clear that involuntary commitment to treatment is at least as effective, if not more so, than voluntary treatment.

*Joe Considine has practiced law in [South Florida](#) since 1983. His practice is limited to Family Law and Addiction related Law including the Marchman Act. Joe has handled more than 2,000 litigation cases in his career, appearing in courts throughout Florida. Joe works with families whose loved ones have substance abuse and mental health problems as an attorney. He lectures throughout Florida on Family Law matter and substance abuse related issues. [www.joeconsidinelaw.com](http://www.joeconsidinelaw.com)*