

Student Essay Contest 2018

The student essay contest offered two topics:

1. Is “healthcare” a right? If so, how would this right be implemented and enforced? If not, how would you explain your reasoning to someone who did not agree with your view?

2. Compare and contrast the Oath of Hippocrates with the AMA’s principles of medical ethics or the charter of professionalism, or the oath you took as incoming medical students or will be asked to take upon graduation.

These are the winning essays, announced at the 75th annual meeting in Indianapolis, Ind.

Is “Healthcare” a Right?

Benjamin Emery, M.D.

Engraved on a wall at the Harvard School of Public Health are the words “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being.”

The belief that healthcare is a right is relatively new, provoked by a sense of marginalization existing in the wake of the greatest prosperity the world has ever seen. Practical application of healthcare-for-all is feasible only in a centralized system, being unenforceable in the free market. However, there are several serious philosophical and practical issues.

Rights, endowed by our Creator and owned by virtue of our common humanity, are impervious to time and circumstance. They are more about “freedom from” than a “claim to.” For example, the right to life, liberty, and the pursuit of happiness does not guarantee an outcome, but merely ensures the opportunity to freely pursue one’s own well-being. In contrast, a right to healthcare carries material implications. To refuse life-saving care to a young man bleeding on the street because of his race or social status would be wrong. Furthermore, it is arguably wrong to withhold care because he cannot pay. However, to assign him a right to care passes beyond an ethical obligation between fellow citizens to look out for each other. In direct violation of the principle of private property, a right to healthcare endows individuals with a claim over the physical assets of others, enforced by the state whose duty is to preserve the rights of its citizens.

There is also an issue of financial sustainability. Without individuals caring for their own health, any system would crumble. If patients are not fiscally responsible for the consequences of poor health decisions, central planners must rely on regulations and incentives to direct behavior: eat healthy, exercise, stop smoking. This approach rests on a faulty approximation of human nature, which, without external feedback or an internal moral code, is extraordinarily skilled at circumventing rules for short-term gain. In contrast,

in a free market in which healthcare is a privilege earned, each transaction between physician and payer functions as an intrinsic cost-containment mechanism rewarding personal responsibility.

Third, while healthcare-for-all intends to correct purported injustices, it introduces its own injustices. In a centralized system, a select few must operate with limited knowledge, applying sweeping generalizations to distribute available resources in a streamlined manner. The result is misappropriation of care, based not on merit, but on metrics such as income or Quality Adjusted Life Years (QALYs), and ability to game the system. Rationing is implicit to any system—free-market or otherwise—and no system can ever distribute resources with perfect fairness. However, a centralized, cookie-cutter approach to rationing is far cruder, especially when every individual values health differently. The consequence of misappropriation and abuse of the system is borne by the honest, hardworking taxpayer.

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Physician’s Oaths

Kelley Yuan

“Being present, and connecting with transparency, dignity, and respect. Delivering our very best in all we do, and holding ourselves accountable for results. Performance driven, through the lens of humanity.”

Ringling points of the AMA principles of medical ethics, right?

No, those are words from Starbucks’ core values statement. And they say a lot about how the AMA ethics are written.

The AMA code of ethics is, if anything, thorough and modern. It expands the responsibilities of today’s doctor, nodding to recent developments in research and experimentation, privacy law, and patient advocacy. Doctors are now expected to also advance scientific knowledge, keep educating themselves, educate their patients, and advocate for better health policy. The code even legitimizes doctors’ freedom to choose their patients and practice environments. It is this tighter, crisply outlined, modern nature of the code that people complain is lacking in the Hippocratic Oath.

Yet you can’t blame a fourth-century B.C. document for being out of touch. The Hippocratic Oath emphasizes lifelong loyalty and devotion to the teacher of an older era, marked by close student-mentor apprenticeships that are not part of today’s medical schools. Similarly, the vows to never prescribe deadly drugs, abortive remedies, or a knife’s blade didn’t

foresee the coming of physician-assisted suicide, legalized abortion, and the field of surgery itself.

However, the Hippocratic Oath makes up in heart and essence what it lacks in modernity. It conveys the solemnity of the doctor's duty, and it reaffirms the heavy responsibilities that come with the privilege of helping someone in his weakest and most painful moments. Take, for example, its point on patient privacy. "What I may see or hear in the course of treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself, holding such things shameful to be spoken about." The word choice of centuries past instills the oath with a weight and resolve no contemporary professional standards can match.

The equivalent statement for patient privacy in the AMA code is Principle IV: "A physician shall respect the rights of patients, colleagues, and other health professionals, and should safeguard patient confidences and privacy within the

constraints of the law." In its efforts to be encompassing and semantically accurate, the writing evokes the buzzwords of corporate statements and the liveliness of classroom learning objectives. As it stretches to include the nuances of healthcare provider rights and HIPAA law, the code waters down the dedication to patient privacy so dearly held by the classic oath.

The largest difference between the oath and the code, however, is how strongly they engage the reader. In textbook fashion, the AMA code outlines the duties of "a physician"—an idealized and faceless entity. In contrast, the oath compels the speaker to dedicate herself to the key values of medicine with each "I will." It helps the student make a promise to herself and her future patients to practice medicine honorably, and it cements the student's identity as a true physician upon graduating.

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AAPS PRINCIPLES OF MEDICAL POLICY

Medical care is a professional service, not a right. Rights (as to life, liberty, and property) may be defended by force, if necessary. Professional services are subject to economic laws, such as supply and demand, and are not properly procured by force.

Physicians are professionals. Professionals are agents of their patients or clients, not of corporations, government, insurers, or other entities. Professionals act according to their own best judgment, not government "guidelines," which soon become mandates. Physicians' decisions and procedures cannot be dictated by overseers without destroying their professionalism.

Third-party payment introduces conflicts of interest. Physicians are best paid directly by the recipients of their services. The insurer's contract should be only with subscribers, not with physicians. Patients should pay their physician a mutually agreed-upon fee; the insurer should reimburse the subscriber according to the terms of the contract.

Government regulations reduce access to care. Barriers to market entry, and regulations that impose costs and burdens on the provision of care need to be greatly reduced. Examples include insurance mandates, certificate of need, translation requirements, CLIA regulation of physician office laboratories, HIPAA requirements, FDA restrictions on freedom of speech and physicians' judgment, etc.

Honest, publicly accessible pricing and accounting ("transparency") is essential to controlling costs and optimizing access. Government and other third-party payment or price-

fixing obscures the true value of a service, which can only be determined by a buyer's willingness to pay. The resulting misallocation of resources creates both waste and unavailability of services.

Confidentiality is essential to good medical care. Trust is the foundation of the patient-physician relationship. Patient confidences should be preserved; information should be released only upon patient informed consent, with rare exceptions determined by law and related to credible immediate threats to the safety or health of others.

Physicians should be treated fairly in licensure, peer review, and other proceedings. Physicians should not fear loss of their livelihood or burdensome legal expenses because of baseless accusations, competitors' malice, hospitals' attempts to silence dissent, or refusal to violate their consciences. They should be accorded both procedural and substantive due process. They do not lose the basic rights enjoyed by Americans simply because of their vocation.

Medical insurance should be voluntary. While everyone has the responsibility to pay for goods and services he uses, insurance is not the only or best way to finance medical care. It greatly increases costs and expenditures. The right to decline to buy a product is the ultimate and necessary protection against low quality, overpriced offerings by monopolistic providers.

Coverage is not care. Health plans deny payment and ration care. Their promises are often broken. The only reliable protection against serious shortages and deterioration of quality is the right of patients to use their own money to buy the care of their choice.