A Blind Horse Upon a Treadmill

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The word *contempt*, in modern usage synonymous with disdain, disrespect, scorn, and condescension, would seem to describe President Obama's feelings for the medical community during the battle over health care reform. His repeated allusions to doctors lining their pockets by providing unnecessary or inappropriate care certainly created a feeling of righteous indignation among physicians, but doctors seemed to have missed the more important, though less apparent, implication of the President's words. In 18th century parlance *contempt* simply connoted something unworthy of serious consideration, something safely disregarded. The "something" in this case would have been organized medicine's advice on how best to improve our health care system. The behavior of the President seems to imply that he found physicians more useful as whipping boys than allies. Contrast this with physicians' own view of their role in this process, as expressed in a statement by then AMA President James Rohack in July 2009: "We know our position at the center of the health-reform debate is both an honor and a serious responsibility." How can we then reconcile these divergent perspectives? If physicians were so central to the process, then why were they misled, insulted and marginalized while their top priorities of Sustainable Growth Rate (SGR) and tort reform went unfulfilled? And given their deprecation by political leaders, why didn't they fight back, publicly oppose the Congressional plan, and attempt to defeat it outright?

Broadly understood, this treatment of physicians demonstrates that the medical profession now lacks the political power to influence events in Washington, and as a consequence no longer can maintain control over the profession of medicine. As physicians have come increasingly under the thumb of government and big business, their ability to practice according to their ethics, education and training, to ensure that patient needs are put first—ahead of profit and political expediency—is being lost. This change threatens the very soul of the profession and provides the impetus to seek a better understanding of why this has happened and what, if anything, can be done to reverse it.

Medicine as a profession was once the most powerful the country had ever seen. Headed by the 600,000-strong AMA, it enjoyed guild-like levels of professional autonomy at the time Medicare was passed. This was reflected in the freedom physicians had to choose and educate future doctors, conduct the research that advanced their varied specialties, control their work environment, and manage their own financial affairs. This is the essence—the *who, what, when, how,* and *how much* of any profession—and physicians had secured it all through a successful relationship with government in which they were valued as a powerful and respected partner. In return, Americans enjoyed the best medical care in the world. The power of the profession at that time is on display in this dramatic point and counterpoint:

From a packed Madison Square Garden in 1963, President Kennedy spoke to the nation urging the passage of legislation creating a federal health care program, the precursor to Medicare. Not allowed to respond that evening, then AMA President Edward Annis had the audacity to rent the Garden the very next night, and, before a sea of empty chairs, warn the public of the skyrocketing costs and government interference in their care that would surely come if the President's plan were approved. The medical profession, supported by the public and confident in its political power, went head to head with a popular President, and won! Little did they know, as they celebrated their victory, just how short-lived it would be. <http://www.youtube.com/watch?v=vFesycofKk4>

Barely two years later, and this time despite their objections, the Medicare Bill was passed, making the Federal government responsible for the medical care of the elderly. As predicted by Dr. Annis, rising costs soon turned a health care system, a national treasure in the private sector (albeit with some notable blemishes), into a financial cancer in the public sector. Venerated before they were sending their bills to Washington, physicians now came under attack from Washington's cost-cutters and their minions in the press. Adulation became accusation as the popularity—and then the power—of the medical profession were systematically undermined by incessant charges, often unsubstantiated, of inferior care and high cost. Once the populace accepted the image of the rich country-club doctor, mistake-prone and unconcerned with the public welfare, then politicians could attack physicians with impunity, knowing that protestations of unfair treatment would fall on unsympathetic public ears. This loss of prestige and public trust weakened the negotiating power of the profession just as the federal government entered a period of massive expansion in size and power.

Over time, physicians came to avoid direct appeals to the people, but rather to rely on the ability of consultants and lobbyists to convince lawmakers that treating physicians fairly was necessary for public welfare. Although not without its successes, this policy reflected—and was limited by—a dearth of real political

power. Lacking a strong base of public support, physicians were simply an elite minority in a democracy, a source of money when budgets were stretched, and dependent for fair treatment on the virtuous behavior of those with real political power.

