Flawed Regulations Will Stand if Physicians Sit Out

By Daniel Essin, MA, MD

As the pressure on healthcare organizations increases, physicians need to mobilize, find strength in numbers, and take a stand if they want change.

Source: Physicians Practice

In my recent article, "Well-Intentioned Physician Mandates Lack Success," I commented on the dismal track record of grand schemes and the accumulating evidence of their ineffectiveness. Schemers have a goal: public or covert, selfish or aimed at the greater good. The grand schemes that I cited, and many others, are based on assumptions about what will, must, or ought to happen as well as an assumption that the scheme itself will cause no undesirable side effects (aka unintended consequences). I suggested that now, with Republicans in control of Congress, and knowing their professed dislike of regulation, they should take aim at those schemes for which there is no evidence.

"Take aim" raises questions: Does evidence mean anything to the Republicans? Do they view and think about evidence the way scientists do? After all, a deep understanding of science is not a prerequisite for election to Congress. Legislators are basically ordinary folks. Among them are climate change deniers, evolution deniers, vaccine deniers, women's' rights deniers and deniers of who knows what else; all subjects where others find convincing evidence that can guide their decisions. Some legislators simply dislike regulation on principle, not whether a regulation has merit. Those who think evidence counts should be skeptical of, and opposed to, grand schemes for which there is no evidence. Those who dislike regulation in any form as a matter of doctrine should be opposed to grand schemes that entail regulation. Both camps should find support among the deniers, for they dislike anything that conflicts with their beliefs.

How is it that groups composed of people who ought to oppose grand schemes for one reason or another, end up adopting so many of them? Something must outweigh both lack of evidence and doctrine. Perhaps those favoring the scheme stand to personally gain or lose. There may be (secret) obligations to financial supporters. A legislator or functionary may not care about a particular scheme but sees a chance to use it as a bargaining chip as they attempt to line up support for their own grand scheme. If only people would readily alter their beliefs when presented with evidence.

With this as background, David Allison asked, in a comment, "So what are physicians going to do about it?" His suggestions are: join a medical association (just not the AMA, he has a favorite), boycott maintenance of certification and other regulations that intrude into issues of professional judgment, and conduct and seek recognition from an alternate accrediting body (again, he has a favorite).

I don't disagree with any of these suggestions, but rather than asking what physicians "might" do, let's ask: What "are" they doing? According to a recent article in Medscape, what they are doing is getting burned out. Regulation decreases the control that physicians have over their practice and loss of control contributes to burnout. Burnout jeopardizes the goals of healthcare reform.

I find two messages in Dr. Allison's comments. They are:
• Get organized.
• Stand up for and act on your beliefs.

Physicians could combat loss of control by getting organized, and that does not mean joining the AMA or the Association of American Physicians and Surgeons (AAPS). It means doing the one thing that most swear they would never do: forming or joining a union and being prepared to strike.

New York Times columnist and professor of economics Paul Krugman has this to say about unions:
"Once upon a time ... America ... had a strong union movement ... Unions ... provided an important counterbalance to the political influence of corporations and the economic elite...,” and, I would add, legislative and regulatory abuses committed by governmental and quasi-governmental bodies.
As the pressure on healthcare organizations increases, the collegial environment that has led employed physicians to resist unionizing can be expected to deteriorate. The push to industrialize medicine will force employed physicians into the role of factory workers; they will need to organize if they hope to retain their control of patient care.

The federal government, through its control of Medicare and Medicaid funding controls, for all intents and purposes, physicians' working conditions and remuneration. This makes the government the de facto employer, whether they see Medicare/Medicaid patients or not, since the regulations affect all physicians. Independent practitioners will need to organize if they hope to counteract this trend. Only if physicians vote with their feet and wallets and the patients are lining up at government’s doors for care, will the message hit home that regulation has run amok. Until then, political aspirations and money from special interests will trump complaints from individuals, the AMA, or the AAPS. There are two choices: accept whatever is imposed on you or act decisively to oppose it. If physicians don't care enough to act decisively, the regulations will stand. Lack of effective resistance will be interpreted as a vote in favor of the regulations because, after all, physicians agreed (went along) with them. If individual physicians continue to remain aloof, the profession will collectively deserve whatever happens to it.

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