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A Healthy Discourse

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## Abstract:

The United States Healthcare System affects every individual in the United States. It is one of the most powerful and lucrative industries in the world today, and it is broken. The 'system' started out with good intentions, however, over time it has become distorted by greed. The legislature around the United States Healthcare System has been developed to support this. It fails to regulate costs and charges issued to patients. It fails to regulate big business, allowing pharmaceutical companies to charge what they wish for unique lifesaving drugs, a practice that would be quickly stopped in any other industry. These issues are embedded in the infrastructure and ideology that has been created. The system must be reformed, doctors need to be trained in a fashion that focuses on providing competent care, not on avoiding liability and fiscal gains. Pharmaceutical companies must be regulated, preventing them from abusing the leverage that is gained in a free market when the product is unique and lifesaving. Hospitals need to operate in a fashion that provides adequate care first, and payment second. The fact is the United States Healthcare System is broken, and due to the money and power it possesses, change will be difficult. The citizens of the United States must recognize that they are being used and must work together to develop a system that is actually focused on the care of its patients, not on emptying their pocketbooks.

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### A Healthy Discourse

The United States' Health Care System does not reflect the level of industry, technology, and, economic power the country possesses (Brill 21). It does not even reflect the progress of political infrastructure that mankind has supposedly gained. It does, however, reflect Rousseau's idea in his Discourse on Inequality that the origins of political constitutions created "new fetters to the weak and new power to the rich; irretrievably destroyed natural liberty, fixed forever the laws of property and inequality" (Rousseau 125). This problem of inequality touches every aspect of the modern world. Evident in the differences in first and third world countries or the vast differences in quality of a public education between the inner city and suburban, gentrified America. However, this paper will focus on how the United States Health Care system has been corrupted by the few, who abuse the rules of civil society to violate John Locke's natural idea of property in his Second Treatises of Government. The idea that in a natural state it is "useless as well as dishonest" (Locke 51) to take more than the individual needs. At every level of the United States Health Care system people are taking more than they need. The infrastructure from the ground up is designed for profit. Steven Brill in his article the "Bitter Pill" describes at length how individuals are being abused by this system. This is a symptom of the United States 'free-market economy'. It can be seen in the way doctors are trained, the way massive pharmaceutical companies control the availability and production of life saving drugs. It can be seen with the way the United States laws are controlled by the most powerful lobbyists in the United States Congress.

The list goes on, illustrating the clear abuse of the system for personal gain and greed. As stated previously, this abuse is founded in every market imaginable, however, the unique nature of the Health Care System makes it especially vulnerable to such abuse. The balance of power and knowledge between consumer and producer is skewed in every way imaginable. This affects the ability of the consumer to effect change and rectify the situation. It provides a situation where the people cannot take back the power after their rights are violated, a process Locke and Rousseau described must be able to happen to maintain a successful social contract. In the United States the people made a contract that defended the free-market economy. This free-market has taken the United States healthcare system and bastardized it into a well-oiled machine that takes whatever it can. The billing system is complex, requiring experience and expertise to understand why and what has been billed to the patient. As the Health Care System is one of the most lucrative industries in the United States, patients are treated as commodities. The legislature supports this system of extortion. Although hospitals and doctors alike are respected and revered throughout the United States, their CEO's, the pharmaceutical companies, medical equipment manufacturing businesses, and, politicians have erected and maintained a system that prioritizes financial gain, does almost nothing to protect the patients, ignores objections, silences inquiries, and, commodifies human life. This system must be recognized for what it has become, and it must be reformed into a Health Care System that treats humans as people.

