

**Western Neurosurgical Society  
Presidential Address**

**School of Athens**

***RES SEVERA VERUM GAUDIUM***

***"True Joy is a Serious Matter"***  
**(Seneca)**

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***October 14, 2002***

**Members of the Western and Guests:**

To paraphrase Richard Lovelace the 17<sup>th</sup> century lyric poet, *"I could not value the honor of being President of the Western Neurosurgical Society so much, valued I not your work, your friendship and your being here, more."* As with all medical families, my wife Joanne and children, Laura and Donald, have paid a heavy price for my devotion to medicine, and for this I beg their forgiveness.

During the first year of a presidency extended by the riveting events of September 11, 2001, I reached a milestone of sorts, age 65, and have felt constrained to reassess my potential contributions in medicine in view of that age and its perceptible declining energies. Whereas for me the final aneurysm has been clipped, I feel dedicated to fight, like Charlemagne's Roland, the ultimate battles for the integrity of our distressed but noble profession, ravaged by multiple inequities: prescriptive controls, punitive regulations and a culture of blame and suspicion. But how? Please allow me to reveal to you my self-indulgence in organizing for myself and you my thoughts in charting a course of action.

From its inception, America as a constitutional republic, has premised its laws on the natural rights of man, unalienable because they are based on the special nature of man, who has a right to life, liberty, and the pursuit of happiness. This naturalist view of laws is distinguishable from the positivist view that there is no natural moral law, no natural rights, no natural justice, ending with the conclusion that man-made laws alone determine what is just/unjust or right/wrong, and that "might makes right". The naturalist view was enunciated by Plato, Aristotle, Augustine, Thomas Aquinas, John Locke, and Jean Jacques Rousseau. Positivists believe justice is in the interests of the stronger "whatever pleases the prince". This doctrine has been advocated from the time of the Caesars by defenders of absolute governmental authority, such as Ulpian, Thomas Hobbes and John Austin. Absolute authority in contemporary America is vested by members of Congress in the princes of wealth and influence, such as are embodied in captains of the insurance industry.

During the last half of the Twentieth Century American medicine has had simultaneous contrasting images of epochal discovery and technological innovation coupled with diminishing patient advocacy and care. Physicians have succumbed to dual agency of representing the patient equally with business interests of the Insurers, often at the expense of their patient's welfare. From Hippocrates until after World War II uncompromising loyalty of a physician to a patient has characterized medicine. Introduction of a third player, the insurer, has accelerated the decline of the ethical norms and shattered the ideal, especially with the intrusion of the Federal Government in 1965 with Medicare and Medicaid. The free or near free services seniors, the disabled, and the employed can command contrasts with the diminishing availability of physicians and *physicians who care*. Will this be regarded as the ethical Dark Ages of modern American medicine?

Medieval society in Italy had its own level of privations: the threat of the Ottoman Turks, the divisions within the church, recurrent plague, the struggle with the King of France and the Holy Roman Emperor for domination of the Italian peninsula. The High Renaissance or rebirth of the early 1500's reawakened mankind to the humanism, rationality, individualism, worldliness and democracy of ancient Athens. In glorification of the world of Greek philosophy and learning, Rafael's School of Athens, created 1508-11, captured the new feeling of independence and rejection of authority by man. Once again at the center of the universe, the complete master of the intellect and spirit, Renaissance man was imbued with an optimism and determination to make his own decisions, right or wrong.

What inspiration can classic Greece offer American medicine in search of its own High Renaissance? Before Hippocrates physicians could be hired as assassins by an agent to do in an enemy or cause the premature demise of a relative to facilitate early inheritance. Hippocrates established total loyalty, a covenant of trust between a doctor and his patient. Would a rediscovery of Athenian Ideals in this age of *Hippocrates lost* offer hope to a profession besieged by mindless bureaucrats, cloaked in regulatory anonymity, who trample on the liberty of the physicians to do as they ought and lead an undefiled life of professional integrity?

