The Right to Refuse Mental Health Treatment, by Bruce J. Winick (Washington, DC: American Psychological Association, 1997), 427 pp., $59.95.

REVIEWED BY
Stephen M. Marson, Ph.D.

Although Bruce J. Winick does not include a preface in *The Right to Refuse Mental Health Treatment,* it is obvious that the appropriate readership for this monograph includes judges, lawyers (both defense and plaintiff), psychiatrists, psychologists, clinical social workers, and counselors. *The Right to Refuse Mental Health Treatment* can best be described as a comprehensive assessment of the decision-making process regarding involuntary clients, patients and, of course, prisoners. With 20 chapters divided into three sections, it offers a significant contribution both to law and to clinical mental health intervention. The sections include Mental Health Treatment Techniques (seven chapters); Constitutional Limitations on Involuntary Mental Health and Correctional Treatment (eight chapters); and Evaluating and Implementing the Right to Refuse Treatment (four chapters).

Winick is an excellent writer! Regardless of one's discipline (law or mental health), one will find this book a worthwhile asset to one's library.

I can identify only two weaknesses of this impressive monograph. In the first section, "Mental Health Treatment Techniques," Winick writes individual chapters regarding the intrusiveness levels of psychotherapy, behavioralist intervention, psychotropic medications, electroconvulsive therapy, electronic stimulation of the brain, and psychosurgery. These are survey chapters that provide adequate information for those who are *not* mental health professionals. I assume that Winick meant for these chapters to be read by lawyers and judges. However, in surveying the major issues and tenets of behavioral theory (chapter 4), he employs psychoanalytic language. I found myself chuckling as I read this chapter, but

© 1999 by Federal Legal Publications, Inc.

I am well aware that psychoanalytic jargon has entered street language. In short, the author explains behaviorism by employing a psychoanalytic framework. Although mental health professionals may see Winick's explanation as awkward, it might be the most efficient summary for lawyers and judges.

The only glaring weakness of the entire book is chapter 10, "The First Amendment and Mental Health Treatment: Constitutional Protection Against Interference with Mental Processes." This chapter is uncharacteristic of the rest of Winick's writing. It almost sounds written by a different author. In it he strays from the economical writing found elsewhere in this fine book, expanding to two or three sentences what could be said in a few words. In addition, during his discussion of First Amendment case law, he does not adequately extrapolate constitutional concepts to the problem of mental health treatment. Most of the First Amendment constitutional issues are based on inference of case law, but the case law he employs is remote from mental health issues. Thus much of the discussion borders on meaninglessness—at least for mental health professionals. Why could he not analyze case law more congruent to the right to refuse mental health treatment? The answer is simple: Such case law does not exist. Winick did his best; he went overboard. The most serious problem with this chapter is the effect it will have on mental health professionals who read it. I fear they will stop reading at this point. That would be a terrible mistake! On the other hand, I suspect that lawyers, and particularly judges, will find some of Winick's First Amendment insights helpful when they are in the midst of a lawsuit. After reading this chapter, a lawyer is likely to conclude that employing the First Amendment might not be the best avenue to pursue.

The reader should not let these two weaknesses interfere with reading this book. Some legal issues are relevant to a wide variety of mental health strategies. When Winick initially introduces a complex legal concept in one chapter and the same concept must be reintroduced later, he employs one of

two effective strategies: He either writes a summary of his earlier work or he cites where the reader can find more details of the legal concept. This strategy is critically important and useful for this type of book. For example, many people will not read it from cover to cover, but rather choose sections that are needed to achieve a necessary goal for a client. Winick's artful style is particularly beneficial for this type of reader. In addition, the index is excellent! It includes both a "table of authority" (cases) and a subject index. These indexes will be extremely useful for readers seeking to resolve a problem related to involuntary treatment.

Mental health practitioners will be most impressed with the four chapters in Part III. Here Winick systematically evaluates the right to refuse treatment, and he does an exceptional job of synthesizing the ramifications of court-ordered or coerced intervention. Simply stated, involuntary treatment does not work well. Winick's avoidance of mental health jargon is refreshing and, most importantly, provides a rare insight. This was my favorite section of the book. It is directly applicable to the daily work of the clinician. In the end, the reader realizes that mental health research does not process a prototype of a successfully treated involuntary client. Based on Winick's review and synthesis of literature, such a prototype may not be possible, and mental health may need to refocus the direction of involuntary-treatment research. A sound conclusion from Winick's book is that we must begin to study the process by which a client/patient moves from being involuntary to voluntary. In other words, what can a mental health professional do to instill in court-ordered clients a desire to successfully complete treatment? This question sounds reminiscent of Yochelson and Samenow's classic work on the criminal personality. Perhaps we need to revisit and extend Yochelson and Samenow's research.

Although *The Right to Refuse Mental Health Treatment* has some very minor shortcomings, these in no way detract from the major contribution Winick makes. Winick's writing forces

the reader to rethink strategies for the successful treatment of involuntary clients. In the wake of the national attention derived from Williamson's successful malpractice suit in Chapel Hill, North Carolina, I strongly recommend that every academic library own a copy of this book. It is an important reference for graduate and undergraduate mental health programs. Mental health professionals should read it; integrating Winick's ideas will help avoid a malpractice suit. Lawyers will find the book useful in developing a theory to pursue a case, while judges can use it to sift through the concept of intrusiveness. This is an excellent book.