

Court, beginning in the 1930s and continuing into the present, and abandonment of their oaths to our Constitution by many members of Congress and several Presidents since FDR have led us into the morass in which we find ourselves today. But all along the way, the people have been complicit. The professionals who saw or should have seen the problem but did nothing about it bear a heavy responsibility.

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## From the Archives

# "Third Party" Interference, the Practice of Medicine, and the Market Economy

James L. Doenges, M.D.

In viewing the prevailing inclination of the economic aspect of medical practice, one cannot fail to wonder at the rate and direction of change and to question the influence of such change upon the practice of medicine and the economy as a whole.

The idea that all change is progress has, to a lamentable degree, been accepted by the general public. Physicians seem prone to reject serious consideration of the eventual results of changes in the economic pattern of medical care. This lack of interest and concern may prove to be a tragedy for the medical profession and our entire economy.

Just as an understanding of the entire problem of each patient is a prerequisite for successful treatment, at least a very limited understanding of certain changes in the general economy is required for a reasonable opinion in the economics of medical practice.

The "trend" we observe today [circa 1959] is neither an isolated nor a new phenomenon. It is part of the picture which has been developing for many years. Its fruition is in the future—but that future appears uncomfortably near.

Behind the trend is more than a century of complex changes. Only recently has the impact of these changes been felt by our profession in this nation.

## Individual Responsibility

Until recently, in our nation, the pattern of economic responsibility had, to a large extent, resided in in the individual, the family, or local charitable institutions. This pattern continued long after the Civil War. We enjoyed freedom from the paternalism, the serfdom and the feudalism of the old world.

Our nation grew and prospered under the system of checks and balances of a limited Federal Government. There was a predominance of religious idealism. Never before had the importance of the individual been admitted by the people of a nation and emphasized so much.

In the thirty years following the Civil War, our nation enjoyed a steadily declining cost of living which encouraged thrift and personal responsibility, as well as an ever increasing quantity of production from our industries operating with limited Federal interference.

During this period, less than 0.1% of our population was in the "poorhouse." Self-sufficiency and family solidarity was the characteristic of the day.

This was not true elsewhere. In Europe, still suffering

from the violence of the French Revolution, the economic as well as the political situation was in an extreme state of readjustment. A great battle was developing between Communism, the established order, and that "house-broken"\* (\*Prof. E. Merrill Root, 1895-1973) version of Communism known as Socialism. The fallacy that Socialism and Communism were conflicting ideologies has continued in the minds of many even to this day.

Marx and his associates had issued the "Manifesto"—a direct threat to the established order. The divided German states were being drawn together by Bismarck, assisted by the Franco-Prussian war and the threat of Socialism (Communism).

Before our great industrial development was well underway, the burgeoning German industrial expansion was fairly well established. In contrast to this development in our nation, the German industrial expansion was given enormous financial assistance through the reparations extracted from France after the Franco-Prussian war. This expansion and these reparations were used by Bismarck to help unify the German States.

However, the Marxian philosophy was a dark cloud on the horizon and Bismarck was well aware of its presence. As reparations diminished a new source of funds was needed. Communism became more of a threat than ever, for instead of the idolatry state which had been fairly well established, Marxian socialism became a real threat to the German Empire.

### **"Socialism" vs. "Socialism"**

This threat produced one of the most amazing reactions conceivable, the development of "Monarchical" Socialism to prevent "Marxian" Socialism. The only difference, in the final analysis, was whether the state or labor should be given credit for the various changes which were taking place, and which should control the people.

Adolf Wagner who occupied the chair of Economics at the University of Berlin "sold" Bismarck on "Social Insurance" as a means of emphasizing the strength and magnanimity of the "State," a purpose to which Bismarck was devoted. Neither, as near as we know, fully appreciated the extent to which the tapping of this new source of money power could benefit the State.

We have not space to discuss the mechanics of the German "Social Insurance." Suffice to say it divided the population into classes according to income (something never done before), taxed the poor more heavily and in so doing produced many unexpected results, provided benefits above and beyond cost and expectation, and eventually played an important part in maintaining "iron clad" control over the entire German population, helped finance World War I and established "Socialized" (Communized) medicine in Germany.