*The School of Athens is a Vatican fresco occupying one of four walls of Pope Julius II's library, the Stanza della Segnatura. In a magnificent architectural setting and hierarchical intellectual world, Raphael gathers sages of Greek philosophy grouped according to various disciplines: in the left foreground are Grammar, Arithmetic and Music, identified by the presence of Pythagoras; Geometry and Astronomy are on the right represented by Euclid, Ptolemy and Zoroaster; on the top step are Rhetoric and Dialectic. Raphael captures the idealism of Plato in terms of the essence of things holding the Timaeus with his left hand while his right hand points upwards toward the Empyrean. Realism is symbolized by Aristotle carrying his Ethics, with his right hand outstretched between heaven and earth, always searching for the real, esse.*

Raphael's ideal world offered order, grandeur, generosity of spirit, and the confidence in humankind that soothed the anxieties of his contemporaries. The principal characters in Raphael's masterpiece symbolize great ideas, among which are Liberty, Equality, and Justice, that more profoundly understood can guide and renew a demoralized profession.

On one wall of the Stanza was this temple of Greek philosophy; to the right on an adjacent wall Raphael created the complementary fresco Jurisprudence. Raphael's artistic juxtaposition links transcendent ideas of liberty, equality and justice, first enunciated in ancient Athens, to Western thought and laws.

Re-examination of these precepts is relevant to an embattled profession seeking guidance, identity and purpose in a suddenly transformed, complex world of unlimited expectations and demands, advancing technologies, an aging populace's entitlement mentality and the realities of physician group and HMO insolvencies.

Physicians ask for their freedom, their autonomy. The government, responsible for 50% of expenditures for health, tries to restrain outlays through coercive laws and regulations that restrict services. Egalitarian legislators seek to impose total government control of medicine through a single-payer system. How can principles of Liberty, Equality and Justice offer guidance through this maelstrom?

### LIBERTY<sup>1</sup>

Let us look at Liberty. Liberty is synonymous with freedom. What do physicians mean when they call for more autonomy or freedom? Should physicians be free to order tests and remedies they believe appropriate without approval of payers; to charge what they believe their services are worth; to balance bill above rates approved by government and commercial payers? Should patients be free to choose their primary and specialty physicians; to select from insurance plans best fitting their personal and family needs; to know up front costs of recommended and alternative treatments of their doctors and hospitals in order to make informed choices? Should physicians be free to practice without the threat of violating anti-trust, fraud and abuse, EMTALA, privacy and security regulations? Should state licensure of physicians be tied to acceptance of government and other insurance programs, i.e. state mandated physician bondage?

Liberty has three forms:

1. **Natural freedom or free will (choice)** is inherent in humans who are capable of rational or conceptual thought and syntactical speech. This natural freedom is unique to man and is not shared with sub-human animals, whose actions are instinctive or conditioned by external circumstances. Decisions have consequences; make fundamental decisions and accept the consequences. Physicians and patients both can exercise free will in choosing one another and forms of treatment.
2. **Acquired freedom** is possessed only by those who in the course of their development acquire some measure of virtue and wisdom. Acquired or moral freedom consists in our having a will that is habitually disposed by virtue, to will as one ought. Obstacles to right desire stem from appetites or passions that generate wants in conflict with needs, wants that tempt or solicit us to make wrong rather than right choices. Through parents and teachers this freedom is acquired. Examples abound in the past decade of business leaders, a President, and physicians who never acquired the freedom to will as they ought. A neurosurgeon who bills \$39,000 for a one-level lumbar fusion values his procedure more for his income return than its potential benefit to his patient and the perpetuated nobility of his profession. Spinoza spoke of human bondage as enslavement by appetites and passions, our lower nature. Doctors can manifest acquired freedom by professional dedication to their patients' foremost physical, spiritual and economic well-being. Loss of this acquired freedom by many physicians has caused government to react and impose restrictions on freedom of action.

The key to unlocking the gate of liberty lost by American physicians, to regaining the circumstantial freedom to practice together without the threat of anti-trust violations and other governmental intrusions, is to reassert vehemently the primacy of Hippocratic trust as indispensable to becoming a physician and to rededicate ourselves to the learned, acquired freedom to act as one ought for the patient's welfare.

Though Saint Peter in chains lacked circumstantial freedom, he still had freedom of choice and the moral freedom to will as he ought. Physicians who have lost their circumstantial freedom yet have their free will and moral freedom to do as they ought for patients and to resist the shackles of unjust laws.

3. **Circumstantial freedom of action** dependent on favorable external circumstances allows one to do as one pleases within constraints of justice. Having by nature the power of choice, we have a natural unalienable right to liberty of action. Physicians in contemporary America have lost this freedom of action.

