How Medical Boards Nationalized Health Care

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Posted on 2/25/2005

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The negative impact of high healthcare costs on the national economy may not be fully recognized. At over $1.4 trillion a year, healthcare costs represent 15%—approximately a seventh—of our total gross domestic product. Our annual cost per capita, $4,662.00, is nearly double that of health care in other countries. This excessive and constantly increasing cost prevents many businesses from hiring as many workers as they otherwise might.

What Do We Get for Our Healthcare Dollar?

Here in the United States the consensus is that we have the highest quality health care in the world. We surely have the most expensive. If we have the best perhaps it is worth what we are paying.

How can we determine the quality of health care in the United States? Quality can be difficult to measure. Much of what we might call quality is subjective. One way to get a handle on quality is to measure and compare outcomes. Better results should correlate with higher quality care. Let's look at both ends of the human lifespan and compare the results our healthcare system gets with those in other countries.

If we compare infant mortality rates here in the United States with that of other modern industrialized countries, we find that our healthcare system is not doing the best job. Statistics for the year 2002 reveal that at least 36 countries beat us in infant survival. We experienced 6.69 infant deaths for every 1000 live births. France, Germany, Spain, Greece, Japan, Portugal, Malta, Macau, Italy, Singapore, United Kingdom, New Zealand, Aruba, Gibraltar, Hong Kong and over twenty other countries had lower infant mortality rates than did the United States. We can give our healthcare system a passing grade if we wish but it certainly can't be considered excellent. We are paying for excellent, but we are getting only average.

Now let's look at the other end of human life. How does longevity in the United States compare with that of other countries? Ranked by 2001 life expectancy at birth, the United States is 42nd in the world. Our country is behind Andorra, Macau, Japan, Singapore, Australia, Switzerland, Hong Kong, Spain, France, Germany, Greece, and more than thirty other countries. A baby born in the U.S.A. in 2001 had a life expectancy of 77.26 years. A child born in Macau at the same time could expect to live to the ripe old age of 83.47 years. Clearly our healthcare system is not even close to being the best when judging by longevity. Childbirth and old age infirmities are no better treated here than in many countries around the world. The healthcare systems of many countries do a much better job than ours. It doesn't appear that we are getting our money's worth in healthcare quality—the quality just isn't there.

Perhaps all the extra money we in the United States spend on health care goes not for extra quality but rather for added safety.

Everything a living creature does involves risk. And so it is with us humans. Just getting into our automobile for a drive to the grocery store involves some risk. We assume that risk is negligible. We make an appointment to see our doctor. Is such an appointment without risk? The answer is no. Each year between 6,000 and 9,000 people die of treatment injuries and prescriptions received from their doctor at his office. Even more alarming are the risks once you are admitted to a hospital. Conservative estimates show that between 98,000 and 140,000 patients die in U.S. hospitals each year from accidental injuries, medication errors, and adverse drug reactions. This is not patients dying of their diseases; it is patients *dying of their treatment!* Millions more are injured each year by our healthcare industry.

These figures can be compared with those for another industry, for example the commercial airlines. For the airline industry to do as bad a job of protecting airline passengers as the healthcare industry does at protecting patients, there would have to be two major airline crashes each day. The problem is so bad that in the year 2000 President Clinton set up a special task force to address it. The terrorists' attacks of 9/11/01 necessarily altered our priorities and nothing of substance has yet been done about these medical dangers. Clearly, though, the exorbitant prices we are paying for health care in the United States is not buying us an extra measure of safety.

Medical Regulation and the AMA

Besides paying some of the highest prices for health care, we have the dubious distinction of having the most heavily regulated healthcare system in the world. In no other country on earth are doctors and hospitals subjected to as many oversight and enforcement agencies, bureaus and commissions. Rules, regulations, and laws are duplicated, redundant, multiplied, magnified, and contradictory. Laws and regulations covering doctors and hospitals plus all the other parts of our healthcare system now account for over half of all the words, sentences, and paragraphs in our entire body of law.