Most European countries followed suit adopting Socialism to combat Communism, the fallacy par excellence of the last hundred years.

Many of these practices were well established in Europe by 1910. Few of them entered the United States prior to that time.

In the early years of this century a series of changes patterned over the European programs developed in this nation. However, even these, for the most part, were voluntary.

### **Sickness Societies to Panels**

Sickness and burial "societies" sprang up in great number. Many went bankrupt, for evident reasons, by 1920. However, by this time "panel" and similar systems of controlled medical practice were well established in Europe.

Although the pattern in our nation has not been rigid and there are many variations, we may outline briefly the changes to the present day as follows.

Early "sickness" insurance contracts were between the patient and the insurance company. Physicians were not involved. These contracts did not introduce the "third party" into the patient-physician relationship but established a separate relationship between the individual and the insurance company completely isolated from the physician.

Soon insurance contracts between the patient and company (including Friendly Societies fraternal organizations and all kinds of Mutual organizations, etc.) began requiring reporting or certification by doctors. Benefits were still paid to the patient.

These programs were followed by others, quite similar in most respects, but having benefits paid to or assignable to the physician or paid to the patient and physician jointly.

The next important step was the addition of fixed fee schedules to the above with schedules accepted by individual physicians, small groups, ("clinics") or entire "societies" (county or state) of physicians.

### **"Service Plan" and "Third Parties"**

This led to "Service Plan" contracts which completely ignore the traditional patient-physician relationship.

During the development of these programs, the government entered the field with similar plans provided by the government for special groups (veterans, dependents of military personnel, certain Social-Security beneficiaries, etc., etc., etc. until they number about 34 million today).

The next step merely requires the addition of other groups (civil servants, more Social Security beneficiaries and dependents, etc.) until the entire population is included. At this point, private insurance, as well as the private practice of medicine, is a thing of the past.

These changes have resulted in rather general acceptance of "third party payer" in the practice of medicine. Some believe, quite erroneously, that the interest, influence, and control of the "third party" can be restricted to the payment of fees. The informed know this is impossible. Regardless, the entrance of a "third party" into the practice of medicine has produced the most serious problem the medical profession must face today. We must face and solve that problem now!

### **Results of "Third Parties"**

What are the inevitable results of the entrance of the "third party" into the field of medicine?

Highest quality medical care cannot survive under any system in which there is "third party" interference. This has been and will be true, always, regardless of the promises of politicians or business men, the misrepresentations of labor union leaders, or the compromises of some in the medical profession.

All are acquainted with the numerous difficulties and objections reported regarding the operation of "third party" National Health Insurance schemes, such as the "red tape"; the innumerable forms which require more time than the patient receives; the sky-rocketing costs with the associated tax increases; the increasing demands for non-essential services and supplies; the abuses which defy elimination; the ever-increasing waiting lists for hospital admissions; the unreasonable delays in every area; the decreasing hospital services; the dissatisfaction among patients, hospital personnel, and physicians; as well as the wasteful operation and other evils to which every bureaucracy is heir. Bureaucratic systems are not confined to governmental agencies. They can and do exist in most businesses, labor unions, and some medical organizations.

These facts alone provide sufficient concrete reasons why government, and other "third party" "health programs" via "insurance" or "service" plans historically result in less satisfactory and inferior quality medical care.

However, there are other and more important factors which make it impossible for medical care supplied through "third party" programs to equal or even approach the quality of medical care supplied through private practice operating under the market economy.

### **The Moral Basis**

The practice of medicine has a moral basis which is much older and of greater importance than is its scientific basis. The ethical practice of medicine involves as much morality as science.

The first principle of liberty is that man has a right to life. If this first principle is accepted, one must accept the second principle; i.e., if man has a right to life he has a right to maintain life. It is in the area of this second principle that medical care enters the picture.

The primary objective of the physician is to assist the patient in his attempt to remain well or to recover his health, if possible; to alleviate suffering; to advise and direct; to counsel; to understand; in short, to try and help the entire individual maintain life and health. Thus, the rendering of medical services to the individual is intimately bound into one of the very first of the basic "Rights" of man.