Man's natural freedom of choice and his obligation to make a good life for himself by making right choices is the basis of his entitlement by natural right to liberty of action, including that variant political freedom.

Of these three freedoms the only one that needs to be regulated by justice is circumstantial freedom of action. Illegitimate, unlawful or unjust exercise of one's ability to do as one pleases is not liberty, but license, anarchic liberty, or autonomy. An individual prevented from doing what he pleases by just restraints suffers no loss of liberty, because he is doing what he ought to do.

In America many examples of unjust laws unfairly restricting the freedom of physicians have devalued medicine, leading to professional anomie and indifference among physicians to the compelling needs of patients and to their time-honored role of patient advocacy. Unjust laws enhancing the freedom of either Insurers or physicians or patients at the expense of the other two have led to opportunistic, profiteering excesses by the advantaged group.

As stated in our Declaration of Independence, **life, liberty and the pursuit of happiness** are natural rights secured in human nature. Is it just that federal legislation through punitive positive, not naturalistic laws, have led to privations of physicians and their patients? If other unalienable natural rights are the moral obligation to pursue happiness and the right to life, is it just to deny Americans the economic goods indispensable to sustaining life, including health and knowledge?

### EQUALITY

Do all Americans have a right to equal health care? Are the affluent entitled to more health care? Should physicians in all medical and surgical specialties all be paid the same? Should physicians' compensation within a specialty be identical, regardless of skills, experience or time commitment, as is the case in Medicare?

Equality has several dimensions. Two things are equal when one is neither more nor less in an identified respect and unequal when one is more, and another less.

1. Equality/inequality may be personal (natural, acquired) or circumstantial (conditions under which one lives). Persons vary widely in natural endowments and attainments. These traits are not controllable by society. On the other hand conditions or circumstances in life with respect to status, treatment or possession of one or another basic human goods is controlled by society, including political liberty, wealth, schooling, a healthful environment and medical care.

A society can determine the circumstantial availability of health insurance, its costs, the quality and number of doctors, the creativity and scientific progress of a profession through enlightened tax policy, strict attention to freedom of practitioners to excel and to just restraints on inhibitory, punitive laws.

Opportunity is an initial as opposed to resulting condition. Equal opportunity can be mandated: everyone should have equal opportunity to seek an education, to enter a profession, to choose a physician. Resulting conditions based on unequal natural capacities and motivations disallow enforcing circumstantial equality without strenuous, tenacious efforts. Examples of equality of condition requiring diligence include universal suffrage, education, equal rights or equal justice under the law.

Equality of circumstances, including opportunity, can be divided into political, economic and social categories.

2. **Circumstantial equality** may be declarative (descriptive, the way it is) or prescriptive (ought to exist). Justice enters the field of circumstantial but not personal equality, because the former, not the latter, is controlled by society.
3. Both personal and circumstantial equality may exist in kind or degree.

Personal equality of humans in kind derives from our powers of conceptual thought and free choice. We are not "created equal" but equally human in kind with different natural endowments and attainments in degree. We have species equality and deserve dignity as persons, but have individual inequality. Personal equality cannot be mandated. We are born with certain natural endowments and develop them to various degrees.

Circumstantial equalities can be mandated. Circumstantial equalities to which we are entitled in kind as human beings are equality of status, treatment, opportunity, but not possessions, and can be enforced by the government of a free democratic society.

Justice requires equal circumstantial political and economic status, treatment and opportunity in kind for all humans. This is so because being by nature equal in kind, humans are endowed with unalienable rights in kind to life, liberty and happiness. These are natural rights, not bestowed by legal enactment.

Being by nature political animals, humans have a natural and unalienable right to political liberty and participation. All human beings, having by nature the power of free choice, have a natural and unalienable equal right to liberty of action. Without liberty of action, our freedom of choice would be rendered totally ineffective, and we would be exercising it without achieving the ultimate good, happiness, we are under obligation to seek. Lacking free will, lower animals have no rightful claim on freedom of action.

In the economic sphere humans have certain biological needs for subsistence, comforts and conveniences in order to live well, to engage successfully in the pursuit of happiness: schooling, a healthful environment, ample free time from toil, pursuit of leisure to engage the mind in learning, and creative activity. Humans have a natural equal right to possession of that sufficiency of economic goods to live well, just as humans are entitled to political liberty. None can be have-nots, but there justly can be variations in degree of possessions.