If regulations could make a healthcare system work better, ours would surely be perfect. In fact, the opposite has occurred. Even those who believe that only government regulation can assure quality health care should face this fact. More laws and regulations are not going to fix our system. If we are truly concerned about the high cost of health care, if we really desire greater safety and higher quality, then we must undertake a dispassionate analysis of the current mess. If we wish to begin effective treatment of our healthcare system, we must first make an accurate diagnosis.

To make the correct diagnosis in a complicated medical case it is often helpful to have patients recount their first encounter with their symptoms. So it is with understanding the conundrum we call our healthcare system.

We have to go very far back to the first meeting of what would become the American Medical Association. This meeting was held in New York City in 1846. Twenty-nine allopathic doctors (MDs) attended the meeting. They wanted to establish a monopoly over health care in the United States for those doctors that practiced higher quality medicine, such as themselves. They felt there were too many different kinds of doctors practicing too many questionable forms of medicine. They wanted only doctors that conformed to their brand of medicine to be allowed to practice. They wished to set up their association as a medical elite and obtain a government-enforced monopoly over health care in the United States.

The following year the AMA was officially launched. Members' efforts were at first slow to yield results. One of their first successes was in getting the exclusive right to positions in the federal government. Then, around 1870, the AMA began to find success at setting up medical boards in each state. The rationale behind these medical boards was twofold.

First, it was assumed that only doctors knew enough about medicine to be able to determine whether a physician was competent. And second, it was felt that doctors accused of misconduct should not be subjected to the public humiliation of an open trial. Typically the AMA would team up with key lawmakers in a state and lobby for legislation to "protect public safety." The idea was that incompetent and unscrupulous doctors were doing great harm to healthcare consumers. There was no proof of this, but it was their claim.

A state consumer protection agency staffed by AMA members was promoted. That is, a state board made up of AMA members would examine applicants who wanted to practice medicine and only license those who were, according to them, competent and morally fit. So each state in turn passed a Medical Practice Act which created a board of medical examiners with police powers to enforce their decisions. It was critical to the AMA's long-range plans that states establish these medical boards.

How Medical Boards Work

These boards have two broad areas of activity: licensing and enforcement. In the examining and licensing of physicians, their efforts are directed toward keeping the race pure. Only MDs please. A few osteopathic doctors have been accepted recently, but historically it has been an exclusive MD club. In the area of enforcement, any doctor that engages in activity that may embarrass the profession can expect a call from his medical board.

Physician pedophiles, physician sexual predators, physician addicts and drug abusers, psychotic and psychopathic doctors, as well as doctors who flagrantly endanger their patients with their medical treatments, are called before the medical board. If there has not been much media attention and the situation can be handled quietly by the board, the doctor may only have his license suspended. He may be placed in rehabilitation. Most, in time will get their license back and quietly return to practice. The medical board, like any good fraternal organization, will protect its own. The Catholic Church protects its priests. The medical boards protect their doctors

If, on the other hand, the press gets to the story first, then the doctor may find the board much less accommodating. There is the need to show the media, the public, and the government that the board is aggressive in enforcing its regulations, in protecting the public, and in prosecuting physician offenders. So in those cases where the consumers' interest parallels the boards,' the public does receive protection from dangerous doctors.

There is one category of physician transgressor in particular the board will treat more harshly than any other. The major but unspoken mission of the state medical boards is to protect MDs from market competition. Is this not the main focus or purpose of labor unions and trade associations? State medical boards are the enforcement wing of the American Medical Association. State medical boards masquerade as consumer protection agencies to get public support, police powers, and taxpayer dollars. The Federation of State Medical Boards was organized to coordinate the fifty state medical boards and serve as liaison between them and the AMA. This combination and collaboration of AMA, Federation of State Medical Boards, and the state boards of medical examiners to form a medical monopoly was complete by 1912.