No ethical physician would claim that he healed the patient's wounds or made the patient well. None can do more than assist the natural processes. If the physician were the final authority, every patient would recover quickly and none would die. No physician can fail to realize his personal limitations. He must admit the existence of a Greater Power. No other profession renders services in this intimate area in which the individual faces life and death. This brings the physician into a more intimate relationship with the patient than exists between the same individual and any other professional person. Complete mutual understanding and confidence is essential and seldom exists outside this area of intimate contact.

That which is in the best interest of the patient is, in the final analysis, in the best interest of medicine. The personal interest of the physician must and does (in most cases) occupy a position of secondary importance.

Some fail to comprehend that "ends" do not justify "means"; and that good "ends" cannot result from evil "means." This confusion has permitted some to espouse causes inimical to the best interests of the patient.

### **Best Interest of the Patient**

The best interest of the patient requires that the individual patient-physician relationship be held inviolate in every area. This includes every contact between the patient and his physician, whether it involves the history, examination and treatment, or the area of compensation for services. Concerted effort is being made and has been made to destroy this personal relationship. These are all part of a complete "unit" and cannot be separated without damaging the entire practice.

One of the most aggressive and dangerous attempts to bring the practice of medicine under "third party" control is found in the present Social Security law with its numerous amendments. Space does not permit discussion of this subject, but every physician would do well to obtain a full understanding of this scheme for in it lies the pattern of destruction of the private practice of medicine.

In the final analysis only two individuals are involved in medical care: the patient, who has chosen the physician to whom he will entrust his care and actually his life, and his physician, who has freely agreed to provide such care. (Due consideration is given to those individuals for whom another acts "in loco parentis.") No other person, no "third party," is required. When any "third party" enters the picture, he is an intruder and can only reduce the uninhibited rapport and confidence which must exist between patient and physician.

The patient-physician relationship is the most intimate in which normally and ordinarily exists outside the immediate family. This relationship is made possible only through an appreciation of the moral responsibility of both individuals. Lacking this relationship, successful medical care is impossible. No one can remove the personal responsibility of each to the other. The areas of responsibility cannot be separated or divided.

Another essential feature of quality medical practice is that the patient is and must be regarded as an individual—a moral being. Individuality is the very basis of the practice of medicine. All medical tradition emphasizes the fact that every patient is an individual, that his ills are singular, and that he must be so regarded and treated. Health and disease are strictly personal matters.

### **Mutual Responsibility**

Personal responsibility, upon which all freedom depends, is another basic essential in the successful practice of medicine. It applies to the patient as well as to the physician.

The patient's responsibility cannot be eliminated or violated. If he withholds information or misrepresents facts to his physician he removes one of the basic requirements for good care. He ties the physician's hands. If the physician does not share the confidence of his patient he cannot treat the patient adequately or properly and his chances of helping are greatly reduced. If the physician disregards the facts, the

patient suffers. Medical care is not a mechanical function!

The history of moral stability has always been the history of personal understanding and assumption of responsibility for one's acts and for the fulfillment of one's needs and desires. Attempts of the individual to delegate his responsibility to the group has always led, and always must lead to moral decay. Responsible physicians cannot condone any scheme for the transfer or division of the basic human responsibility for self-maintenance.

### **Limiting "Freedom of Choice"**

"Third party" medical care always results in control of the patient and the physician by limiting the free choice of the patient in selecting his physician and by interfering with the individual patient-physician relationship. Physicians are frequently classified, not according to ability, but on an arbitrary and unrealistic basis such as membership in certain organizations or other interesting but relatively unimportant details. Experience, results, ability, confidence of patients and personal interest are relegated to a minor position. Physicians are rated by "third party" agencies as to the type of practice they may perform and the type of disorder they may treat.

Freedom of choice is further limited because the services which may be rendered by any classification are controlled and regulated by the "third party."

Freedom of choice is limited by the fact that the tax deduction or the sums withheld to support these "fringe benefit" or "service" programs eliminates, in most cases, the patient's financial ability to seek medical care from other than "third party" physicians. The "third party" taxes all of the group but does not pay benefits if the individual desires to secure services from a physician, who, for good and moral reasons, refuses to work for the "third party." These are usually the "best" physicians.