In both political and economic spheres justice requires only as much equality of condition as human beings have a right to on basis of their natural needs.

On one extreme is the egalitarian. In medicine he proposes a single governmental funding source for all medical care. He accepts only personal equality in kind, neglects personal inequalities in degree, and maintains all human beings are entitled to circumstantial equality in kind and degree with respect to medical care. Egalitarians forget that personal human equalities in kind and inequalities in degree call for two conclusions rather than one, namely circumstantial equality as human beings in kind and inequality in degree. No one has worked out a plan whereby this extreme form of egalitarian equality, wherein everybody receives equally, will endure short of by magic or in a monastery. Egalitarians want all humans to receive identical health care, even if all bad, and all doctors to receive identical compensation regardless of the doctor's skills, experience, and applied intensity. Medicare and Medicaid are insurance models of egalitarian injustice, where patients end up not receiving services and medications they need, and physicians uniquely among professionals in America cannot bill and collect what their services should command in an otherwise free market economy.

On the opposite extreme the elitist overlooks the personal equality in kind of all human beings, accepts only the personal inequalities in degree, and recommends only circumstantial inequality in degree but not a basic level of equalities in kind with respect to political and economic goods. He rejects any circumstantial equality in kind, except equality of opportunity, because he believes in the race of life, the superior will win. An elitist in medicine would believe those citizens

who earn the most money deserve the most medical care; others must accept less or none, and there should be no basic care for all humans.

A true libertarian wants the unfettered freedom of action that replicates elitism. Like the elitist he rejects personal equality of humans in kind and also circumstantial equality in kind except for equality of opportunity. His acceptance of only personal and circumstantial inequalities in degree allows him to maximize his individual liberty of action, especially freedom of enterprise in the economic sphere. Otherwise he wants least governmental regulations and interferences in economic activity that will restrict his liberty of action and curb freedom of enterprise. Libertarian physicians and citizens of the world would want no restraints on their utilization of medical resources or on service charges. They ask for more liberty than justice allows, because unfettered freedom to charge and spend for the most capable physicians and healthy patients within society's finite resources would deny others their right to basic medical services.

Between the extremes of the egalitarian and the libertarian lies a moderate or justly limited equality of condition in kind with respect to political and economic goods, including health care, accompanied by inequalities in degree. Justice requires all shall be haves, but not to the same degree. Access to basic health care is a moral obligation of a good society.<sup>5</sup>

Circumstantial equalities in kind and inequalities in degree are both required by justice. Equalities in kind for all humans include a natural right to freedom of political participation and action and a sufficiency of economic goods to provide humans the wealth needed to live decent lives, not crippled by deprivations that render one destitute. Circumstantial political inequalities in degree devolve upon elected and appointed leaders who exercise greater power than other citizens. Circumstantial economic inequalities in degree allow to each the wealth he produces, because of his greater contribution to the common good. No one should earn more wealth by his productive contribution that not enough remains for distribution. John Locke in his chapter on property in his Second Treatise on Civil Government contended the principle that those who contribute unequally shall receive unequally is a principle of justice that must be subservient to the principle of justice that calls for unequal distribution to all that minimal measure of wealth everyone needs.<sup>4</sup>

### JUSTICE

Is control of physicians by the Federal Government and Insurers just? Does justice demand everyone have the same amount of health care? Does justice require that groups of physicians have legal right to negotiate with the Federal Government and commercial insurers over conditions of their professional activities, including reimbursement?

Justice is an unlimited good and sovereign over liberty and equality. We can want much more liberty and equality in relationship to our fellow man than we are entitled. Neither liberty or equality is the prime value and can be maximized harmoniously only when regulated by justice. Justice directs one to search for the morally correct position (1) that promotes the freedom of action of patients and physicians in health care matters and (2) that insists on equal rights of all patients to access to basic health care and equal rights of all physicians to lead satisfying, fulfilling professional lives. The extreme libertarian physician's desire for unlimited freedom of action could result in profiteering that would deprive some patients of the freedom and right to secure basic care. Egalitarian physicians, advocating one level of care for all, ignore different contributions individuals make to society and would unfairly penalize achievers and reduce incentives to excel and contribute to the benefit of everyone. Egalitarians ignore the fact personal inequalities of endowments and attainments result in variable contributions to the welfare of the community. They

maximize circumstantial equality unjustly to deprive individuals the freedom to contribute and excel. Communism failed because of this misinterpretation of human nature. Society should seek only as much circumstantial equality as justice requires.

