

From the President

Let's Put the Act in Activism

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"Nobody made a greater mistake than he who did nothing because he could only do a little."

Sir Edmund Burke¹

The United States of America is a constitutional republic that gives power to the people to protect their natural rights. As Supreme Court Justice Robert Jackson clearly explained in 1943,

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly may not be submitted to a vote. They depend on the outcome of no elections.²

Yes, we are born with these rights, but we only have power if we participate actively in the governing process. As Plato admonished, "If you do not take an interest in your government you are doomed to live under the rule of fools."³ Fools—who in today's world are known as "swamp" creatures or the ruling elite.

The swamp is not confined to Washington, D.C. Indeed, the swamp swallows up city councils and commissions, and school boards, to name a few. Not only does political corruption and cronyism affect our daily lives, but these local officials may one day be your U.S. representative or senator. If we want to drain the swamp, we have to take action—early and often.

Medicine has its own oligarchy or rule by the self-appointed elite. In addition to the overseers in the federal government, we have insurers and managed-care entities, large healthcare systems, state medical boards, medical specialty boards, and pharmaceutical companies. Although drug and device manufacturers have no direct control over physicians, in 2018, physicians and teaching hospitals received some \$3 billion from these benefactors.⁴ Is it any wonder that many "evidence-based" guidelines include pharmaceuticals such as statins? And instead of taking the time to talk with patients or make a psychiatric referral, many primary-care doctors are steered toward the quick fix of antidepressants for one and all.⁵

Government and insurers plague us with pre-authorizations and payment denials. When the usual medical staff bylaws fail to silence contrarian voices, sham peer review or labeling someone a disruptive physician is always an option. To apply for or renew hospital staff privileges, hospitals are demanding Maintenance of Certification (MOC), an expensive process of questionable value. MOC places onerous burdens on physicians and worse, takes away physicians' time with

their patients. It is up to us to demand and maintain self-governance—at the hospital and in our private practices.

We are in a moment that requires our attention. With visions of an unpleasant pre-teen prank, "Medicare for All" is at our front door in a flaming paper bag. I recently heard someone say that there are three kinds of people in this world: those who make things happen, those who watch things happen, and those who wonder what happened. We must be the people who make things happen.

Thomas Jefferson advised: "An enlightened citizenry is indispensable for the proper functioning of a republic. Self-government is not possible unless the citizens are educated sufficiently to enable them to exercise oversight."⁶ Our ignorance is the overseers' power. It is our job to educate ourselves so we can educate our patients.

Patients hear about 100 percent free medical care and that healthful food should be paid for by health insurance.⁷ They may see these proposals as an easy fix to the "broken health system." But these may not be the proper tools for good health for a diverse, free society. Patients need to know that these ambitious promises would lead to the loss of their personal privacy and freedom to make their own choices. Letting them know that their electronic medical records are going to the Office of the National Coordinator for Health IT (ONC) should make them feel violated. And the specter of a proposed "Unique Patient Identifier" number is just plain creepy.

For starters, "free stuff" is bad public policy and eventually debilitates the recipients. Being taken care of steals the spirit. Just as preserving liberty requires work, good health requires that patients participate alongside their doctors. Further, the concept of completely free medical services exacerbates the moral hazard of third-party payment that has caused costs to rise.

Medicare for All would be harmful to patients and physicians alike. Lower reimbursements to physicians would eventually lead to fewer physicians available to see more patients, thus longer wait times for services and shorter office time with physicians. Adding insult to injury, the long-awaited services may be rendered by a non-physician. There would ultimately be less innovation due to lack of competition. As the money runs out, we would see limits placed on the many promised services (rationing). And for the skeptics, it is documented that the British National Health Service (NHS) has now labeled cataract surgery, hip and knee replacements, and hernia surgery, as having "limited value."^{8,9}

Medicare for All also can be viewed as a violation of our natural right to private property. To paraphrase Thomas Jefferson, with property rights comes liberty.¹⁰ If private property is not secure, your liberty is not secure.

When it comes to medical care, patients' lives and bodies are their property right. For physicians, the freedom to practice medicine to the best of our abilities is our property right. Coercing physicians into a system that does not always allow them to practice medicine in the penumbra of the Oath of Hippocrates ultimately hurts patients.

It is our duty to say "No! Not for my patients!" If we don't speak up, we are strengthening the hands of the government and others who seek to intrude into the patient-physician relationship.

AAPS is here to help you liberate yourselves and your patients from government and corporate overlords. If I may borrow from Martin Luther King, Jr.: AAPS is proud of its members who for 76 years have taken some positions that are neither safe nor politic, but must take them because their conscience tells them it is right.¹¹ Let's keep it up!

Since it's football season, I'll ask: Where would you rather be? Warming the bench or fighting on the field?

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REFERENCES

1. AZ Quotes. Edmund Burke quotes. Available at: https://www.azquotes.com/author/2186-Edmund_Burke. Accessed Jul 3, 2019.
2. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 639 (1943). Available at: <https://www.law.cornell.edu/supremecourt/text/319/624>. Accessed Jul 3, 2019.
3. AZ Quotes. Plato quotes. Available at: <https://www.azquotes.com/quote/812402>. Accessed Jul 3, 2019.
4. Blankenship K. Pharma shells out \$3B to doctors and hospitals—with Roche, Sanofi leading: CMS. FiercePharma; Jul 1, 2019. Available at: <https://www.fiercepharma.com/pharma/big-pharma-hits-3b-payments-to-doctors-and-teaching-hospitals-cms>. Accessed Jul 4, 2019.
5. Singleton M. Soma-tizing America. *J Am Phys Surg* 2016;21:13-17. Available at: <https://www.jpands.org/vol21no1/singleton.pdf>. Accessed Jul 6, 2019.
6. AZ Quotes. Thomas Jefferson quotes. Available at: <https://www.azquotes.com/quote/864891>. Accessed Jul 3, 2019.
7. Waters D. Medically tailored meals save lives. Health plans should cover their cost. STAT, Jul 5, 2019. Available at: <https://www.statnews.com/2019/07/05/medically-tailored-meals/>. Accessed Jul 5, 2019.
8. Campbell D. NHS England restricts patients' access to cataract removal. *Guardian*, Mar 19, 2019. Available at: <https://www.theguardian.com/politics/2019/mar/20/nhs-england-restricts-patients-access-to-ataract-removal>. Accessed Jul 6, 2019.
9. Bagot M. Funding cuts stop NHS hip and knee operations and surgery rejections soar. *Mirror*, Jul 19, 2018. Available at: <https://www.mirror.co.uk/lifestyle/health/funding-cuts-stop-nhs-hip-12942967>. Accessed Jul 25, 2019.
10. AZ Quotes. Thomas Jefferson quotes about property rights. Available at: https://www.azquotes.com/author/7392-Thomas_Jefferson/tag/property-rights. Accessed Jul 3, 2019.
11. Keepinspiring.me. 123 of the most powerful Martin Luther King Jr. quotes ever. Available at: <https://www.keepinspiring.me/martin-luther-king-jr-quotes/>. Accessed Jul 6, 2019.

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.