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.

National Health Care

One of the hottest areas of debate in our society today is in the area of health care. Congress, the President, state legislatures, doctors, insurance companies, and private citizens are talking about rising health costs and proposing ways to deal with this issue.

Consider the following scenario: Suppose the federal government decided to do something about hunger in America and instituted food reform. Imagine that the proposed solution was to herd everyone into food alliances. Then it required that everyone buy food from those food alliances or else required them to eat their meals in huge cafeterias, all offering the same government-approved menu at government approved prices.

What would be the impact? If everyone had to go to food alliances to buy food, the price of food would go up. Imagine if every month money were deducted from your paycheck to pay for food insurance. Then when you went to the food alliance, you gave the cash register receipt to the government for reimbursement. Since you aren't paying for it, you would rarely comparison shop. You wouldn't be looking for bargains and eventually the cost of food would sky-rocket.

The only way the federal government could keep the price down would be to institute price control. It would have to tell manufacturers what they could charge for food. But this would lead to scarcity, because some farmers and manufacturers would conclude that the price was too low for them to make a profit. And some supermarkets would find the profit margin too small so they would go out of business.

Finally what would be the impact on you—the consumer? Well, you would see less diversity and less food at the food alliance. And there would be much more governmental regulation than is really necessary.

This, essentially, is what is being proposed in the area of health care. Government will establish health alliances, set prices, and implement employer mandates. These are just a few of the elements of what is called managed competition.

But is there a better way? Of course there is, and we can return to our food analogy to find it. Currently what does the federal government do to help people who do not have enough to eat? Does it assign people to food alliances or herd them into huge cafeterias? No. It gives them food stamps which they can use in local grocery stores. They comparison sop and find the food and prices they think is best.

Many are saying that this is the model we should use for health care. Don't socialize health care and turn over the decision-making to a few federal bureaucrats and national health boards. Put the power and responsibility into the hands of 100 million individuals who would effectively organize and regulate the health care market.

This of course is just one proposal, but it illustrates rather dramatically what could happen if we made people responsible to their own actions rather than enlarge the role of government in health care.

How Many Americans Are Uninsured?

During the 1992 campaign, Bill Clinton said that there were 37 million Americans who are uninsured. We were told we need to reform health care in the U.S. in order to provide for the millions of Americans who do not have health insurance.

How many Americans are truly uninsured? During the campaign Bill Clinton stated that 37 million Americans are uninsured. But during his 1994 State of the Union speech President Clinton began using the higher figure of 58 million. Did that mean that 21 million Americans lost health insurance during the first year of the Clinton Administration? Obviously not.

So what is the correct figure?

Well, it turns out that these figures only work if you include the Clinton disclaimer “some time each year.” This would include anyone who changed jobs, changed health plans, moved, etc. Using that criterion, it would be true to say that I have been homeless in the past since I have been “between homes during some time during a year.” But that did not mean that I slept under an overpass. Perhaps a better way to look at this issue would be to figure out how many people do not have insurance over a longer period of time—this would be the people who are chronically uninsured.

So how many Americans are chronically uninsured? It turns out that half the uninsured used in President Clinton’s statistic have insurance again within six months. Only 15 percent stay that way for more than 2 years. This produces a figure of about 5.5 million chronically uninsured.

But 37 percent of those people are under the age of 25. For them, insurance plans are often a bad buy or even unnecessary because they may still be covered by their parents’ plans. So if we eliminate the 37 percent, this brings the number down to approximately 3 million Americans who are chronically uninsured.

I might also add that some of these 3 million may not want to be insured. Some may be very wealthy and not want health insurance. Some of the other 3 million may want to be outside the system. The Amish may not want to be forced to buy insurance. Christians who are part of a group called “the Brotherhood” have opted out of traditional insurance and pay one another’s bills.

So we may have even less than 3 million people are chronically uninsured and want to be insured. That is no small number and it certainly isn’t insignificant if you are one of those people who are uninsured. But the 3 million figure does put

the problem in a different light.