To find a just solution to problems facing the medical world, one must discover the needs and rights inherent in human nature. Precepts of natural justice follow principles of the natural moral law. The natural moral law places us under three obligations.

1. **Seek the good; avoid evil; pursue happiness, our primary obligation.** This primary obligation is not a principle of justice because it concerns one's private life. Hitler and the terrorists each saw their acts as good.
2. **Do good, avoid evil, act justly toward others (a) by not violating their rights, impeding or frustrating their pursuit of happiness, (b) by treating others fairly rather than unfairly in distributions and exchanges.** This secondary obligation is a principle of justice.
3. **Act for the common good or general welfare of the community.** This contributive aspect of justice, also called the utilitarian or pragmatic theory of justice, is a tertiary obligation and is not always just by reference to natural rights or criteria of fairness. Congress misuses this "justification" for imposing price controls only on medicine, for allowing its agencies to control severely all aspects of medical care and for allowing insurers free reign to exploit.

Justice ideally is meted out by creating positive laws that derive from those principles of the natural moral law that are its precepts of natural justice and that respond to basic human needs.

Whereas naturalists affirm the existence of natural justice, of natural unalienable rights flowing from the natural moral law with its obligations, the positivists deny all these and insist on the opposite, that man-made laws of the state provide the prescriptive regulations that human beings are compelled to obey. The positivist view has continued through the centuries in various despotisms and in America where campaign contributors are rewarded with favorable laws. These are the contemporary princes of "might makes right", who purchased their own perceived justice. Witness the 100 million dollar slush fund directed at congressmen to defeat the Campbell bill, allowing collective physician negotiation and the Patient Bill of Rights, or more recently the coin-operated governor of California whose credo is "pay to play".

Consideration of Liberty, Equality and Justice is germane to a citizen's natural right to rebel against unjust positive laws and determinations not made with respect to antecedent principles of natural justice. Coercive threats of fines, sanctions, incarcerations are forces against American medicine without moral authority, might without right. Examples of unjust positive law include the McCarran Ferguson Act, The Health Insurance Portability and Accountability Act, the introduction of price controls on the practice of American medicine. Passage of these laws and regulations comply with two of the three theories of justice: (1) might makes right, the legalistic or positivist theory of justice; and (2) the pragmatic, utilitarian theory of justice, "general happiness, the greatest good for the greatest number." These laws violate the third more powerful theory of natural rights and of fairness to a class, our medical profession.

### **PROPOSED SOLUTIONS**



Reflections on Liberty, Equality and Justice lead to general conclusions that can cut the Gordian knot of health care that plagues the American people, physicians and the economy.

**Liberty:**

1. Restore the natural freedom of action of the American people to select their own health plans, physicians and to dispense their own payments for services. The contract for services then is between a patient and a physician and trust will less likely be violated when a third party is not invariably involved. The government, insurers, employers, and physicians each have exercised hegemony in their decisions about medical care and reimbursement. Each has failed because the recipient of this real good, the patient, has unjustly had limited freedom to choose insurance and to direct and expend personal resources. Tax incentives that tie advantages only to employer provided insurance are unequal and unjust. The third-party payment system has nullified the wisest and most frugal steward of medical expenditures, the patient spending his own first dollar for medical care.
2. Restore the natural freedom of action to the medical profession once it regains its nobility of purpose and the acquired freedom of physicians to do as they ought in providing care. An informed public free to direct its care in a free market will exert eternal vigilance against profiteering by a few physicians and obviate the need for dreadfully punitive fraud and abuse regulations and the spirit of culpability afflicting all good doctors. Freedom of action includes ending coercive price controls that insure mediocrity of care, and physician and commodity shortages. Freeing patients to choose and physicians to act balances interests without need for government, employers and insurers to intercede as enforcers. A wronged patient can leave a profiteering physician in a free market with a free flow of information aided by the internet. Government's role should be one of watchdog, not jailer.

