

From the President

Recipe for Disaster: Pandemic, Panic, Politicians, Patents, Patients, Physicians, Police State

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The Association of American Physicians and Surgeons is the antidote for the alliterative poisonous “P” soup in the title.

In my last President’s Message,¹ I posed the question: “Do physicians now exist who are free to serve the sick and advance the field in the tradition of our visionaries, from the perspective of intellect, curiosity, and a deep-seated desire to find a solution for each individual patient and problem? Or will a team of population-focused, algorithm-following, shift-working ‘mid-levels,’ led by businessmen who profit from home death care, and ethics professors who hope to die at 75, command us to shut up, clock out, and send everyone to CVS with prescriptions for secobarbital or DMP2, popular aid-in-dying drugs?”

When I wrote that message in January, I had heard little of COVID-19. Today in May, I have learned the answer the hard way. Little did I know that the dreaded team of population-focused, algorithm-following mid-levels, palliative care corporate profiteers, and bioethicists who specialize in rationing systems and death and dying would be upstaged by power-hungry politicians and money-hungry bureaucrats whose orders and models would stop physicians from operating, stop medications from getting to patients, and lock Americans down in our homes, sending the U.S. economy to a screeching halt and hurling our people to their knees.

Because my goal is to write a message that offers hope and a solution, writing this one has been exceedingly difficult. Today I was allowed to return to the operating room for the first time in seven weeks. Through the births of each of my four daughters, a trimalleolar fracture requiring two operations, breast cancer requiring three operations, and nearly losing a daughter after an accident that inflicted multiorgan trauma and then sepsis, I was never out of the OR for more than three weeks in my entire professional career. The blessing and privilege of being back in the clinic and OR always restores my sense of normalcy and purpose. I am thankful for the four patients who mustered up the courage to have their surgery today amid the flames of fear and panic permeating our society during this devastating SARS-CoV-2 pandemic and unprecedented response.

At this moment, when our extraordinary scientific and technological capabilities are the most advanced in human history, why are we even in this situation, what broke, and how can we fix it?

Starting at the top, when faced with the reality that a deadly contagious coronavirus was already on U.S. soil, President Trump called on our federal government’s leaders in science, immunology, infectious disease, and epidemiology to direct our course of action and created a COVID-19 task force. Posing as experts on pandemic preparedness, the two dominant physician faces throughout this ordeal have been Anthony Fauci, M.D., and Deborah Birx, M.D. Dr. Fauci

is an immunologist, who was appointed Director of the National Institute of Allergy and Infectious Disease (NIAID) in 1984 and has served in that capacity under six presidents. Deborah Birx, M.D., is an immunologist focused on HIV/AIDS, vaccine research, and global health, who has been with the Department of Defense since 1985, the CDC from 2005-2014, and serves as U.S. Global AIDS Coordinator and U.S. Special Representative for Global Health Diplomacy.

NIAID is one of 27 institutes that make up the National Institutes of Health (NIH). NIH and the Centers for Disease Control and Prevention (CDC) are two of the 11 agencies of the Department of Health and Human Services (HHS). Dr. Fauci and Dr. Birx are entrenched government bureaucrats, HHS relics. Each is recognized for expertise in HIV/AIDS and vaccine research. Where is that AIDS vaccine? Fauci and Birx each serve to profit personally when fruits of taxpayer-funded research and patents pay off. When was the last time either one actually examined a patient?

Despite their long tenures and lofty titles, COVID-19 seems to have caught them by surprise. In January 2017 at a conference on pandemic preparedness Fauci himself warned his audience that “there is no question that there will be a challenge to the coming Trump Administration in the arena of infectious diseases.”² Fauci’s NIAID annual budget increased significantly from \$4.9 billion in 2017 to \$5.9 billion for 2020. Despite 36 years directing NIAID, tens of billions of dollars, and his own admonitions, he was not prepared, and he failed to have the U.S. prepared for this.

The Fauci-Birx emergency response has not been much better. Their epidemiological computer models grossly overestimated the projected deaths from COVID-19, particularly on Mar 16, when a report from Neil Ferguson’s team at the Imperial College London produced death estimates of 2.2 million in the U.S.³ The Washington University Institute for Health Metrics and Evaluation (IHME) model, on the other hand, projects 134,475 deaths by Aug 4, 2020, (94% fewer) and is proving to be closer to the truth, with 71,995 deaths reported by May 4, in close alignment with their prediction of 70,808–74,573.⁴

“In an abundance of caution,” CDC, Centers for Medicare and Medicaid Services (CMS), and other HHS agency recommendations and guidelines were generated, and an effort to “flatten the curve” commenced. The curve needed to be flattened because of New York City, one of the most densely populated cities in the world, a city that was unprepared and about to be overwhelmed. Ironically, the pandemic preparedness espoused by Fauci, a New Yorker himself, had fallen on leaders with deaf ears. All other states compassionately sacrificed to help New York through this crisis period, re-allocating and rapidly manufacturing ventilators, personal protective equipment (PPE), hospitals, medications,

manpower, and money. Every state is vastly different, but all went to bat for New York as one.

Taking their cue from federal COVID-19 guidelines, individual states took action, with governors firing off executive orders increasingly influenced by partisan politics and special interests. As a Texan, I was hopeful that faced with a pandemic of epic proportion, physicians would be granted greater freedom to make best use of what we've got at hand to protect and treat our patients, using our years of scientific pursuit, wisdom, experience, and pattern recognition.

