

Professional Regulation and Integrity

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I recently picked up a pamphlet in my doctor's office that caught my attention. It was published by the American Medical Association (AMA), and was about liability insurance reform. Directed at patients and consumers, it urged readers to join a patient action network and lobby Congress to pass liability reforms. "Tell Congress You Don't Want to Lose Your Doctor," it said in bold type, with another bolded header: "It's Time to Put Patients First." I thought that message was rather ironic given the AMA's history - and that was before I read a report by Sue Blevins entitled "The Medical Monopoly: Protecting Consumers or Limiting Competition?"

I was stunned when I tracked down the source of Ms. Blevins' article and found that it was first published in 1995. I was certain it was more recent, since the information in the article is still relevant to the acupuncture profession's struggles with professional regulation today. Ms. Blevins, a writer and healthy policy consultant, wrote a scathing reprise on the history of the AMA, including the singular role the organization played in the institution of licensure laws for the medical profession in the United States. She blasts the idea the professional licensing has ever been about ensuring the protection of the public from nefarious medical practitioners. The strength of her multi-page, intensely referenced paper is that it provides volumes of evidence that the sole purpose of legislation regulating the licensing and scope of practice of medical professionals is to "restrict competition" by limiting supply.

One authority Blevins cites, medical economist Gary Gaumer, reviewed all of the available literature on medical licensing and concluded:

"Research evidence does not inspire confidence that wide-ranging systems for regulating health professionals have served the public interest. Though researchers have not been able to observe the consequences of a totally unregulated environment, observation of the consequences of variation in regulatory practice generally supports the view that tighter controls do not lead to improvements in the quality of service." She also cites a study done by Milton Friedman and Simon Kuznets, in which Friedman notes:

"The justification [for licensure] is always the same: to protect the consumer. However, the reason is demonstrated by observing who lobbies at the state legislatures for imposition or strengthening of licensure. The lobbyists are invariably representatives of the occupation in question, rather than its consumers."

We know that the acupuncture profession has the best safety record of any health care profession in the country. That record has been set over the last 25 years by individuals with far less education than our students are receiving today. Early programs were 500 hours to 1,000 hours. Students graduating

today have had 2,500 hours to 3,000-plus hours at the master's level. And yet, in several states there are campaigns to increase the entry-level requirements beyond this level. Many of the practitioners leading these campaigns to increase eligibility requirements claim to be interested in "protecting the public." If "protection of the public" is truly the cause, and all of the research shows that professional regulation has no effect on quality of service, what is the drive behind raising the bar in the AOM profession?

Mr. Gaumer admits that, indeed, no one knows what the consequences would be of a totally unregulated environment in medicine. There are good arguments that professional regulation does provide a level of assurance to the consumer that a practitioner has met minimum standards of competency. In addition, regulatory agencies may provide the consumer with recourse should they be "mistreated" by a practitioner. However, Ms. Blevins' article provides a great deal of evidence that excessive regulation limits access to care and increases the cost of services to consumers. It does so by increasing the costs of entering the profession, including costs to schools, which have to develop curricula and pay professors for added classes, and costs to individuals, who have to fund their education. It also restricts access to education and care to more affluent segments of society by putting education and treatment out of the reach of economically disadvantaged populations.

With regard to the second part of Mr. Gaumer's comment that "tighter controls do not lead to improvements in the quality of service," we wholeheartedly concur. Once entry-level minimum competencies have been met, any further goals concerning "raising standards" are professional issues that belong in the realm of personal integrity.

This leads to my second topic: integrity. Another article I recently came across, "Rethinking Integrity" by Stratford Sherman, deals with bad behavior and how it is affecting society. Sherman's subject ranges from the small, disrespectful actions of individuals toward other individuals, to the unethical behavior of groups and corporations. In discussing the fallout of the Enron scandal, Sherman explores deep and massively disturbing evidence that society as a whole is shedding responsibility for its actions and is looking to increased external regulation to mind its manners.

