Health Care Concern: Government Utilitarianism & the Hippocratic Oath

Written by Heather Zeiger

The government doesn't take the Hippocratic Oath, but maybe it should.

As I was researching for this article, I easily found the over 2,000-page House bill on health care (H.R. 3962), and downloaded it over our high–speed Internet connection without a problem. I glanced at the Table of Contents, made some notes, and tried to go back to the previous page when my browser came crashing down. It could be that the size of the file gave Firefox some problems. Actually, it was fine at first, but when I realized that this monster was too cumbersome, I tried to get back to a page that was easier to navigate only to find that going back within this huge bill is not as easy as downloading it.

If I can use my experience in retrieving this bulky bill as being symbolic of anything, it would be that if passed, we will find the changes to our health care system confusing and unwieldy. And like my problems with trying to go back to an easier page, once we've realized what we've gotten ourselves into, it may not be easy to undo what has been done. There are many areas of concern in this legislation that raise ethical red flags, but I want to address a very fundamental issue in health care–that of authority and accountability.

The health care reform bill that has been passed by the House and its Senate counterpart (deliberations began November 30), both bring to light several key bioethical issues: government funding for abortion, defining end–of–life care, who makes rationing decisions, and our obligation to the weak and

infirm, to name a few. Many aspects of our lives can fall under the umbrella of health care, so this bill has the potential to affect almost every aspect of society. Another contentious (and constitutionally questionable) feature of the bill is the government requirement that everyone purchase health insurance, which marks the first time in history that the federal government has required everyone in society to enter a particular marketplace (car insurance is state–, not federally regulated).

I want to address the nature of health care specifically. Generally, the person administering health care is dealing with someone who finds themselves in a vulnerable state. That is why people, Christian or not, resonate with the idea that doctors take an oath to "Do No Harm." The essence of the Hippocratic Oath, even before it was Christianized, is that of a covenantal relationship between the physician, the patient, and God (or, in 400 BC, the Greek gods){1}. This recognition of a deep obligation of the physician to the patient in his or her time of vulnerability has been a vocational standard for the industry for centuries. Granted, after the 1950's these standards began to change into something far more utilitarian and consumer–driven and the Oath is rarely recited at medical graduations anymore. Nonetheless, doctors and patients today still operate under the assumptions of the Hippocratic Oath that the doctor is to "do no harm."

But back to the point of the recently passed House bill and the ongoing debate on the Senate bill . If both of these bills pass and are approved by President Obama in their current form, the government is going to exercise a large amount of fiscal and, therefore, regulatory control over the health industry. The Hippocratic Oath was a vocational agreement, but now the government is in the position of holding an individual's health in its hands. The government makes no such promise to "do no harm" to the individual patient.

In actuality, the very idea of health care for all represents

a distinct and debatable worldview. The language being used to argue these bills represents, at best, an attempt to do the greatest good for the greatest number of people. It no longer speaks on an individual level, but on a societal level. And while individual doctors agree to avoid harming patients, the government views its job as seeking what is best for society at large. That is a very different commitment at a fundamental level. In the United States, the governmental commitment is contractual,{2} while in the Hippocratic tradition, the doctor-patient relationship is covenantal. (See the wording for the Oath of Office and the Hippocratic Oath, below.)

Doing what seems best for society on the whole is fine when we are talking about national security and protecting our borders, or when we are talking about how best to implement and regulate interstate commerce, or even in creating boards that enforce common standards for pharmaceuticals, such as the FDA. This protects society, and protects the individuals within that society. But when it comes to an individual making a decision for his personal health or for his dependents, what is best for society as a whole is not the appropriate ethic. This is called *utilitarianism*, which is generally defined as an ethic that prioritizes "the greatest good for the greatest number of people."{3}

Utilitarianism has a limited place, but seeking the greatest good for society should not be the highest calling. This view elevates society and social good to a higher level than the individual, meaning that what is best for the greatest number of people, or society as an aggregate, may be at the expense of certain individuals. However, medicine deals with helping the weak, the infirm, and the vulnerable, which concerns the individual. Hence, the covenantal nature of the doctor/patient relationship. This care for the individual springs from the idea that all people are made in the image of God. Therefore we cannot value some individuals more than others, even if we (fellow human beings) deem them more or less useful to

society.

As Dr. Kathy McReynolds, a bioethicist and professor at Biola University and public policy director for the Christian Institute on Disability says about the health care bill, "I am concerned that decisions regarding patient care will be made by someone other than the patient and physician working together. A disinterested politician is not going to have a connection to that patient or be able to identify intrinsic factors about that person's disability."{4}

Link: Senate Healthcare bill: help.senate.gov/BAI09A84_xml.pdf

House Bill: The bill, the Affordable Health Care for America Act—H.R. 3962

www.pbs.org/wgbh/nova/doctors/oath_classical.html

I swear by Apollo Physician and Asclepius and Hygieia and Panaceia and all the gods and goddesses, making them my witnesses, that I will fulfill according to my ability and judgment this oath and this covenant:

To hold him who has taught me this art as equal to my parents and to live my life in partnership with him, and if he is in need of money to give him a share of mine, and to regard his offspring as equal to my brothers in male lineage and to teach them this art—if they desire to learn it—without fee and covenant; to give a share of precepts and oral instruction and all the other learning to my sons and to the sons of him who has instructed me and to pupils who have signed the covenant and have taken an oath according to the medical law, but no one else.

I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

I will neither give a deadly drug to anybody who asked for it,

nor will I make a suggestion to this effect. Similarly I will not give to a woman an abortive remedy. In purity and holiness I will guard my life and my art.