Such combining of state and corporate entities is not unique to this AMA/state medical board combo. It was a popular approach at the start of the twentieth century. The common name for this arrangement is *fascism*. As Benito Mussolini pointed out, "fascism should more properly be called corporatism because it is the merger of state and corporate power." Therefore what we have here in the United States is medical corporatism or medical fascism—or, even more precisely, a medical fascist monopoly. This medical monopoly has throughout the twentieth century continued to consolidate and strengthen its power. It has attacked any would-be competitor to its hegemony.

The true purpose of this medical monopoly, like all monopolies, is to control the market. And it does so, as many would-be healthcare reformers have learned. Thus the state medical boards' greatest wrath is reserved for those doctors that dare to try innovations that may affect the

medical marketplace. This fascist monopoly considers the healthcare marketplace its private domain. The physician dare not tamper with healthcare delivery. Innovations that may lower fees or streamline delivery of services cannot be tolerated by a system whose fundamental purpose is to uphold and increase its members' incomes and its political power.

Medical Boards and the Destruction of Competition

Soon after the medical monopoly was formed it began to push its agenda of destroying all competition. A well organized and funded nationwide purge of all non-MDs was undertaken. Over the course of the first half of the twentieth century this medical monopoly managed to shut down over forty medical schools. Their idea was to keep the number of doctors low in order to keep fees up. After WW II the medical monopoly started rigidly controlling how many of each medical specialty it would allow to be trained. So ophthalmologists, orthopedists, dermatologists, obstetricians, and others began to be in short supply. And of course when supplies are low, fees are high. The medical monopoly also managed to outlaw or marginalize over seventy healthcare professions. Protection of the healthcare consumer was, as always, the rationale for this power grab.

Whether the object of destruction by the medical monopoly be homeopaths, midwives, chiropractors, or internet prescribers, the purge is conducted in the same manner. No scientific proof or research data is offered to discredit these practitioners. The entire approach is one of character assassination directed at their profession.

On one occasion the medical monopoly did try to behave "scientifically," but this approach backfired: They tried to show that obstetricians achieved a lower infant mortality rate than did midwives, but when the data was compiled it showed the reverse was true—midwives had the better record. The medical monopoly quickly abandoned this approach and returned to their proven method of buying lawmakers and writing nasty unsubstantiated accusations in their journals. It seems the public always falls for propaganda that promises greater consumer safety.

Every state has a state medical trade association or state medical society. Each county has a county medical group or association. A doctor must be a member of the AMA to be a member of the state and county associations, and conversely will automatically become a state and country association member when he or she joins the AMA. Membership on a hospital staff usually requires a doctor to be a member of these associations. Academic or government employment requires a physician to be a member of these associations. Most research grants to physicians require that he be a member "in good standing" with the AMA. Many doctors have no choice: They must be members.

The innumerable committees, commissions, boards and bureaus that control medical education, medical school enrollment, accreditation of medical schools, accreditation of specialty residency training programs, foreign medical graduates, medical licensure in every state, and so on, all rely upon physicians to function. So do dozens of state and Federal agencies such as the FDA. And

all the physicians that attain this level of government service are in hock to the medical monopoly. Do you really believe the FDA's opposition to importation of drugs from Canada is based on science and safety?

Most of the control exerted over physicians comes through intimidation. "Letters of agreement" carefully placed out of view leave little paper trail. AMA members simply cannot be trusted on any issues that may affect the healthcare marketplace. And the higher up the bureaucratic ladder their post, the less credibility they should be accorded. A physician cannot afford to trifle with the medical board.

This monopoly by the AMA and state medical boards now serves the interest of very few physicians. Most doctors are working so hard and for such long hours that they do not realize that their leadership has long since abandoned them. Except for the bureaucracy that runs the medical monopoly, government medical bureaucrats and some physicians that run HMOs, health insurance companies, or pharmaceutical companies, most doctors gain little and lose much under the current system. Physicians are forced to depend upon the state medical boards for their professional status and their livelihood. Thus, the current healthcare mess results from actions of the medical monopoly. And the linchpin that holds the medical monopoly together and makes it work is the state medical board system.