We could merely expand Medicaid to include these people. We could provide supplementary insurance for these people. We could even come up with free market alternatives. But we don't need government to take over one-seventh of the American economy merely to deal with the problem of 3 million uninsured Americans.

And that's the point, some of the numbers are being used to justify rash and draconian actions. We don't need health alliances, employer mandates, national health boards, or mandated universal coverage if the real problem is that 3 million Americans are chronically uninsured. We can develop a simple program to meet their needs and avoid the problems of socialized medicine.

What About the Costs?

At this place in the discussion it's appropriate to focus on the possible cost of health care reform. Most Americans want to know the price tag of health care reform. And when you hear people talking about the potential cost, recognize that you probably aren't hearing the whole story. Proponents will talk about the direct cost of health care reform, but remember that are other hidden costs that may be more significant.

For example, what will be the impact of health care reform on business? Proponents argue that the impact will be minimal. Business owners are not so sure. They fear that employer mandates will hurt their business, affect their bottom line, and create substantial unemployment.

During a Presidential town meeting in April 1994, President Clinton got into a verbal sparring match with Herman Cain, president and CEO of Godfather's Pizza. The President asked, "Why wouldn't you be able to raise the price of pizza two percent? I'm a satisfied customer. I'd keep buying from you."

Then he asked to see Mr. Cain's calculations. Mr. Cain replied in a letter to the President (later reprinted in the *Wall Street Journal*). The following is a brief summary of the letter.

Although there are over 10,000 employees with Godfather's Pizza, two-thirds are owned and operated by franchisees. Mr. Cain focused his calculation only on the approximately one-third which were corporate-owned operations.

Mr. Cain concluded that the Clinton Health Care plan would cost nearly $2.2 million annually. This represents a $1.7 million increase. In other words this increase would be a 3 1/2 times their insurance premium for the previous year!

If these calculations by Mr. Cain are accurate (and no one has challenged them so far), then how did President Clinton arrive at his figures of a 2 percent increase in price of pizza? President Clinton stated that restaurants with approximately 30 percent labor need only increase prices by 2.5 percent. Apparently he multiplied 30 percent by the employer mandate of 7.9 percent.

But Mr. Cain's detailed calculations show that it just isn't that simple. He estimates that you would need a 16 to 20 percent increase in "top line" sales to produce the same "bottom line" due to variable costs such as labor, food costs, operating expenses, marketing, and taxes.

I would argue that even a 2 percent increase in pizza costs could be devastating. Most people buy pizza to save time and money. Even a small increase in the cost of pizza would affect business. Mr. Cain noted that half of all Godfather's Pizza customers use coupons to purchase pizzas. The impact of a 16 to 20 percent increase would be devastating to Godfather's Pizza. And what would be the impact on the economy? In essence the President was predicting that health care reform would require the inflation of prices.

Will a health care reform bill with employer mandates adversely affect business? Proponents say that health care reform will not be costly to the American taxpayer or to American business. But tell that to Herman Cain and Godfather's Pizza. Their detailed spreadsheets project that these health care bills will more than triple their insurance costs in just the first year.

Health care reform may cost much more than we think it will. The direct costs may not seem like much, but don't forget to count the indirect costs to you and to American business.

Other Issues

Other key issues being discussed along with health care reform need to be examined. The first is health care costs. Originally only about 5 percent of the Gross Domestic Product was spent on health care. And until the mid-1980s, it was less than 10 percent. But now it is approximately 14 percent of Gross Domestic Product and could be as high as 18 percent by the end of the decade. In actual numbers, health care costs were $74.4 billion in 1970 and will be approximate $1.7 trillion by the year 2000.

Part of the problem is that a third party pays for health insurance. If there were more personal accountability, people would comparison shop and bring market pressures to bear on some of the health care costs. For example, if I told you I was going to take you to dinner on the Probe credit card, you would probably spend a lot of time looking at the left side of the menu. However, if I said, "Let's go out to eat, Dutch treat," you would probably spend a lot more time looking at the right side of the menu. When someone else pays for our medical bills, we don't pay as much attention to cost. When we have a personal responsibility, we pay more attention and thereby lower costs.

