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# An Explanation—Heroin Deaths – and Deaths of Hippocratic Physicians….

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"Heroin deaths in County on pace for record" with the editorial "Taking Steps to Stop The Scourge of Heroin." (Plain Dealer 9/4/13) reminded me of the old Native American Saying: "The creator gave us two ears so both sides can be heard." Being one of those physicians incarcerated for allegedly misprescribing pain medications, I assert that only one ear has been used by the Governor on down to prosecutors and pill counters everywhere. There is another side which deserves understanding if the current drug problem is to be better addressed with truth and justice for all. With effort, maybe some salvage is possible as happened with AIDs. But now it is almost "death for everyone" except those in government law.

Governor Kasich's Pill Mill Bill of 2011 was pretty late and it ignored those responsible for a "Decade of Pain 2000-2010" proclaimed by The White House and the U.S. Congress. Physicians received pain evaluation questionnaires, pain severity scales, and floods of pain med explanations and promotion sheets. A 1 to 10 pain scale became the "fifth vital sign" (I added it to my medical record templates). In hospitals, a pain assessment was to be documented daily for every patient by each nursing shift. Methadone, always limited to drug treatment programs, was released for pain treatment by all physicians. Many physicians were ensnared by this promotion, especially after hearing from patients for years about inadequate treatments from pain specialists, who, with a legally mandated semi-monopoly for pain. Medications in early 1990s, had shifted to the self interests of income-enhanced injections with less and less use of pain medications.

Because of pain specialist self-interest in injections, hurting desperate pain patients, often bewildered at not getting pain medications which worked, and their families lobbied for and got the Decade of Pain going. Pharmaceutical companies, government workers, judges, prosecutors and others who owned stock in pharmaceutical companies and private prison companies were enthusiastic, as many physicians, wanting to help, jumped on the pain bandwagon. I thought I could just add pain related notations to the Evaluation & Mangement service code templates I had used for decades. And my patients were seen as they had been for years but with pain meds added to their multiple psychiatric meds effective for years. But by 2010, the end of the Decade of Pain, heroin deaths allegedly had greatly increased and pain meds were blamed (Readers should know that strong doubts exist about both assertions). Regardless, the law then decided to vigorously prosecute anyone seemingly involved. Many of us, seduced by the Decade of Pain, started pain med treatments and quickly learned the little known fact that chronic pain is not at all like acute pain.

First, the injury originally causing the pain was usually healed, i.e. the back surgery was 10 years ago, but the pain persists. Because of this, no physical examination for chronic pain is indicated, nor helpful unless there has been a recent re-injury at which time, referral back to one's primary doctor or surgeon would be made. Second, *chronic* pain is now thought to be due to a failure of a "pain filtering system" in the central nervous system and not due to acute changes at the site of the remote injury although that is where the pain seems to be. In fact, the "pain filtering system of the brain" came to be considered essential for routine *normal* activity.

That is, pain fiber stimulation of normal movements were gratefully filtered out so ordinary activity could occur without pain. Basically, without the pain filtering system, humans would not want to move. Third, adequate treatment for chronic intractable pain

will require unusual and high dosing and combinations of other psychiatric medications because years of chronic pain are associated with depression, personality disorders, panic attacks, anxiety disorders, sleep disturbances, poor support systems, micro-psychotic episodes, and many other emotional syndromes. Learning all this about chronic pain and updating on available pain medications, I, along with other physicians, started to try to help pain patients, in response to the pain med promotion. I offered to help my patients, known for years, who had been long complaining of insufficient relief of their chronic pain. That was around 2005.

I thought many were helped, because I was using atypical combinations and doses, not unexpected because these patients all had failed many standard efforts from pain specialists. The patients and their families concurred repeatedly. There were about 50 such patients (of my some 400 patients) who eagerly said "Please help me" when I said I would try to help if they were still not getting the relief from their pain specialist. These were old patients dependent upon my psychiatric meds for years and needing, for the most part, regular and routine monthly visits.

After several years of close monitoring and a special pharmacy board monitoring system (OAARS), I expelled over time from my practice about 15 of these pain patients because I discovered misuse of meds, to my consternation and surprise. This became very disturbing to me. I found that patients without their atypical med efforts, went back to the street; began using street garbage; and were dead in a year or so (The recent relapse and death of actor Hoffman comes to mind). This was becoming a no win situation.

At least they were alive and semi-functioning with some treatment efforts, in contrast to the out-of-control use of poorly made, juiced up, crap from the street. Terminating patients made me think of how AIDs patients were originally rejected for treatment 35 years ago until the AIDs patients found their own, bizarre at the time, medication combinations which helped (documented by the movie "Dallas Buyers Club"). With disturbed drug abusers and helping physicians being incarcerated at profit by the legal system, a curative approach is unlikely even if the Decade of Pain had been allowed to continue. It is relevant that for a decade, I had been vigorously complaining to the Ohio Pharmacy Board about pharmacists' mistreating patients and making medical judgments because pharmacists have no training in such. Pharmacists basically use the Physicians Desk Reference as primary reference source; and it is basically an acute care book with little to no information about chronic and atypical treatment needs.