The correct diagnosis for our healthcare crisis, then, is that the system was designed from the ground up to promote and profit a monopoly. Our healthcare system is doing precisely what it was designed to do.

How Corporatism Arises

We can now analyze the market situation from this perspective. What we find is that in the United States we have a government-enforced price floor with a free market price ceiling. Thus prices can go up, but not down—which are, of course, exactly what prices for medical services are doing and have been doing for many years. The object of labor unions, trade associations, and the medical monopoly is always to control the floor price. Labor unions generally do this by negotiating contracts with employers, a legitimate activity in a free market. Monopolies, however, are formed when an industry uses government power to enforce a price floor. When government price controls are applied to both the floor and ceiling we have a socialized industry. And in the absence of government control of either floor or ceiling prices we have price competition or free enterprise.

I am not suggesting that the decreasing competitiveness of American workers is due entirely to healthcare costs. But I am suggesting much of the competitiveness of American workers in the world market is being sacrificed to the medical monopoly. What is even worse is that the very viability and future of our country is being plundered in the name of health.

Medical Corporatism and Its Economic Effects

When any doctor feels threatened by competition from any source, he may complain about it to the leadership of his associations. It may be a complaint that he is experiencing too much competition from the local chiropractors or from a naturopath that just moved into the area. Or the complaint may be of a fellow MD of a different specialty infringing on his turf. A surgeon might complain of a general practitioner doing surgery or an obstetrician may complain about a family physician delivering babies. The complaint will make its way from county or state association leadership to the AMA central office in Chicago. If the complaint is widespread enough and loud enough the AMA may decide to take action.

In that case the AMA will reconfigure the complaint so that it is expressed in the form of a safety concern. The complaint may be, "too many chiropractors are hurting my income." This will be changed to, "we are concerned that some in the chiropractic profession may be overstepping their areas of expertise and jeopardizing patient safety." The next step is to run editorials in the Journal of the American Medical Association (*JAMA*). The gist of the editorial will be that certain practices by chiropractors must stop as they endanger patients. This will be followed by editorials in a few other associated journals. Physicians will then write in letters to the editor of a number of other medical letters and journals with anecdotal evidence and testimonials regarding the "dangerous" activity.

The AMA, by means of the Federation of State Medical Boards, then sends out the word to all 50 state medical boards that these "dangerous" activities must be stopped. The state attorneys general are notified by their medical boards that it has been determined that this activity represents a danger to consumers and must be investigated and prosecuted. Attorneys General have no mechanism to evaluate the veracity of any of the medical boards' positions, so they prepare to act. The state attorneys general, through their own national organization, may meet to draft coordinated efforts to fight these "crimes." If the targeted healthcare providers have no license to practice medicine from the AMA-controlled medical boards, they are prosecuted for "practicing medicine without a license."

If the group is licensed by the medical board, then its members are accused of practicing "below the standard of care." No evidence, no facts are ever offered or ever needed. No individual or group has any rights when up against the medical monopoly. The Bill of Rights and the Constitution do not apply. In this way homeopaths, naturopaths, chiropractors, herbalists, and dozens of other kinds of healthcare practitioners, as well as thousands of MDs attempting innovations of all kinds, have been marginalized, had their licenses revoked, or been outlawed.

Most members of the state medical boards are appointed by the governor. State and county medical associations, medical specialty societies, large medical group practices, HMO's, health insurance companies, chain and wholesale pharmacies, and large hospital chains contribute heavily to the campaigns of candidates for governor and attorney general. Thus, the governor appoints to the state medical board those desired by the medical monopoly. Doctors selected by

the medical monopoly for appointment to the state medical board can be counted on to cooperate. And it works the same way with the State Board of Pharmacy.

The medical monopoly contributes heavily to congressmen and maintains one of the best-financed and most effective lobbying programs in Washington, D.C. It is important that the AMA, the state medical board, and the state attorney general in each state work hand-in-glove to further the interest of the medical monopoly.

