President's Message

What Needs To Be Reformed?

by John Steen

Lately, there have been a growing number of books and articles about what is wrong with American health care. There is certainly no lack of problems to cite, but most accounts somehow fail to focus on the basis for virtually all of the truly serious ones: The way that health care has become a big business, a source of profits second to none.

This issue lies at the heart of a great ideological divide in health policy. On one side of that divide you'll find conservative economic theorists (followers of Milton Friedman), business school professors, and the FTC, all pushing "free markets,"[1] "competition," and "consumer choice." On the other side, you'll find most physicians, most hospitals, and (what's left of) community-oriented health care and "the safety net."

The easiest way of defining the issues is to have an advocate of what you oppose who is truly articulate in representing his or her side. Regina Herzlinger, a professor at the Harvard Business School, is such a person. Her book *Market-Driven Health Care* (Perseus Books, 1997), was one of the seminal documents in promoting health care as a business, what she calls "entrepreneurialism," and she has just published *Who Killed Health Care?* (McGraw-Hill, 2007). Her side has given us concierge medicine, specialty hospitals, and "consumer-directed benefit design." She would replace defined-benefit plans with defined-contribution plans, a step that amounts to "every man for himself." She would have government policies reward those who display healthful behaviors (as if they weren't already rewarding themselves), policies that would benefit the fittest (not the sickest), and further polarize the society. Her side advocates "consumer choice" to the extent of wanting the government to issue hospital report cards for consumers to use like Zagat restaurant guides.[2] Doesn't she realize that most consumers have no use for a Zagat guide, though they might well wish they had? Some of us consume a lot less than others.

She makes it very clear that the issues are what health care is, and what role the government has in it. My side wants the government to regulate hospitals by setting and enforcing high standards that ensure superior outcomes everywhere, obviating the need for "consumers" – *patients* – to "shop around." We see quality assurance as a public health function, and health insurance as the socialization of risk. She sees us protecting the status quo at the expense of the consumer, but only the status quo has a safety net for the weak. In a recent editorial, she writes: "Time and again the regulatory status quo blocks entrepreneurship…. No wonder the 20 or so doctors enrolled in my class "Innovating in Health Care" at Harvard Business School are ruefully driven to earn MBAs once they realize they can innovate in medicine better as an entrepreneur than as a doctor."[3] I still find it bizarre that there are academics whose minds are so warped by their economic ideology that they can only see health care that way.[4] Worst of all, it is clear how they see *people's lives* – as statistics on a societal market spreadsheet for which the only goal is *efficiency*. It reconfirms my belief that health care is seen with far more insight by sociologists than by economists, especially conservative economists whose ideology would give us an ever more Darwinian society.[5]

The late Eli Ginzberg termed it "the monetarization of health care." Transformation from a not-for-profit, community-oriented social system of health care into an industry has radically changed the behavior of providers and the experience of patients. It is not often noted in the U.S. that our physicians are entrepreneurs by virtue of how they are paid – by the procedures they perform – permitting if not encouraging them to enhance their incomes by doing more and more costly procedures.[6] By contrast, in the rest of the world's nations, physicians are largely working on salary, with no incentive to adopt more costly modes of care, and no incentive to concentrate on high-tech treatment rather than on the preventive and diagnostic modes of care that, along with meaningful communication with patients, is of greater efficacy in improving health status.

Regardless of how a health system is structured, its quality will always be a function of the conscience and dedication of its caregivers, so their ethos of devotion to their patients is priceless. How ironic then for us to see profit-driven, high-cost medicine as the price we pay for incentivizing physicians to perform well, instead of as a measure of the depreciation of professional life, the corruption of medicine.

The process of medicine's becoming a business was well-described 25 years ago by Paul Starr, who traced the transformation of the power of American medicine, but today even that formidable power is compromised by the investor and business wealth that controls politics. Starr explained how in 1934 American medicine scrupulously fended off the involvement of investors interested in making a business of
medicine by adopting a code of ethics to prohibit profit making from the practice of medicine. Whatever capital might be necessary to fund its practice, e.g., to establish a hospital, would be contributed by *the community* that would benefit by it.