Under "third party" control, physicians are paid according to classification regardless of whether it is on a fee for services, per capita, panel, hourly, or salary basis. All "third party" programs eventually utilize the principle of "fixed fees." The amount of the fee or type is totally unimportant; after all, the "third party" can change it at any time! The effects of fixing fees (even if they should be fixed at ten times the prevailing rates) are absolutely certain and always destructive.

Physicians who participate in such schemes must agree to render totally unknown and unpredictable quantities of service for a predetermined fee. The "taxpayer" is promised by politicians or "third party" officials that physicians will deliver any and all services for a fee set by the "third party." In the final analysis the "third party" always establishes the fee to its satisfaction! This procedure inevitably and obviously places the emphasis on the quantity of medical care and relegates quality to a position of secondary importance.

"Third party" medical programs in an attempt to economize, eventually limit and control the type of drugs which may be used—regardless of merit. Types of "permissible" surgical procedures are likewise classified and controlled. In this manner, the "third party" actually places its "judgment," through regulation and edict, above that of the physician.

We must evaluate the "third party" programs in their full

extension. If we accept the idea that the "third party" is better qualified to choose the individual's physician than is the individual, as some of them bluntly claim to be, then we must admit that the "third party" may, with equal validity, claim to be better qualified to choose the individual's attorney, his minister, the teachers for the schools, municipal, county, state, and national officials. In fact, they could just as well and quite as correctly claim to be better qualified to control every activity of the "average" citizen.

### **"Third Party" Control**

Make no mistake about one fact. Those in charge of "third party" programs are, in the final analysis, authoritarians and many of them would not hesitate to accept the role of dictator over our profession and every other group! If we accept "third party" control in medical practice we must in principle be prepared to accept the authoritarian philosophy in every area.

"Third party" programs force the physician to accept a position which is definitely unethical as all "third party" programs require that the public be informed of "participating physicians" through the publication of lists which are sent to the patients and made public buildings, union offices, etc. This constitutes a definite "black listing" of those physicians who refuse to become "third party" employees. This results in promotion of those listed and in the obvious damage of those not listed. Frequently rumors are circulated implying that "failure to participate" is identical with some inadequacy or "excessive charges" thus constituting a force which threatens the non-participating physicians' reputations.

The deliberate purposive restriction of the patient's freedom of choice in the selection of his physician, to whom he will entrust his health and life, damages the moral fiber of the profession.

There is a serious moral question involved in accepting a position in which a "third party" non-professional and not bound by ethical consideration is accepted as a normal part of the doctor-patient relationship.

### **Moral and Ethical Concepts**

All the laws in the world cannot make a person ethical! The ethics of medicine are based upon and require a deep appreciation of, and sincere respect, for morals and their attendant responsibilities. These qualities cannot be legislated. Ethics is something totally foreign to and not required of the bureaucrats and other functionaries who become the "third party" operatives.

Highest quality medical care cannot exist if the traditional moral and ethical concepts of medical practice are violated. The key to good diagnosis is good, honest and complete history. The knowledge that information confided to the physician will not be divulged to others permits even the most timid patient to give the most personal, intimate, and confidential information to his physician. Consultants are frequently denied this same information which is freely given to the patient's "own" doctor.

For thousands of years physicians have fought for the right to hold inviolate from all probers and other curious individuals

facts elicited in the medical history and examination. These rights of privileged communication, granted and enforced by courts of justice, are essential for successful treatment. Any system in which "third party" probers may demand and secure any of this information automatically precludes its attainment.

The practice of "third party" medicine produces a situation in which dishonesty is accepted. When a "third party" enters the picture, considerable latitude is extended to fact, and many facts are avoided or ignored by both patient and physician.

The "third party" forces additional dishonesty upon the relationship since it is dishonest to forcibly divorce a service from its proper frame of reference, thereby disguising its true comparative value.

For a "third party" to set a price on a professional service, based on the technical procedure demanded by the service, is to prostitute the idea of responsibility entirely, or in effect, to denounce as non-existent any convertible value of the moral and personal responsibilities assumed and discharged.