I thought I had a working professional relationship by email with the Pharmacy Board to register my complaints—(I would not have done such had I been trying to get away with something illegal). Still, disturbed that pharmacists did not know how to therapeutically deal with atypical patients and unusual treatments, I tendered a law to remedy such. About three months after sending the law to the Ohio General Assembly, I was accused of being a pill mill and investigated. It all seemed like retaliation to me.

It made no difference to the criminal investigation and prosecution by the Pharmacy Board, that of the 9 patients initially used by them for prosecution, 7 had been terminated by me by 2010 because I found them misusing their meds, as stated above. It made no difference that there were 80 OARRS reports in the records of the 9 patients making a liar of the Pharmacy Board consultant who incompetently stated that I never used OARRS. Obviously, retaliation was readily enhanced by Governor Kasich overruling the Decade of Pain by an "Elliot Ness" proclamation of 2011. This "get em" proclamation of Governor Kasich was retroactively applied, and the Stanford Penitentiary Experiment functioning of government bureaucracy became evident. All high and unusual dose patients now were considered illegal, requiring restitution and jail time. A plea bargain was recommended for 3 patients, 3rd degree felonies, of whom all had been terminated by me, one in 2008, one in 2009 and one in 2010—all during the pain med promotion time and before the governor's proclamation.

Worst of all, my attorneys insisted that I had to plead guilty because of a little known and rarely followed law of 1992 which required acute physical exam reports for pain management of unusual atypical dosing, and a pain medication sub-specialist consultation was required every 2 to 3 months to concur in such dosing. If those requirements were not in your records, the law declared you to be misprescribing and there were no grounds for claiming innocence. That I had unwittingly broken the law made no

difference. If the acute physical pain examination and sub-specialist consultations were not there, the law stated this was misprescribing. So I did the plea bargain that several attorneys recommended—even though it seemed like "plea perjury" to me.

My attorneys stated that I was retiring anyway and voluntarily giving up my license would likely facilitate a less severe sentencing. There was an outrageous "restitution" also, even though my income was not changed a dime by adding pain meds to my treatment efforts for old patients. Somehow, the "restitution" and the "legal donation" for prosecution office seem like "bribes" to me, totally independent of justice.

Then began the bizarre probation assessment during which time I was instructed to do nothing which would alter the process – that is, do nothing, say nothing, which might create doubt in the judge's mind or challenge the prosecution. In return, the prosecution would say and do nothing to accentuate the sentencing. Yet the prosecution, or the investigators, obviously pressured and manipulated the judge emphasizing the abnormal dosing of these patients but not stating that all these patients had been terminated by me beforehand. Her nodding glancing in the prosecutors' direction, did not seem judicial or equality in nature. The prosecution, in fact, introduced a lie about a never identified patient, whom I still don't know, claiming that I sold him Vicodin for one price and Oxycontin for another price which is an absolute creation of false evidence. But I was told to say little because the consequences would be worse—judges, especially new judges like mine were known to take offense at being challenged and would retaliate with worse sentencing. New judges also needed to establish positive working rapport with others in the law bureaucracy like prosecutors and investigators. All of this did not sound "judicial" to me nor "justice" nor "truth", reminding me an old Great Course which stated clearly that government law does not care about justice or truth but about "legalisms."

For the plea bargain, it was thought that character reference letters from good citizens would be of help enabling the judge to avoid prison as customary I was assured. Because of charity work and academic papers, I had positive character letters from two Catholic Bishops, directors of two Catholic seminaries (one local and one in New England), a chairman and professor the department of psychiatry of a local medical school and university hospital, a chairman and professor of a western New York Catholic university department of philosophy, a chairman and professor of an eastern Pennsylvania Catholic university department of political science, a chairman and professor of an western New York Catholic university department of religious studies, a chairman of department of ophthalmology of a local major hospital, a major science museum founder and president, the president and owner of a major league sports team, an internationally recognized chairman and professor of a local department of neurology and legal medicine expert, the mayor of a local suburb and financial analyst, the president of the American Chesterton Society, a nationally recognized attorney and expert on communication law, and my own secretary who was secretary for Dr. Benjamin Spock.

The supporting letters did not help. It did not help that the plea bargain was actually broken by the prosecution. The judge decided to use me as an example and sent me to prison for 9 months (I entered a 90 day special program and was released after five months).

It did not take long in prison to recognize the extent of the drug abuse problem. I looked upon prison in a way consistent with my customary religious "criminal and victim" on-the-Cross metaphors of life, resulting in several articles and poems hoping to help those in prison as the Gospel encourages, AIDs-like rejected drug abusers, pain afflicted patients, and the return to professional status of the Medical Profession with a revitalization of the Hippocratic Oath.

Indeed, medicine is no longer a profession but an administrative system in which records are more important than patients. Government law has placed physicians on Native American-like reservations called medical facilities and impressed physicians into service as English law once kidnapped men into their navy. Government law dictating medical care is totalitarian, irrational and delusional, because every patient is different.

The "law of unforeseen consequences" reigns supreme: A 1990s law gives pain specialists control of pain meds and hurting people rally. Result: 2000 Decade of Pain with pain meds promoted. Result: overdose deaths increase and 2010 Elliot Ness returns as the law tries to correct itself again. Again: The law cannot rationally regulate medical care. All patients are different and medicine is not an exact science.

I hope to be able to continue a First Amendment based free-spirited effort to address contemporary psycho-social problems. It is needed with our corrupt bureaucracy and press.

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