What has since been transformed is the value system of health care, from Samaritan hospitals nourished by their community roots to investor ownership of facilities and control of caregivers as instruments for profit making. For-profit hospital chains have acquired community hospitals, destroying their fiduciary role for their communities, and often closing them simply to eliminate a competitor for market share. It has also been called "the commodification of medicine,"[7] and it represents the triumph of greed.[8] Worst of all, that greed, masquerading as market ideology, has not only corrupted the ethos of health care, it has subverted the principles of our democracy in the interests of feeding itself.[9]

Paul Starr explained how this was possible in the very first sentence of his book *The Social Transformation of American Medicine*: "The dream of reason did not take power into account."[10] As one who entertains "the dream of reason," I'm inclined to want to speak truth to power, never more so than now that rationalizing health care delivery is once again taking its proper place on our national political agenda. And yes, I do write as an idealist, but my idealism is a form of resistance. I wish to see a national debate that addresses what is needed rather than merely what is politically feasible, avoiding the trap of offering only partial solutions. My hope is that the time has once again come to, in that celebrated phrase of Teddy Roosevelt's, "dare mighty things," recapturing the promise of America in the spirit that has always defined it, a nation once again aiming at a common good.[11] We haven't dared mighty things since The Great Society gave us Medicare and Medicaid and Bill Moyers said, "Ideas are great arrows, but there has to be a bow. And politics is the bow of idealism."[12]

We have a moral responsibility to act on what we know, and to seek to improve our knowledge and understanding when the welfare of others is involved. In such a situation, not to act is a moral failing.

Because I see this as an ethical enterprise on a political scale, I believe that the public's judgment on it needs to
be informed political consent. We need to have sorted out and achieved some consensus on our core political values and given them some currency in political discourse, to be "presupposed and operating in the background" as John Rawls said,[13] if we are not to lose our way in seeking solutions to seemingly intractable problems.

I now see an opportunity, the first since 1994, to reframe the health care debate at a higher level of political discourse by *asking the right questions*. Those questions should address the premises of the social contract, those on which our political system is based. The political process can deliver a product befitting our nation only if it is carried out at a level at which our highest national values are accessible. Only by raising it to such a level can we escape being once again mired in the morass of myths, prejudices, and lies that have characterized it since 1994.

We live in a liberal democratic state, one that values individual freedoms.[14] It also values as priceless the worth of individuals as ends in themselves, a value derived solely from the humanity they have in common, a quality that does not vary according to their health nor to their instrumental value to society. This notion of the good in which liberty and equality are joined, together with a sense of justice as fairness, are what citizens need to exercise good judgment in the political arena.[15] It is pluralistic, not unitary, but there is what John Rawls called an "overlapping consensus" of compatible views,[16] and that consensus is what makes a just polity possible. For an egalitarian health care system to ensue from political consensus, that consensus must also embody communitarian principles. Here in the U.S., we lack a European sense of social solidarity, having instead the social Darwinism we like to call "rugged individualism." However, the latest data in social epidemiology strongly suggest that such "rugged individualism" is even more antithetical to improving our health status than are the differentials in health care access it supports.[17]

We should understand what the gold standard in health policy is before politics and policy clash. Empowering the electorate to do the right thing for everyone in our nation involves educating it before it is put in a position to compromise in the inevitable political negotiations. This was well documented by Amitai Etzioni in his *The Moral Dimension* (1988).

[2]An edifying example of her arguments, and proof that I've not misrepresented her, is available in an online interview: Robert S. Galvin, "Consumerism and Controversy: An Interview With Regina Herzlinger," *Health Affairs*, 24 July 2007. http://content.healthaffairs.org/cgi/content/full/hlthaff.26.5.w552v1/DC1.

[3] "Where Are the Innovators in Health Care?" *The Wall Street Journal*, July 19, 2007. http://www.manhattan-institute.org/html/_wsj-where_are_the_innovators_in_health_care.htm. Intelligent regulation limits greed, and that may be a better explanation of why she has those 20 MBA students.