A second issue is tax fairness. Nearly 90% of all private

health insurance is employer-provided and purchased with pre-tax dollars. But the self-employed and those who buy their own insurance must buy theirs with after-tax dollars. Presently the government “spends” about $60-billion a year subsidizing employer-based health insurance by permitting employers to deduct the cost.

Tax fairness would allow all people to buy health insurance with pre-tax dollars. One solution is to allow those who purchases their own health insurance to have a tax deduction or tax credit. This would eliminate the tax benefit for getting health insurance through an employer and employees could purchase their own insurance which leads to the next issue.

Portability is the third major issue. Americans usually cannot take their health insurance with them if they change jobs. A fair tax system would offer no tax subsidy to the employer unless the policy was personal and portable. If it belonged to the employee, then it would be able to go with the employee when he or she changed jobs.

In essence, health insurance is merely a substitute for wages. In a sense, it is an accident of history. Health insurance was provided as a benefit after World War II. Health insurance should be personal and portable. After all, employers don’t own their employees’ auto insurance or homeowner’s insurance. Health insurance should be no different.

Price fairness is another issue. Proponents of socialized medicine would force people with healthy lifestyles into a one tier system with people who smoke, drink too much, use drugs, drive irresponsibly, and are sexually promiscuous. A better system would be one that rewards responsibility and penalizes irresponsibility. Obviously we should provide for the very young, the very old, the chronically ill, etc., but we shouldn’t be forced into a universal risk pool and effectively subsidize the destructive behavior of those who voluntarily

choose sin over righteousness.

These are just a few of the key issues in the health care debate. Unfortunately many of them have been ignored. A truly ethical health care system must provide tax fairness, price fairness, and portability.

The Moral Costs

I would like to conclude by examining the social and moral implications of health care reform? Critics of health care reform warn that it will inevitably lead to rationing. Most of the government health care plans proposed will be forced to ration care and no doubt put a squeeze on the aged and on high tech medicine. This would be the only way to save money. For example, when Hillary Clinton testified before the Senate Finance Committee, she explained to the Senators their justification for health care services. She said their proposal creates "the kind of health security we are talking about, then people will know they are not being denied treatment for any reason other than it is not appropriate—will not enhance or save the quality of life." Medical services will be curtailed for those whose quality of life is not deemed necessary to treat. This has been the inevitable result in other industrialized countries that have socialized medicine. If you increase demand (by providing universal coverage), you will have to decrease supply (health care benefits provided to citizens). Those patients whose quality of life is not deemed satisfactory will be denied treatment.

Canada, for example, has a single-payer plan. They have found that their health care costs are going up as fast as U.S. while their research is lagging behind. Patients find themselves in waiting lines and have been coming in significant numbers to the U.S. for health care. Those remaining in Canada wait in line. There are currently 1.4 million waiting for care and 45 percent say they are in pain.

There would also be a squeeze on high tech medicine. The quickest way to save money is to limit the number of CAT scans, MRIs, or other sophisticated forms of technology. In Canada high tech equipment is relatively rare and used sparingly. In the U.S., the latest technology is available to nearly all Americans.

Health care expert Danny Mendelson writing in *Health Affairs* journal predicted that "a few years down the line, you first start to see what we call silent rationing, where the patient's don't even know that they're not receiving the beneficial care that they need. Further down the line, I think it would become very clear that we were denying patients some of the latest technology in order to save money."

Finally, critics wonder if government should be entrusted with running the health care system in America. Government has not proven to be an efficient deliverer of services. As one wag put it, if we have government take over health care, we might end up with a system that has the efficiency of the post office, the compassion of the IRS, at Pentagon prices. No slight is intended to the good people who work in those areas of government, but the joke does underscore the growing concern over government delivery of services, especially health care.

As Americans begin to evaluate the costs of various health care reform packages, they are beginning to find they are a bad buy. The solution is to reduce the scope of government in health care, not expand it.