

Doctors in Wonderland: Will They Shrug?

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Two recent movies are directly applicable to the non-fictional situations in which doctors find themselves today.

Alice in Wonderland was released worldwide in the spring of 2010. Like Alice's adventures, the anecdotal and published accounts of the "curiouser and curiouser" dilemmas health professionals find themselves wandering through are legion. It is obvious that doctors, like Alice, are in a life-and-death struggle in a surrealistic Wonderland environment, a land of Catch-22s and fallacious, but legally enforceable, circular logic generally wielded by non-doctors: third-party administrators, regulators, politicians, attorneys, and law enforcers.

Through the Looking Glass

Malpractice Accusations

All doctors are familiar with the regular occurrences of time-consuming and resource-intensive frivolous liability claims, at times even brought without all of the four common-law required elements of a tort (duty, breach of duty, proximate cause, and damage). Damage is usually present, but often highly questionable, such as a claim for mental suffering without the required physical manifestation of the same, or perhaps a loss of consortium claim for an unmarried plaintiff. That more than 90 percent of malpractice accusations ultimately are decided in favor of the doctor doesn't help restore loss of sleep, loss of time, and loss of resources involved in the successful defense. Even when the doctor prevails, incidents are reportable to carriers, hospitals, and regulatory agencies—forever.

Peer Review

What is reasonable about peer review conducted by less-than-collegial peers, whose salaries are derived from the entity doing the review, be it a hospital, insurance carrier, regulatory agency, or other similar body? It is a singularly daunting task to win an argument with reviewers whose salary depends on a conviction.

Board Certification

Many older doctors are of the generation that worked hard during the first third of their mortal existence, and then validated the successful mastery of enough academic material and technical skill by becoming board certified. Board certification

used to be a singular credential bestowed for a lifetime. Today, board certification is a chimera, a fleeting credential that must be regularly renewed, forever. One can be a most brilliant board-certified doctor one day, and lose that designation the next as regulators, bureaucrats, and board review continuing education providers, seeking to justify their paychecks, step in to decertify good doctors because they choose not to take time and energy from patient care to prove themselves once again.

Patient Records

Formerly, medical records were developed to help the physician give the patient the best care. Nothing more, nothing less. Now, records are filled out according to the dictates of insurance carriers, regulatory agencies, governments, attorneys, and others for their own benefit, and Wonderland-like, ironically, often to the patient's detriment. Patient information, previously considered confidential, has been regularly accessed by many others, including identity thieves, while under the stewardship of such third parties. Sometimes these unethical and illegal breaches are intentional and at times accidental (a predictable by-product of the injudicious rapid implementation of unproven electronic data platforms), but they will continue to occur. Doctors, annually forced to master ridiculous record software and associated coding parameters, are ripe for blame by those looking for scapegoats.

Patient-physician Relationship

The patient-physician relationship used to be sacrosanct. But there are now so many third parties peripheral to, and at times directly between patients and their doctors, that practicing according to the physician's best judgment, with protection of patient confidentiality, is no longer possible except in third-party-free practices. None of these third parties, such as insurers, courts, and governments, acknowledge a moral duty to patients as doctors do.

Healthcare as a "Right"

Religion, assembly, speech, writing, bearing arms, earning a living, and other rights are true liberties that free individuals really possess, preferences they are able to implement at any time. But nowhere is one guaranteed a "right" to force others to go to a certain church, to assemble when directed to, to speak or write what

another wants, to bear arms, or to take someone else's paycheck. Such "rights" for some necessarily violate the rights of others, subjecting them to compulsion not unlike that exercised by slave owners over their slaves. When did the personal right to choose a vigorous lifestyle to maintain one's health, or to seek medical help, morph to the "right" to government-coerced access to doctors?

Universal Healthcare

When are we going to see universal legal care, accounting care, television care, grocery care, or mandated access to governmental regulators and administrators that one can sue personally if results aren't up to expectations? The first three, like medicine, involve personal professional services. Food is more universally necessary than medicine. Regulators and administrators can themselves generate the harm from which many may be seeking relief. Physicians, of course, cannot ethically or legally produce sickness or injury in order to create business for themselves.

Physician Fees

How is it that the government can decide that doctors should not earn more money than it deems correct? The government doesn't determine wages for other professionals. Who would a sick patient really rather see, an independent, financially secure health professional, or an employee who is paid to defer treatment as long as possible?

A Way Back?

Today's physicians are very familiar with the "are you kidding?" concepts above, but few may have pondered ways to escape this bizarre Wonderland.

Doctors might consider the spring 2011 movie, appropriately released on April 15th, as a fitting sequel to *Alice*. The movie, Ayn Rand's *Atlas Shrugged*, will be appreciated by all who believe in the concept of freedom. The last scene is an especially poignant reminder of the value and occasional price of free agency. In that conclusion is displayed the ultimate reaction of an eminently successful entrepreneur who has endured just too much intrusion at the hands of government. He's not a doctor, but the paradigm fits. This entrepreneur decides to take a very long leave of absence, essentially assigning the responsibilities he has successfully and profitably managed for decades to the bureaucrats who have the temerity to presuppose that they have the actual expertise to manage a business simply because they work for the government.

Do physicians ever feel the same as the entrepreneur, tempted to take a very long leave of absence, maybe even pursuing another vocation? This is actually occurring every day in our current political and regulatory environment. The daily reality of spending

most of one's potentially productive time unproductively, for instance by filling out forms that take more time than the diagnoses or treatments being reported, is not fulfilling.

Many doctors are becoming less and less involved in providing care within the "system," opting out in one way or another. Surveys show significant numbers of doctors are dissatisfied. Doctors employed by for-profit entities often feel conflicted in the dictatorial structures they inhabit, at least as far as patient care decisions are concerned.

What type of physician does a patient want to see? That would likely be the one who freely goes to work because he wants to, not because he has to on any level at all. What patient would complain when his doctor is unfettered by financial and/or moral direction from third parties, and makes decisions based solely on the patient's interests? How fortunate one would be to have a doctor in a secure financial position so that if the patient cannot afford to pay reasonable fees for services, professional services can be provided significantly below cost as negotiated between that patient and doctor.

This kind of doctor isn't a chimera; there are some such physicians still practicing today. In today's "entitlement society," aggravated by government and other third-party-saturated arrangements, such doctors are getting harder to find, but they still exist.

Although it's tempting to consider a permanent holiday as in *Atlas*, that option is just not in most doctors' natures. Even a week off here and there is often a significant challenge for those who have a real need to help others seeking relief from pain and suffering and restoration of function. However, the charitable personality trait of doctors may ultimately enable societal and patient harm, if physicians do not defend private medicine against socialized medicine. The gratification of being able to aid others may ultimately be overwhelmed by the consequences of allowing predatory individuals or entities to take advantage of physicians' good will.

Today's doctors need to recognize that they are going to have to extend their scope of practice to address third-party institutional pathology affecting the health professions with the same vigor with which they address their patients' maladies.

Galt's Gulch would not be an option for most, even if it existed. Doctors must not, however, stay in Wonderland, or engage in activities that enable it. They need to seek ways to serve their patients while withdrawing support for the third-party structure and helping to expand the free market.

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