**Equality:**

Every American has a natural right to life and enough medical care to lead a good life. Egalitarians propose total government subsidized care. Laws of demand and supply cannot be repealed. At zero price the quantity of medical care demanded becomes infinite.<sup>3</sup> Administrative rationing must then be substituted for price. Single-payer systems are characterized by long waiting lines, resource misallocation, slow bureaucracies, lack of innovation, delay in adoption of new technologies, uniformity of rules, limited patient choice, irrational rationing, inability to reign system inflation, vast regulations, poor consumer focus, poor non-competitive system inefficiency.

The problem of the uninsured and inequalities of basic care can be eliminated immediately by providing every citizen tax credits for the compulsory purchase through work or individual expenditure of catastrophic health insurance. These tax credits can be totally or partially refundable for those unable to purchase this coverage. Catastrophic health insurance restores the true nature of insurance, which does not "spread" risk but is a contract that transfers from a policy holder to an insurance company part of the risk of financial losses associated with an insured against event, such as loss of health. Exposure of personal resources or medical savings accounts to losses within the deductible promotes prudent expenditures by citizens, competition among physicians and hospitals, and attenuates cost escalation. The public mind-set that all medical services should be free and the responsibility of someone else (other taxpayers, employers, insurers) inevitably leads to single-payer government insurance with all its shortcomings.

For physicians equality requires the right to collective bargaining already guaranteed other labor-intensive societal groups and denied physicians unfairly. Enormous power of non-citizen

payers (i.e. government, insurers) diminishes responsible and responsive allocation of resources between physician/providers of services and the wishes of patient/recipients. Vastly disproportionate power is exercised by the Federal Government and a few powerful insurers over the single physician, leading to indentured servitude of the medical profession.

**Justice:**

Natural justice requires not violating rights of others, treating them fairly, and contributing to the common good. An elected Congress influenced by campaign contributions, is an awkward, protracted forum and exercise in an attempt to achieve justice. A legal system vulnerable to profiteering and excesses likewise is untrustworthy.

Our present system of providing health care in the United States is perceived as unjust by Americans in that despite the highest level of spending among 29 countries in the Organization for Economic Cooperation and Development (OECD), there is widespread dissatisfaction among patients. The high cost and inequitable character of health care is in the first place the direct result of payment by a third party (employer, government or insurance company) and the tax exemptions of employer provided medical care. The third party payment causes the employee not to monitor expenditures and to take a larger fraction of his total remuneration in medical care rather than taxable income. In the second instance the high cost is due to enactment of Medicare/Medicaid in 1965 and the predictable cost escalation of an open-ended entitlement. Tax exemption accounts for 57% of the increase in costs; Medicare/Medicaid accounts for 43%<sup>3</sup>. A cure for this disordered system requires reversing course, reprivatizing medical care and restoring the role of insurance to protect against major medical catastrophes.

To bring justice to the American people in health care requires the following:

1. End employer purchase of health insurance.
2. Allow individuals/families free choice of health plans, physicians, and hospitals.
3. Begin universal compulsory catastrophic health insurance (UCCHI).
4. Begin voluntary (non-mandated) employer defined contributions to UCCHI, that are tax deductible.
5. Provide tax credits, inverse to income, for purchasing health insurance, refundable for the poor.
6. Begin universal medical savings accounts for satisfying deductibles with private money.
7. Change Medicare from a transfer payment (Ponzi-scheme) to an investment based system.
8. End price controls and prohibition against balanced billing in federal and private health insurance.
9. Create a Federal Health Reserve Board (FHRB) that is appointed by the President from districts, and isolated from politics.<sup>2</sup> Take the politics out of health care!

Why is a non-political Federal Health Reserve Board absolutely essential? Adam Smith warned that when people get together in any profession or trade, they tend to connive, and they want to gain legislative favor. Doctors did so in late 19<sup>th</sup> century England, conniving against the working class people who were paying into mutual funds and trade union friendly societies that would pay for the worker's medical care. Prime Minister Lloyd George in 1910 was urged by doctors to pass a national insurance act that eliminated the mutual funds and trade union societies. This lobbying by doctors out of self-interest four decades later led to full-scale health nationalization in July 1948.