Now fast-forward from 1963 to 2009: the government is proposing the largest entitlement expansion since Medicare, and physicians will be in the eye of the storm. Public concern grows as details become known. The people not only expect physician opposition, but a sizable majority hope it will tip the scales and force a true bipartisan effort at reform. Polls that confirm the public's profound trust in physicians show an equally profound distrust of government. So energized are their patients that public protests break out in every state. In three major elections Democrats are voted out of long held seats, one in Massachusetts apparently for the express purpose of bringing the whole process to a halt. The stage is set for organized medicine to act.

But Dr. Annis and the AMA of 1963 are long gone, his defense of the principles underlying private sector health care forgotten, the happy symbiosis that once bound the public to its physicians but a distant memory. Rather than oppose government expansion into the private sector, the AMA actually proclaims its support publicly, its leadership working behind the scenes to mitigate the damage, "keeping a seat at the table," physician income its top priority, fearful of alienating those who control that income, praying that the bill will die at the hands of others, but hoping to be justly rewarded for being "team players" should the bill pass. Many try to warn the AMA leadership off this catastrophic strategy, that the real fight is about control and not payment. But this time there will be no partnership with the public, no warning of increased costs, decreased quality, rationing, and government interference in the doctor-patient relationship. Instead, organized medicine is sitting on the sidelines with promises of SGR reform, taking a "recommended with reservations" attitude, "keeping our ammo dry" until long after that ammo is of any use. By refusing to fight a blatant government takeover of the health care system, by failing to join the public and defeat the bill outright, by ignoring strong opposition from the physician community, the AMA failed the profession, and the doctors knew it. Worse, it failed the people, and the people knew it.

Medicine has reached a crossroads. The profession is rapidly being enclosed in what Max Weber called "the iron cage of bureaucratization." Price–controlled, micromanaged and hounded by regulators, the end–game approaches as the Centers for Medicare and Medicaid Services (CMS) moves to control the provision of medical care through its Value Based Purchasing (VBP) program. If physicians continue on this course, then they soon may find themselves unable to function as professionals.

Under our current model of medical professionalism physicians use their specialized education to address, as best they can, the unique problems of every individual. Flexibility, discretion and experience play a key role in the translation of imperfect knowledge into the optimum treatment for each patient. Standards and guidelines, when needed, are developed under the auspices of professional medical organizations, in a democratic fashion, by experts working with the latest medical knowledge and welcoming input from a wide range of sources, including rank and file practitioners. Discretion and flexibility are built in while high sounding but inappropriate notions such as "zero tolerance" are eschewed. As part of the private sector, these organizations can react quickly to changes in medical knowledge so that practice guidelines will remain relevant and useful.

Inside the "iron cage," standards of care are set by government regulators within CMS who also monitor compliance as a condition of payment for services. Expert opinion and scientific knowledge may be sought but only at discretion. The process is slow, not easily adapted to changes in medical knowledge, and far less insulated from those with political or financial agendas. "Zero tolerance" and "equality" are the real standards of care, rules must be followed precisely, documentation perfect, and no one is allowed better care than anyone else. This bureaucratic model is necessarily inferior to professional care because the patient-specific information and medical knowledge available to the bureaucrat cannot be as accurate, up to date, or expertly used as that available to the physician in the room or at the bedside. The danger for medical professionalism and the health of the public is now reaching critical levels because legislators and regulators in Washington now believe they can implement the bureaucratic model. By creating a system to gather the necessary data, they believe that they can control the doctor-patient relationship, improve the quality of care and save money, all at the same time.

Under the rubric of VBP, CMS has created a multi-pronged plan to control the provision of medical care. It begins with the creation of the Personal Health Record. This is the repository of patient-specific health information for every individual, and to which the government will require unfettered access in the name of proving the best care to which each person is entitled. To determine what care is indicated, data is being gathered on current health care practice through the submission, soon to be mandatory, of an ever-growing number of physician and hospital performance measures or "quality indicators." Comparative Effectiveness Research will allow them to prioritize treatments on cost, in theory increasing value by getting the highest "quality" for the lowest cost. The program would be impossible without digitized data, so adoption of the Electronic Health Record (EHR) is of the highest priority. According

to House Speaker Pelosi, 19 billion dollars are being devoted to spur both its adoption by skeptical health care providers and to convince the public that the EHR is key to safety and quality in their medical care. Finally, but just as critical to the success of the project, private sector registries, like the Anesthesia Quality Institute of the American Society of Anesthesiologists, are being "certified" to gather all this data and make it available to CMS in the correct electronic form.