Sherman discusses the evolution of the definition of "integrity." In 1959, the second edition of the *Merriam-Webster Dictionary* defined integrity in terms of "moral soundness; honesty; freedom from corrupting influence or practice, esp. strictness in the fulfillment of contracts, the discharge of agencies, trusts, and the like." It was assumed in those days that the average person was capable of discerning right from wrong and was expected to take responsibility for their actions. In 1993, the 10th edition of *Merriam-Webster's Collegiate Dictionary* gave this primary definition of integrity: "firm adherence to a code of esp. moral or artistic values: incorruptibility." Sherman draws our attention to the word "adherence." Fifty years ago, integrity was viewed as part of a person's character, but as of 1993, integrity had become something outside of the person to which he or she would adhere - not a state of being, but a condition of compliance with external rules and values.

Why has this occurred? Not only are more and more basically "good" people committing senseless acts of discourtesy, but we are also tolerating the bad behavior of others to a greater degree. Sherman says, "Many people regard themselves as victims of forces beyond their control. Judging others is rarely politically correct ... we have ended up looking to the law and other systems of rules to settle questions that we cannot or will not answer for ourselves."

In the early days of AOM in this country, individuals gave their time and money to lay the foundation of

a new profession. Most of them had visions of changing the face of American health care and truly making a paradigm shift. They wanted to offer something unique and necessary to the public in the form of a holistic medicine that could cure more than the body's aches and pains. There was always a hope that AOM would be accepted by, recognized by and "integrated" into American health care, but also a deep concern that the unique qualities that make AOM what it is should not be lost in that integration. Certain concessions have been made over the years to play by the rules established by the paradigm in power, but how far will we go before we lose out integrity as a profession and as individuals? Will we follow in the AMA's footsteps as we wave the "protection of the public" banner in our efforts to increase regulation of the profession?

Some practitioners say they can't make a living where they are because of the practice laws in their state. While state regulation does bring a level of recognition to a profession, I wonder: Do these practitioners question their own role in their lack of success? Are they perhaps not good business people? Did they choose a poor location? Did they underestimate their own willingness to undertake a profession that is still in its childhood in this country? How do they explain that Richard Tan doesn't seem to be having a tough time making it, or Kiiko Matsumoto, or Jeffrey Yuen, or Giovanni Macioccia, or Matt Callison, or John Chen? I could continue for some lines with names of people who are doing well in the profession, and you don't find these practitioners in the groups pushing for increases in educational hours and scope of practice in the name of "higher standards" and "protection of the public."

How many of you are aware that the most experienced masters and mentors in our profession cannot move freely about the country even now, because they do not meet the eligibility requirements for licensure in several states? Why? Because practitioner groups in those states have pushed for more stringent eligibility requirements for licensure - requirements that make it impossible for most of our senior practitioners to become licensed.

These individuals have done well in spite of these obstacles. You might say, but everyone can't be a Kiiko Matsumoto. Why not? And if you aren't, do you really believe it is just a matter of changing the law? Is it ethical to use laws and regulations designed to address consumer safety as a means to level the economic playing field in the health care market?

Sue Blevins believes that the trend toward increasing professional regulation has led to the worst outcome possible for the health of the American people, and maintains that true health care reform has to ensure a free market in health care by "ending the government-imposed medical monopoly and providing consumers with a full array of health care choices." "Breaking the anticompetitive barriers of licensure laws and federal reimbursement regulations," she says, "will provide meaningful health reform, increase consumer choice and reduce health care costs."

The words integrity and integration, both of which stem from the same etymological root meaning wholeness, oneness, inclusivity and completeness, have been bandied about to the point that all meaning has been lost in the realm of health care, and in the external system of regulation we have constructed to protect us from ourselves and each other. Sherman Stratford maintains, "Ultimately, we cannot manipulate integrity from without. Integrity is a quality of spirit that exists within each of us." He urges us to uproot our habits of insincerity and take responsibility for not only our behavior, but our attitudes and language.

I agree with the AMA when it says that it's time to put patients first - but not just as a marketing ploy.

It's time to focus our attention on personal excellence and to make the care we, as individual practitioners, give to our patients our primary concern. It is time to take responsibility for our lives, words and actions, and stop blaming our schools, state laws and "competitors" for our professional successes and failures. Only then can we claim integrity as individuals and as a profession.

References

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