As protector of health care and the economy for the public, an independent Federal Health Reserve Board would have the following duties:

1. Promote freedom of choice, equality and justice for patients and physicians.
2. Specify benefits qualifying for maximum dollar tax credits to be determined by the Congress.
3. Determine percentage of maximum tax credit for which each plan qualifies.
4. Require detailed disclosure by insurers of each plan's benefit package to prospective buyers.
5. Conduct national clinical trials for new procedures to determine their tax deductibility status.
6. Vary tax non-deductible co-payments for services depending on growth of health care spending.
7. Require full disclosure of rates by hospitals in a system where a given hospital charges the same rate for all payers, but in which each hospital has its own schedule of charges, all posted on the internet.
8. Require full disclosure of all physicians' fee schedules, posted with credentials on the internet.
9. After public plebiscites, set priorities for spending and costly remedies.
10. Supervise negotiations between groups of physicians and insurers in all matters of insurance coverage, including reimbursement.

**Commentary:**

The Federal Government provided 50% of the 1.316 trillion dollars expended for health care in the United States during the year 2000. It controls through laws and regulations the other 50% subsidized by private expenditures from employers and individuals. The frequent exhortations by physician leaders to become involved in the political process to influence health care is responsive to this dominating Federal presence in medicine, which has become a public utility.

Just as there can never be equality of possession by all in a constitutional republic governed by justice, there cannot be equality of voice and political power in a country with universal suffrage. In the *Stanza della Segnatura* the fresco *Jurisprudence* is capped by the cardinal virtues Fortitude, Prudence, and Temperance. When one identifies a political leader with the preternatural intelligence, wisdom, courage, rationality and an ear to the drumbeat of injustices suffered by American physicians, one should follow that leader and support his causes. My biggest personal disappointment during campaign 2000 was the failure of American physicians to rally in support of Senate candidate Tom Campbell, who epitomized those virtues and provided enlightened representation of their interests in the United States Congress. Without leaders like Tom Campbell in positions of power, American physicians will never regain their freedom of action.

**Conclusions:**

In the first two books of the Republic, Plato raises the question why should one be just in his or her action toward others or in relation to the community in which he or she lives? The answer lies in the fact that the moral virtues of prudence, temperance, courage and justice underlie happiness, the primary good we desire for ourselves and others.

In a similar way freedom of action for patients to seek good health care and freedom of their physicians to innovate and deliver this care contributes to achieving good human lives. The quest for patients' and physicians' freedom is indivisible and one.

The **equality** of humans in kind requires physicians to advocate for their patient's basic health coverage, that allows them to lead good human lives. The insistence on equality of basic medical care for all fulfills this obligation for justice. The quest for patients' fair treatment and for physicians' equal fair treatment under anti-trust laws is indivisible and one.

**Justice** for a patient and a physician is to avoid violating rights that impede their pursuit of happiness, to treat them fairly in distributions and exchanges, and to expect them to contribute to the common good of the community. When unjust utilitarian laws like price controls, though directed toward the common good, violate the rights of patients and physicians to act responsibly, shortages and unavailability of care follow. The quest for patient and physician justice is indivisible and one.

Ancient Athens awakened our minds to these great ideas. Renaissance man renewed our confidence in man's capacity to discover, to create, to excel, to prevail over the most Herculean of tasks and over the most formidable of odds. Let us become Renaissance physicians by readopting Athenian ideals of liberty, equality, justice, especially the Hippocratic Oath and by relentlessly fighting for their return to American medicine. True joy of which Seneca spoke will flow from victory over obstacles to delivery of healthcare to every American that will allow us to concentrate once again as a profession on conquering human suffering and illnesses.

We must engage the enemies of freedom to do what is right. We must fight the traffickers in unfairness to reaffirm the equalities humans deserve. We must conquer the purveyors of injustice to claim victory for the natural rights of all Americans. Let it be known from Victoria and from the Western Neurosurgical Society, that this is not the beginning of the end for medicine, but the end of the beginning, and the dawn of a new day for American medicine.

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**BIBLIOGRAPHY:**

1. Adler, MJ: *Six Great Ideas*. New York, Macmillan Publishing Co. Inc., 1981
2. Burnett, R., Austin, G: *A Proposal for Altering the Health Care System in the United States* (in preparation).
3. Friedman, M: *How to Cure Medical Care*. The Public Interest (142), Winter 2001, pp. 3-30.
4. Locke, J: *Concerning Civil Government*, V, 30. In Hutchins, RM, Adler, MJ (eds): The Great Books of the Western World. Chicago, Encyclopaedia Britannica, Inc., 1952.
5. Pellegrino, E.: *Remarks to the Annual Meeting of the Association of Academic Health Centers*, October 7, 2000, Tucson, Arizona.