It would be more realistic to attempt to place a price on the order of personal responsibility accepted and to disregard the mechanics, but "third parties" do not deal in human attributes. Giving simple medication under certain circumstances entails assumption of responsibility as great as the performance of certain major surgical procedures.

## Standardized Illness

Every "third party" medical program is dishonest because through classifications, fixed fees, and regulations, it indicates to all that illness can be standardized! This position is false because it ignores such individual variations as diagnostic requirements, time, complications, circumstances of treatment, response to treatment, severity of the disease and reactions, as well as many other factors. All medical teaching, tradition, and experience repudiates this idea.

"Third party" medical programs are dishonest because they indicate that doctors of certain "classifications can be standardized and imply that all of these doctors are equal in training, knowledge, personality, judgment, techniques, ability, results and all personal care of the patient. It implies to the patient that one doctor is no better than the next and that the patient is inadequate in determining which physician provides him with the best care and produces the best results for the patient. This damages the patient's confidence in his physician.

"Third party" medical programs promote the false claim that physicians are "tradesmen" peddling a "service" which is not worthy of individual evaluation.

"Third party" medical programs inevitably result in the falsification of records. An ethical physician cannot agree to any scheme, a factor of which is the promise to divulge the patient's history, derived from them under the implicit (legally explicit?) promise of confidence inviolate. Such a practice is so eminently and openly dishonest as to brook no discussion. The physician must agree to give any information about the patient to a lay person who is bound by no code of ethics. The records of the patient's history and the results of examination become available to and part of the records of a non-privileged lay organization.

## Relinquishing Responsibility

Under any system of "third party" medical programs the patient must accept the "third party" into the patient-physician relationship in every area, not in the area of fees alone.

The physician is required to accept the "third party" by reporting or certifying illness to someone other than the patient himself. This begins the deterioration of and destruction of the confidential nature of the patient-physician relationship.

The patient feels justified in relinquishing his responsibility in return for the "third party's" payment of fees. The physician also begins to look to the "third party" in this area of responsibility and justifies his attitude by the requirement of supplying the "third party" with information. The physician even begins to hold the "third party" responsible for what he regards as the "proper" use of the funds removed from the patient not infrequently by force, by dues, royalties, taxes, or other means.

These practices encourage the patient to divorce himself from his sense of personal responsibility to his physician in the area of fees. This divorcement of responsibility of the patient to discharge his financial obligations to his physician is one of the first and most important steps in the destruction of the patient-physician relationship. It encourages the patient to believe that someone else may be made responsible for his financial obligations in all areas. Having accepted the idea that someone else may rightly assume his responsibility, it becomes a matter of indifference to the patient, and eventually to the physician, who assumes his responsibility.

Concrete evidence of the deterioration and the destruction of the patient's sense of responsibility and of his desire to be relieved of all responsibility is found in the growth of the idea that persons should be able to secure "insurance" regardless of the source, which covers their obligations and responsibilities "in full."

## Flight from Responsibility

At the point where the physician accepts such an agreement he joins his patient in flight from personal responsibility and accepts the idea that a "third party" is responsible for the payment of the patient's bills, and in so doing, grants to the "third party" the right to establish his fees and the category in which he may function.

The attempt to establish "third party" medical programs is a definite attempt to destroy the market economy.

Any argument in favor of "third party" medical programs may be used, by changing a few words, with equal validity to promote "third party" control of every other profession; every other need and desire; in short, of every segment of the economy.

A different but related approach to control of the practice of medicine through this same system has received the support of some physicians. Some physicians are supporting, unwittingly(?), the inclusion of doctors in the Social Security System. They apparently do not know or do not care that Social Security retirement funds and Social Security (Government) medical care are parts of one program. They cannot support

Social Security benefits for doctors without, in principle, supporting Social Security medical benefits for all. The inconsistency of those who claim to be against government (Socialized-Communized) medical care but for government retirement benefits requires mental gymnastics of which few knowledgeable physicians are capable. However, such gymnastics are no greater than those required of physicians who believe quality medical care can be maintained under any "third party" program.