Despite the grand pretences evident in CMS' own description of its plan, it is a delusion to think that lay bureaucrats, or even a centralized panel of expert physicians from academia and professional medical societies, can use these mountains of data to replace the doctor in the room. Biologic diversity and limitations in medical knowledge mean that medicine is still as much art as science, that actual experience in care remains critical to success. The real effect of VBP will be to transform our health care system into one in which the care received is based not on the good of the individual, rather on the "greater good" of the society. When physicians are relegated to serving the "greater good," to satisfy the public's "right" to health care, to be treated as commodities by the government and industry, then they no longer are professionals, but simply, to quote Abraham Lincoln, **"a blind horse upon a treadmill… all the better for being blind, that he could not tread out of place or kick understandingly."**

It may be time for physicians to consider that their professional societies, having failed to protect their interests during health care reform, and having jumped on board the VBP bandwagon, are failing in their primary duty—to preserve the profession as a *profession*. Without power over how they practice and what care they provide, physicians can neither provide the high quality care the public expects, nor fulfill their ethical obligation to put the interests of their patients first, nor keep the details of their patients' health care confidential and treat them as individuals. The causes of this failure are many, but all stem from the federal government's urgent need to control the cost of its promise of unlimited medical care to those in the Medicare program—a pledge that will become all the more difficult when 30 million uninsured are added to the burden. If physicians are to reinvigorate their profession, then they must focus on regaining their professional power, something they will never be able to do so long as they remain economically dependent on the federal government. To change this, they must strive to eliminate federal price controls on physician fees and to regain the right to privately contract with any patient, including those in government programs. Just as importantly, they must work to break the power of CMS over the doctor-patient relationship by supporting legislation to prohibit the federal government from regulating the practice of medicine, a power that by right and tradition belongs to the individual states.

Achieving these goals will be a daunting task, but the alternative is a health care system marked by mediocrity, rationing and the stifling of innovation. With careful preparation, re-education of the public, reform of the Congress, and steadfast determination, a way forward can be found. The time for change is now, while the public is up in arms over the cost and intrusiveness of the federal government. The House of Medicine must join with the people and support those legislators who will help them reign in the federal government, freeing them once again to practice as the professionals they are. Only when such people once again lead this country will America and its medical profession regain their health.

Excerpt from Arthur O. McGowan, M.D., CSA President's Address to the House of Delegates, July, 1987…

"The subject of Medicare physician reimbursement is going to remain a matter of major concern for years to come. The need for hard work by the individuals in our Society and the rest of medicine will continue far into the future. Difficult confrontations lie ahead of us, and we must persist in what we feel is truly right. We must continue to insist that quality health care be available for our patients. Government is treating health care as a commodity, and they are looking solely at the cost. In their desire to spend less, they will squeeze every possible sector to curb costs. This approach leads to shortcuts, cookbook medicine, and decreased quality of care, short-changed patients, and a degradation of American medicine. These are the end results that we must prevent. Hopefully, reasonable men and women will listen to what we have to say. Thus far they have, and we must continue to make this possible."

Hal Scherz, M.D., Wall Street Journal, September 1, 2010…

"Section 1311 of the new health care legislation gives the U.S. Secretary of Health and Human Services and her appointees the power to establish care guidelines that your doctor must abide by or face penalties and fines. In making doctors answerable in the federal bureaucracy this bill effectively makes them government employees and means that you and your doctor are no longer in charge of your health care decisions. This new law politicizes medicine and in my opinion destroys the sanctity of the doctor-patient relationship that makes the American health care system the best in the world…ObamaCare will bring major cost increases, rising insurance premiums, higher taxes, a decline in new medical techniques, a fall-off in the development of miracle drugs as well as rationing by government panels and by bureaucrats."