By requiring and obtaining the rigid compliance of its members, this medical monopoly has grown in strength and influence throughout the twentieth century. Doctors live in fear of having their license to practice medicine revoked. Many citizens rightly fear the IRS—the fear that doctors have of the state medical board is as great or greater: The powers of the state medical boards are even more arbitrary and capricious than those of the IRS. Phrases like "below the standard of care" and "unethical behavior" are intentionally vague and nonspecific. Any charge can be "substantiated," no defense is sufficient. The medical board even has the power to overrule the judicial system and does so regularly!

Attaining an MD degree represents a great deal of work and a considerable monetary investment. License revocation means not only loss of the doctor's livelihood, but a devastating blow both socially and professionally. Few physicians will go anywhere near that possibility. The ability of state medical boards to intimidate doctors into complying with their wishes is legendary. Board members are instructed in the use of intimidation techniques and rely on them as much as they do on the Attorney General. Accordingly, no outcry should be expected from within the profession. Health care in the United States has been nationalized—not by the government, but by a trade association. By the 1950s, power had been consolidated to the point where the medical monopoly had what it had been working for all along: total control over health care in the United States.

Corporatism in Action: The Medical Board of California

As an example of the huge threat to public safety these medical boards can represent, consider the Medical Board of California. This board hasn't decided a major issue in favor of consumers for decades. The agency is virtually owned by the Golden State's HMOs, health insurance companies, big chain pharmacies, hospital chains, and medical trade associations. The California medical monopoly has every right to its arrogant smugness when you realize that gullible taxpayers are funding its greatest asset.

A good example of how efficiently the California Medical Board works to protect the monopoly's profits and market share is to look at the board's response to the Internet.

The Internet is simply a tool, and like any tool it can be used for good purposes or bad purposes. Internet communications are a natural for computer-assisted diagnosis and medication selection. By outsourcing the physical examination and using the Internet, a physician can easily increase

his efficiency and productivity more than 5 fold. This should have the effect of lowering the cost of an "office" visit by 80%.

In other words, it should have the same market effect as greatly increasing the number of doctors. The possibility of the Internet lowering healthcare fees this much has sent the California medical monopoly into hysterical apoplexy. The problem, from the monopoly's point of view, was exacerbated by the fact that health care in California is arguably the worst in the country. It is so bad that patients seek to escape over the Internet in hopes of finding better medical services elsewhere. As a result, in the late 1990s HMOs throughout the State panicked at the prospect of losing their patients to Internet physicians. Pharmacists panicked at the prospect of Internet pharmacies taking their business.

So the Medical Board of California was pressed into action. There is absolutely no evidence that medical diagnosis and treatment via the Internet is more dangerous than it is in other settings. Research shows that, because of computer assistance, the adverse drug reaction (ADR) rate for Internet prescribing is considerably lower than the ADR rate experienced in physicians' offices and hospitals. Nevertheless the Board was compelled to declare Internet physicians and Internet prescribing a threat to public safety.

With medical trade groups and others in the California healthcare industry, they launched a propaganda campaign to discredit Internet medicine almost before it could get started. The Board gave false testimony to the California Legislature (nothing too unusual about this) and successfully lobbied for laws outlawing Internet medicine. These laws were passed and went into effect January 1, 2001. These laws deny California healthcare consumers access to safe, effective, convenient, and less costly health services while protecting the profits of big intra-state healthcare providers.

In this example the Medical Board of California sided with the California Medical Association, HMOs, and the pharmacy chains. On every issue over the decades the pattern has been the same. The Board *always* decides in favor of the healthcare industry and against the interest of California healthcare consumers. It is through the consistent efforts of state medical boards such as the one in California that healthcare costs are pressed higher each and every year.

By squashing all innovation that could adversely affect physicians' fees and provider profits, these boards provide the first wall of protection for the medical monopoly. The agencies that are charged with protecting the healthcare consumer have been taken hostage by the very industry they were set up to regulate. Most healthcare consumer groups either don't get it or have their own axe to grind. Everywhere patients and their pocketbooks are being exploited. Nobody is looking out for them.