In the market economy, the physician must be free to state his own true estimate of the value of his services. The patient must be free to accept this value, persuade the physician to change it, or seek the services of someone else. Whenever this arrangement is eliminated the free market is destroyed in that area and is weakened in every other area. All care of the patient, all treatment, even the fees, must constitute part of an agreement acceptable to both patient and physician. Even though fees for similar services are ordinarily approximately the same, the important feature of the market economy in this area is that they constitute an agreement between the individual physician and his individual patient.

The socialization of this nation and Government control of the practice of medicine cannot be accomplished if individual responsibility is realized and accepted. Ethical physicians, of all people, should insist upon retaining individual responsibility in every area.

### **Only Physicians Can Supply Medical Care**

Those who would destroy all freedom have chosen the field of medicine as a prime objective because of the enormous emotional appeal and the almost universal experience of need or desire in this area. Few fail to become emotional in one way or another when illness is present. Every person needs and desires, at some time, the care or attention of a physician.

Most people want to be well. The physician is their hope of remaining well or of regaining health should illness be present. Illness, regardless of type, is usually associated with discomfort, inconvenience, or at least a variable amount of displeasure.

Illness is one item with which few are prepared to cope. Most necessities can be secured through various agencies in reasonable time; however, only human beings, trained and experienced in the healing arts, can supply the necessary judgment to render satisfactory care to those who are ill. No government, or other "third party" agency, can supply medical care. It has to be provided by living, acting, individual human beings.

In view of the importance of confidence, trust, responsibility, and reliance, we must admit that he who controls those who are to administer to the individual when he is ill or when his emotions in regard to illness in himself or another are involved, is in a position to control the individual.

If the medical profession can be controlled by a "third party" all others will succumb. If the medical profession cannot be controlled it will remain an island of freedom which will cause a resurgence of the love of freedom in every other group. The intimate, personal and confidential nature of the patient-physician relationship must be destroyed before the collectivists can achieve their goal.

I am completely disgusted with medical apologists. Our profession has no reason to apologize. Under our system of private practice, we have delivered the greatest quantity and highest quality of medical care the people of any large nation have ever known, and all this at extremely low costs. Why anyone should apologize for this, I cannot see.

It is totally inconsistent to see the men who achieved such high standards fearfully retreating before the onslaught of those few who would destroy the private practice of medicine and change our free economy to one of socialistic control. To placate these forces of evil is below the dignity and intelligence of the profession and is so degrading that every ethical physician should refuse to participate in those destructive schemes.

The "third party" is any individual, organization, group or political unit—any entity which in any way violates the absolutely personal patient-physician relationship.

Every statement which has been made applies with equal force and validity to all governmental units, every labor union plan, and all insurance programs. It applies equally to private, profit-making, tax-paying insurance companies as well as so-called "not for profit" mutual companies! Unpleasant as it may be, the facts must be applied in evaluating even the so-called "Doctors Plan"—for control is control, regardless of who exercises it!

Unfortunately, a group of doctors can be just as arbitrary, dictatorial, and vicious as can a group of local, state or federal bureaucrats or labor officials. Evaluate all of these groups and plans by the same measure—and let your unemotional judgment decide. The result is the same—the destruction of the private practice of medicine!

Remember one thing: *Only doctors can deliver medical services. Only individuals trained and experienced in the healing arts can fill the medical needs of the people of this nation.* There is no reason why we, as individuals or as a profession, should not state, in fact we are morally obligated to state, the circumstances under which our services will be delivered.

### **Our Obligation**

Our obligation and responsibility is to the individual patient. All agreements must be with each individual patient!

We must re-examine the moral responsibility of our profession close ranks, and as one man say "NO" and mean it—to every program which violates the basic moral responsibility of our profession and is inimical to the best interest and care of each patient.

We should never refuse to deliver services to our patients, but those services should be delivered to individuals as our own private patients, not as wards of the government, a union, any insurance company or any other "third party." This is an appeal to every ethical physician for just that type of action.

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This article was distributed by AAPS, in 1959, from its office in Chicago, Ill. It was a response to the Larson Report commissioned by the AMA. AAPS viewed the Report's recommendations as "an open invitation to third party interventionists to take over control of medical care," according to the January 1959 issue of *AAPS News*.