Rousseau describes how many of the ignorant ran to their yokes of servitude and inequality with eagerness, believing that their social contract, their political constitution, would protect them. In the United States the people set great store by their "free-market"

economy; the people rigidly protect this freedom, even in areas it is folly to do so. The health care system is one place the free market has no place. There were a few who recognized the danger, but “Those among them who were best qualified to foresee abuses were precisely those who expected to benefit by them; even the soberest judged it requisite to sacrifice one part of their liberty to insure the rest, as a wounded man has his arm cut off to save the rest of his body.” (Rousseau 125). They chose to abuse the system, content that the social contract the people upheld would protect them. Rousseau chooses such an extreme comparison because there was a very real danger in opposing this movement. A danger that exists to the modern day. Let’s examine how those enlightened few that Rousseau describes form this realization and consistently choose to do nothing to change it.

The perspective of the doctor, an individual well versed in science and education, who also represents an expert with first-hand experience in the health care system. How could a doctor stand by while the treatments he provided drowned his patients in debt? Part of it is human nature, the weak imitate the strong (Rousseau 116). Imitation is also how people learn; a successful medical student will often copy the techniques of a successful doctor. In this method and setting the virtues of revolution and reform are greatly suppressed. Challenging those who are already established is both unwise and unsafe; no one wants to be the subject of a trainee doctor’s radical new treatment methods. Modern day doctors in the United States are trained for the modern market, the methods they copy are almost hereditary in nature. In practice, these doctors are effective, it’s not an issue of malpractice or poor treatment. It is the economic infrastructure that has been constructed within the system that is corrupt. Medicare patients are considered

an easy source of income by attending doctors at hospitals “In some places it’s a Monday-morning tradition (seeing a Medicare patient). You go see the people who came in over the weekend. There’s always an ostensible reason, but there’s also a lot of abuse” (Brill 36). Doctors are trained to order “morning labs”, over 50% of which are unnecessary (Brill 26). These tests account for huge portions of a hospital’s revenue. This practice often isn’t directly beneficial to the doctor who orders the tests, if the doctor is simply employed by the hospital and has no ownership of the lab. As Rousseau pointed out “Those among them who were best qualified to foresee abuses were precisely those who expected to benefit by them” (Rousseau 125). Doctors in the same field of practice often work together, either as partners in the same labs or as ‘competing’ labs’. If a doctor owns his own lab the financial incentive to order even more tests is increased, and often abused. These labs that are supposed to act as ‘competitors’ creating a balanced situation for the market; however, the hospitals work with these labs signing business agreements that the labs will send all of their patients to the specific hospital (Brill 27). The doctors are given kickbacks for helping the larger corporations to control the market. This isn’t a blanket accusation that all doctors in the United States are abusing their position for financial gain. But it is recognized as a part of their training. There are recognized personal financial incentives to be had, and many doctors are smart enough to capitalize on them. The laws that have been created under the United States Constitution do nothing to prevent this, and the financial burden is passed on to the patient, and if not, the taxpayer who happen to be one and the same. Blood tests are not the only medical procedure that is overordered to fatten the hospital’s bottom line. CT scans are given out like candy in the Emergency Room. Of course, this practice is rooted in avoiding

malpractice lawsuits. Doctor's never get in trouble for ordering too many tests, however, they can for ordering too few. The fact is, in current legislation doctors and hospitals alike are given very little protection from these lawsuits. There is great precedence in the current United States judicial system to see that the patient is compensated, and any defense of competent practice is ignored. This is not a world-wide phenomenon. In almost every other developed country, especially in Europe, doctors are protected by laws that allow them to prove their care was competent. That whatever test that 'could' have been ordered, was not called for by the situation at hand. It is not a mistake that these laws are structured in this fashion, it is not beneficial to patients and doctors alike. It is not efficient to be forced to overorder tests, all of which take time, labor, and, energy from other patients. It also creates a financial burden that is carried by the patient and the taxpayer. The next perspective, that of the elected representative in the United States, will examine how this system came to be.