Web sites are proliferating on the World Wide Web that offer legal and illegal addictive drugs and require no more information than that on your credit card. A number of deaths have occurred, both accidents and suicides, from drugs obtained from such sites. How much of the

explosion in the number of such sites is the result of the void caused by so few physician-supervised Internet sites?

Physicians with an interest in Internet medicine have been intimidated or disciplined into staying away or leaving Internet practice. Medical boards are perfectly able to differentiate between websites where physicians exercise their professional discretion in diagnosis and treatment, which may involve issuing a prescription and those where drugs are simply sold. It serves the medical monopoly's goal of abolishing Internet medicine to blur this distinction. The Federation of State Medical Boards uses every Internet drug tragedy as an opportunity to portray all Internet medicine as irresponsible. This is the medical monopoly's standard approach, well practiced for over a hundred years.

The Call for Medical Freedom

We should strongly consider abolishing state medical boards. Do we really need an additional and separate secret police for doctors? If we elect to keep the state medical board system, then governors should not be allowed to appoint doctors to medical boards or pharmacists to boards of pharmacy. This is like putting the foxes in charge of henhouse security! If these are supposed to be consumer protection agencies, then staff them with consumers. The ideal board member is the owner-operator of a small business. Such boards could consult anyone they wish for technical or professional advice.

I am sure that the Federal Trade Commission has looked at this, probably more than once. The legal problem is that the AMA does not directly intervene in the marketplace. The medical monopoly is cleverly divided up into numerous components with legal separations that make it nearly impossible to mount an effective antitrust case. The AMA makes sure that it stays at arms length from the state medical boards and even has the Federation of State Medical Boards in between. The communication, cooperation, and even conspiratorial planning between the components of the medical monopoly are unquestionable, but such contact is always couched in terms of protecting the public.

If, however, the state medical board system were abolished, or disempowered, the medical monopoly would suffer a fatal blow. Cut off the small head of a giant rattlesnake and the huge body of the snake is rendered harmless. The beneficial effect of such action to healthcare consumers, American workers, and the economy would be enormous and immediate. Less appreciated would be an even more important effect: The breakup of the medical monopoly would go a long way toward taking American medicine out of its current political orientation and back into its proper scientific orientation.

There is no reason that other healthcare professionals shouldn't have prescription writing privileges. This aspect of the medical monopoly also needs to be broken up. Pharmacists, nurses, physician's assistants, psychologists, nurse practitioners, physical therapists, respiratory therapists, chiropractors, and many others, perhaps with some additional training, could safely

prescribe those medications that apply to their area of expertise. The notion that a physical examination by an MD is routinely required in order to safely prescribe medication is more hokum. There is not a shred of scientific evidence to support such a contention. It is just another excuse for monopoly control.

The fewer industries there are with government-enforced price floors, the fewer structural straightjackets there are on our national economy. The freer our economy, the more likely it will be vibrant and expansive. A vibrant and expansive economy produces jobs and innovations. Byproducts include an improving standard of living and a strong military.

I have spent the greater part of a lifetime studying the organization of American medicine. You may find all this information crammed into one essay overwhelming. To you it may even seem preposterous that a huge monopoly exists right in the midst of the world's freest country.

One of the signers of our Declaration of Independence was the physician and psychiatrist Benjamin Rush, MD. He was also involved in writing our Constitution. He warned, "unless we put medical freedom into the Constitution, the time will come when medicine will organize into an undercover dictatorship to restrict the art of healing to one class of men and deny equal privileges to others; the Constitution of the Republic should make a special privilege for medical freedom as well as religious freedom." Dr. Rush also believed the Constitution of the United States should explicitly abolish black slavery. Neither of his warnings was heeded, with great harm to our nation. We have gone a long way toward rectifying one of these Constitutional omissions. It is now time to begin addressing Dr. Rush's other concern.

As our nation seeks to promote freedom, democracy, and free enterprise around the world, we must not smugly assume that no fights for freedom remain to be fought here at home. Surely if we can topple a dictator and put a Baath party on the run halfway around the world, we can do the same here.

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