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and Surgeons**

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In Memoriam Lois J. Copeland, M.D.



Lois J. Copeland, M.D. (1943-2024), was a beloved physician and patients' rights activist, who fought to preserve freedom of choice in medicine, the sanctity of the patient-physician relationship, and Hippocratic ethics. She had a private practice in internal medicine for 44 years. She served as AAPS president in 1995.

Dr. Copeland was dismayed by the increasing incursion by the federal government into physicians' authority to treat their Medicare patients with the care they deemed medically appropriate, and with the restrictions on receiving care outside this supposedly voluntary program. One example was a patient who was paralyzed from polio since childhood and who lived alone and had limited funds. Dr. Copeland wanted to visit this patient at her home and did not want to charge her anything for the services that she rendered. In doing so outside of the Medicare rubric, she would have subjected herself to substantial fines per occurrence for failure to code and submit a Medicare form and failure to charge the patient a deductible.

Patients were caught in a trap in that Medicare Part B was the only form of medical insurance coverage available to persons aged 65 or older unless they were actively employed. Dr. Copeland embarked on parallel crusades of pursuing alternatives in the private insurance market while also seeking to affirm the rights of senior citizens to contract privately on a one-off basis outside of Medicare. Insurance companies met her queries with skepticism that

premiums paid by individuals could fund a large enough capital pool to function as a Medicare alternative.

With the aid of AAPS, Dr. Copeland and five of her senior citizen patients filed the Freedom of Choice Lawsuit, *Stewart vs. Sullivan*, to establish the right of a Medicare beneficiary to contract privately for medical services on a case-by-case, service-by-service basis outside of their Medicare entitlement, without the need for the patient or physician to resign from the Medicare program.

The judge ruled that the case was not ripe for full determination because the Secretary of Health and Human Services had not clearly articulated a policy adverse to such private contracting in the *Federal Register*. In dismissing the case in this way, there was no opportunity for an appeal. Though private contracting was theoretically lawful, physicians did not exercise this right because of intimidating threat letters from carriers and the huge potential penalties.

Dr. Copeland continued her advocacy, publishing "My War Against the Medicare Bureaucracy" in the *Wall Street Journal* and "Please Do No Harm: A Warning to the White House" in *Policy Review* in 1993, and engaging in an extensive schedule of media and guest speaker appearances including *Both Sides with Jesse Jackson* on CNN, CNBC TV *Money Talk*, the Cato Institute Policy Forum, and the Pennsylvania Libertarian Party.

An ensuing effort to legislate a right to private contract clarified the issue, but not as hoped. The Clinton Administration's Balanced Budget Amendment 4507 of 1997 allowed doctors to give up all Medicare reimbursement for a two-year period (opt out) in order to gain a clear right to perform private services for individual patients.

In Dr. Copeland's essay "Cry the Beloved Profession," she wrote: "Perhaps my battle to create an alternative—a private safety valve—will be remembered and eventually come to fruition." She also observed that "the best safety net is still a respected system of charity care. It worked in the past, and needs to become popular again."

Dr. Copeland served as a watchdog against the rationing of care, highlighting the dangers of administrators solely focused on profitability measures and hospital "utilization" committees, which forced patients out of hospital before physicians had a chance to establish a diagnosis consistent with what insurance will cover.

American medicine is deeply indebted to Dr. Copeland, as are the thousands of patients she faithfully served.