[4] Richard A. Epstein is the most prominent proponent of the conservative/libertarian tradition established by Milton Friedman at the University of Chicago where Epstein directs the Law and Economics Program, and like Friedman, is a senior fellow of the Hoover Institution at Stanford. His new book, *Overdose: How Excessive Government Regulation Stifles Pharmaceutical Innovation*, is well critiqued by Arnold S. Relman in "To Lose Trust, Every Day," *The New Republic*:, July 23, 2007. http://www.tnr.com/doc.mhtml?i=20070723&s=relman072307. Relman reveals how far from reality Epstein's ideology takes him.

[5] "None of the prominent universal health care proposals does anything to alleviate spending because none would have patients choose between health care and other uses for their money." Devon Herrick, National Center for Policy Analysis, July 24, 2007. http://www.ncpa.org/sub/dpd/index.php?Article_ID=14806. No comment from NCPA here about alleviating *suffering*. Conservative economists seem to see health insurance only as a "moral hazard" contributing to greater spending.

[6]Among the few exceptions are the salaried physicians in the Veterans Health Administration System, those who work for some large insurers like Kaiser Permanente, and some who are employed by large group practices.

[7]Edmund D. Pellegrino, "The Commodification of Medical and Health Care: The Moral Consequences of a Paradigm Shift from a Professional to a Market Ethic," *Journal of Medicine and Philosophy* 24, no. 3 (1999): 243-66.

[8]The threat to public health was noted by Toby Citrin in an editorial in which he upholds its unique role as the legitimate advocate of the community that validates it. Toby Citrin, "Public Health – Community or Commodity?" *The American Journal of Public Health*; 88:3 (March 1998): 351-352. http://www.ajph.org/cgi/reprint/88/3/351.

[9]For an admirably clear, up-to-date documentation of this, see *Market Based Health Care: Big Money, Politics, and the Unraveling of U.S. Civil Democracy*, Institute for Health & Socio-Economic Policy, June 22, 2007. Accessible at: http://www.calnurses.org/research/pdfs/ihsp_marketbasedhealthcare_062607.pdf. The Institute is a non-profit policy and research group that includes an advisory board comprised of scholars from the Albert Einstein College of Medicine, Boston University, Harvard University, the Canadian National Federation of Nurses' Unions, the New School in New York, and the University of California. Its report (pp. 9-11) details how in 1993-94, the Department of Justice and the Federal Trade Commission contravened their own antitrust, pro-competition principles in the interest of promoting the development of mergers and networks to enable greater profits.

[10]New York: Basic Books, Inc., 1982, p. 3

[11]In the past century, the suffragette and the civil rights movements furnish instructive examples of successfully operationalizing ideals as political principles that expanded our body of laws founded on human rights.

[12]*Time Magazine*, October 29, 1965.

[13]Stated in several of Rawl's works, including *Political Liberalism* (Columbia University Press, 1993)

[14]But we don't do a very good job of defending them. See http://action.aclu.org/site/PageServer?pagename=AS_why_care_about_civ_lib.

[15]John Rawls, "Justice as Fairness: Political, Not Metaphysical," *Philosophy and Public Affairs* 14 (1985): 223-251.

[16]John Rawls, "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies,* 7, no. 1 (1986); "The Domain of the Political and the Overlapping Consensus," *New York University Law Review* 64 (May 1989): 233-255; *Political Liberalism* (Columbia University Press, 1993), p.15.

[17]There is a new appreciation for the roles of social justice and social capital in improving health. See for example N. Daniels, B. Kennedy, and I. Kawachi, "Why Justice Is Good for Your Health: Social Determinants of Health Inequalities," *Daedalus* 128, no. 4 (1999): 215-51, and I. Kawachi, B. Kennedy. *The Health of Nations: Why Inequality Is Harmful to Your Health.* (The New Press, 2002).

[18]Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor*. With a foreword by Amartya Sen (University of California Press, 2003), p.7. Dr. Farmer argues that there are three approaches to improving health care – charity, development, and social justice – but only social justice is adequate to the task. (p.152) And Amartya Sen argues that development is not the acquisition of more goods and services but what he calls "capabilities," the freedom to live the kind of life one chooses to live. In *Development as Freedom* (Knopf, 1998), pp. 87-110. ♦