I will not use the knife, not even on sufferers from stone, but will withdraw in favor of such men as are engaged in this work.

Whatever houses I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.

What I may see or hear in the course of the treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself, holding such things shameful to be spoken about.

If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honored with fame among all men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot.

Importantly, the major feature of the traditional version of the Hippocratic Oath is that the doctor recognizes that he is dealing with a patient at a vulnerable time and will do everything with the patient's best interest in mind. He enters into a covenantal agreement between himself, the patient, and the deity.{5}

Oath of Office:

www.senate.gov/artandhistory/history/common/briefing/Oath_Office.htm

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely,

without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

The distinguishing feature of the Oath of Office is that of protection of those principles found in the Constitution of the United States. While this may protect the citizens of the U.S., this is not a personal obligation towards an individual with the individual's best interest in mind. In this sense it is a contractual relationship between the citizens of the U.S. and their representatives or armed forces.

Notes

1. Cameron, Nigel M. de S., *The New Medicine: Life and Death after Hippocrates*, 1991, Crossway Books, Wheaton, IL.
2. For some foundational philosophy on Political Theory, see the works of Jean-Jacques Rousseau (*The Social Contract*), John Locke, and Thomas Hobbes (Leviathan).
3. For an interesting look at the history of utilitarianism, see the *Internet Encyclopedia of Philosophy* on "John Stuart Mill," www.iep.utm.edu/milljs/#SSH2d.ii; also, Kerby Anderson, *Christian Ethics in Plain Language*, Nashville, TN, 2005, Thomas Nelson, Inc., pps. 15-17.
4. Joni and Friends, www.joniandfriendsnews.com/docs/091125_healthcare.pdf
5. Translation from the Greek by Ludwig Edelstein. From The Hippocratic Oath: Text, Translation, and Interpretation, by Ludwig Edelstein. Baltimore: Johns Hopkins Press, 1943.

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Do We Need a "Hate Crimes" Law?

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Congress is once again weighing the possibility of passing a hate crimes bill that would give special federal protection based upon race, religion, gender, and sexual orientation. Representative Sheila Jackson-Lee (D-TX) introduced the David Ray Hate Crimes Prevention Act of 2007 (HR 254) in January. Many believe that if the bill is passed, it could open the door to prohibit any opposition to homosexuality whether in the church or the society at large.

It is quite possible that hate crimes legislation might even be used to define biblical language as hate speech. For example, city officials have already had a billboard removed in Long Island, NY, because it was classified as hate speech. The billboard read: If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination. (Leviticus 20:13)

Consider how hate crimes legislation in Philadelphia was used against Christians. In 2004, six men and five women were arrested in Philadelphia while preaching and speaking during a public homosexual celebration known as OutFest. These Christians (later known as the Philadelphia Eleven) walked into the gathering singing hymns and carrying signs encouraging homosexuals to repent. They were immediately confronted by a militant group of gay activists known as the Pink Angels. These activists blew loud whistles and carried large pink signs in front of the Christians in order to block their message and access to the event. Many of the gay activists screamed obscenities at the Christians.

Those arrested ranged in age from a 17-year-old girl to a 72-

year-old grandmother. After spending twenty-one hours in jail, the Philadelphia District Attorneys office charged five of them with various felonies and misdemeanors stemming from Pennsylvanias hate crimes law. If the Philadelphia Eleven were convicted of these charges, they would have faced forty-seven years in prison and $90,000 in fines each.

Even though a video clearly showed that no criminal activity took place, the prosecution refused to withdraw the charges, and characterized the groups views in court as hate speech. The judge for the Philadelphia County Court of Common Pleas Judge finally dismissed the charges, saying that she found no basis whatsoever for any of them.{1}

But even apart from the concerns about how a hate crimes law could be used to promote the homosexual agenda are deeper concerns about hate crimes legislation in general. For example, there is a major question whether hate crimes are really the problem the popular press makes them out to be. The FBI annually publishes Hate Crime Statistics. The most recent report shows that hate crimes reached an eight-year low in the last reporting period. A study by the Family Research Council found that there are significant discrepancies between hate crimes reported by law enforcement and the media.{2}

Hate crimes laws also rest on the flawed assumption that enhanced penalties deter crimes. First, there is no evidence of this. Most of these crimes are crimes of passion and are not likely to be influenced by greater criminal penalties. Second, the argument for greater deterrence usually comes from those who argue that the death penalty has no deterrent effect. Do they really believe that a hate crime law deters a criminal simply because he or she might spend a few extra months in jail?

A final objection to these laws is that they criminalize thought rather than conduct. Hate crimes laws essentially punish thought crimes. They punish people because of their

point of view. Criminal prosecutions delve into more than the defendant's intent; they inquire into the opinions about his or her victim. And trying to distinguish between opinions and prejudice is often difficult.

Justice Oliver Wendell Holmes said, "If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate."{3}

We may not like what some people think, but we should not have laws on the books to punish thought crimes. We already have laws on the books to punish what a person does. Those laws are sufficient to punish those who commit crimes of hate.

Notes

1. "Judge drops all charges against Philly Christians," *WorldNetDaily*, 17 February 2005, www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42905.
2. Leah Farish, "Hate Crimes: Beyond Virtual Reality," Family Research Council, www.frc.org/get.cfm?i=IS03K01.
3. Oliver Wendell Holmes, *United States v. Schwimmer* 279 U.S. 644 (1929).

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