I am currently a plaintiff suing the State of Texas (Texas Medical Board and Texas Board of Pharmacy) to remove the ban on physician dispensing. I sincerely believed this ban would at least be temporarily removed to help patients get the physician-ordered medications they desperately needed during the COVID-19 lockdown.

One would think physicians would be regarded as friends, not foes, when facing a highly contagious lethal virus. Ironically, the Texas Medical Board (TMB) and Texas Board of Pharmacy (TBP), in out-of-control power-grabs, instead completed the conversion of federal recommendations into state edicts by creating and adopting emergency rules based on Gov. Greg Abbott's Executive Order. The TMB and TBP emergency rules restricted physicians from operating in all but urgent or emergency cases⁵ and from writing prescriptions for the potentially prophylactic and therapeutic, time-tested, affordable, and available hydroxychloroquine without significant restrictions. TMB and TBP accused physicians of hoarding medications for themselves, when in fact it is the states who hoard donations of these very medications from our national stockpile.⁶

The TBP gave greater freedoms to all providers associated with dispensing medications except for the physicians who actually determine what the patients need. Violation of the governor's Executive Order replete with the TMB and TBP rules came with the prospects of 180 days in jail and a \$1,000 fine, restriction or suspension of your medical license, reporting to the National Practitioner Data Bank, mandated reporting (snitching), and no due process.

TMB has aggressively pursued, and continues to pursue surgeons and physicians who dared operate on their patients or prescribe hydroxychloroquine, or perform antibody testing for their patients. Three of these are my friends. I wonder how many more there are who struggle silently, ashamed. While their patients are grateful and doing beautifully, these physicians are targeted, guilty until proven innocent, forced to turn over private patient records, and having to pay attorneys hefty fees to defend them for caring for their patients according to the Oath of Hippocrates. Young physicians who took employed positions out of residency are fired, and are now unemployed. Hospitals are going bankrupt and patients are deteriorating, going without care. The unintended consequences far outweigh the consequences of the virus itself. As federal and state restrictions are eased, we still have county, city, workplace, and intimate interpersonal barriers with which to contend.

As for me, I went to the office every day and took two weeks of 24/7 call during a period when the American Academy of Ophthalmology sent out their own set of guidelines, shaming

me that I must only see emergency patients and only do emergency surgery, or I would be guilty of spreading the plague like an Anopheles mosquito or flea on a rat. There were days when I saw only two or three patients, but I was there in case my services were needed. Many of my colleagues just closed their offices. I kept all staff on the payroll, paid my overhead, and incurred debt. Like many private practice physicians, I did not take a paycheck for myself. I hope to get a Paycheck Protection Program (PPP) loan for my practice, but despite applying since day one, I have not gotten one yet.

I had paid off all my debt, but suddenly government could send me to jail if I practiced my profession, if I dared to work for a living. Now, I'm praying for a government loan, likening it to eminent domain. Never in my wildest dreams did I fathom the current state of affairs. Instead of being called upon during a pandemic as a physician and surgeon, when I should be needed most, I have been trivialized, marginalized, demonized, politicized, criminalized, weaponized, leveraged, and controlled...well, almost. Were it not for AAPS, a consortium of trusted colleagues, the worldwide access to scientific information and medical literature, my Congressman, my family, my patients, freedom-defending Americans, and the Great Physician Himself.

My hard-learned answer is, yes, we still exist, but we are an endangered species. The threat of socialized and corporate medicine is a clear and present danger, but COVID-19 has revealed that we practice medicine one decision away from bankruptcy, loss of license, and jail.

So finally, the hope and the solution: Becoming a physician requires traversing a rugged rite of passage. Not everyone has the requisites. Not everyone completes the journey. It is hard work, but hard work builds character. What is hard-earned is worth fighting for.

Those of us who made it through share those requisites and speak a shared language. We are the visionaries. We are connecting. We will fight together. We must be courageous and do what is moral and in the best interest of our patients, even if our politicians say no. AAPS has our backs, leads us, stands beside us, and holds our hands when needed. We have the scientific and technological ability to beat this virus, and together with our minds united in morality, apolitical, un-bought, and ungagged, we will find the antidote in short order.

We must fight for our right to use what we have at hand now. We must not allow an "abundance of caution" on behalf of elected leaders to morph into a lack of common sense, or worse, acquiescence to loss of civil liberties and life itself. We must develop an immunity to fear, hysteria, panic, and politics. We must continue to commune, like revolutionaries conspiring in the town tavern, against all odds until liberty or death.

We are what broke. We let them pay for our education; we let us owe them. We let them put us in networks, employ us, control us, threaten us, use us, shut us down. We let them stop us from dispensing, prescribing, operating, innovating, and thinking. We fix all this by putting minds over masks, patients over politics, freedom over fear, and God over government. And he said to them, *"Doubtless you will quote to me this proverb, 'Physician, heal yourself.' What we have heard you did*

at Capernaum, do here in your hometown as well.”—Luke 4:23.

Stop selling your soul to third-party payers. They cannot do anything without you, but you can do everything without them. Denounce the AMA and the like, which profit from the implement-and-comply, billing-and-coding, testing-and-certifying industries, while lurching collectively toward single-payer socialized medicine.

Embrace AAPS, which fights “all for the patient” and for you. Finally, the naysayers who say we will never be the same again are right; we will never let this happen again. Next time we will be prepared.

Physicians such as Fauci and Birx must go, and real-life physicians with boots on the ground must replace the bureaucrats with patent-leather shoes.

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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.