Politicians have never had the best reputation, with few notable exceptions: Honest Abe, Obama, the like. However, the executive branch isn't the primary concern of the health care system. The legislative branch is, however, very influential as to how the health care system operates. The basic idea of the United States Government was preached as 'for the people by the people', however, at its institution it was designed to be protected from the ignorant masses. The Electoral College does not accurately represent the population of the people. Voting district lines are fought over, gerrymandering is a recognized political process. Politicians are not chosen by the people, they are chosen by the depth of the politician's pocketbook, and the pocketbooks of those who fund their ad campaigns. This difference in power, the difference between

strong and weak, successful and failed politicians, is supported as being primarily a difference in financial capability by Rousseau “that of political government, the meaning of these terms (weak and strong) is better expressed by the words poor and rich” (Rousseau 126). Accepting this view, it becomes clear that lobbyists, control this nation’s legislature. Who are the most powerful, the most financially backed groups in Washington? Obvious answers would be the military-industrial groups, or perhaps the massive oil and gas corporations. If one combines the amount these two groups have spent on controlling United States legislature, it still falls short of the absurd amount that has been spent by the health care industry (Brill 4). The Health Care industry, specifically pharmaceutical companies, promote politicians that support their fiscal interests, which have led to the creation of extremely one-sided laws that supposedly uphold the idea of a “free-market”. No other industry comes close to the level of influence the health care industries exert of the United States legislature, and the effects of these skewed laws become apparent when their compared to other nations. Since the United States supports a free market, pharmaceutical companies are free to charge any amount for their product. In other industries this system creates a balance, after all if one gas station is charging ten dollars a gallon, one would obviously select to go to the gas station charging only five dollars a gallon. The former station would quickly go out of business or must change its prices, thus the balance of power between producer and consumer is preserved. This is not the case when the product is a unique, patent protected, lifesaving drug and consumer is a desperate, dying patient. Because the drugs design is protected by patent laws, another company cannot begin to produce the same product and provide competition. Monopolies are not allowed in the United States economic system, except in health care.

Furthermore, laws are in place that further benefit pharmaceutical companies already astronomical bottom line “By law, Medicare has to pay hospitals 6% above what Congress calls the drug company’s “average sales price,”” (Brill 28). Six percent above whatever price the company with a unique drug, a product that has no competition and *cannot* be boycotted. How much does this cost the United States taxpayer and patient? If the United States paid prices similar to that of other developed nations, nations that regulate what pharmaceutical companies can charge for their medicine, the country would save ninety billion dollars a year (Brill 41). However, due to the nature of the United States free-market and legislature, this obscene profit is pocketed by owners of the corporation and the political leaders who are funded by them. The other primary offender in the health care industry, in terms of lobbying congress for personal financial gain is the medical equipment industry. This group has managed to arrange laws that make Medicare pay between 25% and 75% more than the equipment would cost from Walmart or Amazon. This is for basic equipment, canes, wheelchairs, and, braces. This means the political leaders of the United States are benefiting greatly from a system that abuses the taxpayer’s dollar. Once again, Rousseau’s words ring true, those who are best situated to recognize the wrong within the contract between government and people, are those best positioned to abuse it (Rousseau 125).

The final perspective to examine the health care system through is that of the patient. After all, the patient represents the people the best, and the people are responsible for reforming the system when it fails them (Rousseau 125). Why haven’t the citizen of the United States taken steps to reform this system that so obviously takes advantage of them? The answer is three-fold, first there are laws that prevent people from pursuing the

subjects. In Texas there are laws that prevent hospital employees to talk about how they bill their patients (Brill 24). This of course makes it hard for an individual citizen to pursue the subject, and very difficult to build a case with real evidence. Every patient is billed under individual circumstances at rates assigned by the 'chargemaster' a system unique to every hospital, *not* based on the actual cost of treatment or equipment but rather an arbitrary price that simply goes up at consistent rate (Brill 7). Very few people understand how arbitrarily their medical bills are generated, and hospital officials are happy to keep it that way, as it means greater profit for them. Hospital officials know that their bills are fictitious and expect people to argue with them, in fact when challenged most hospital bills can be reduced up to 50% (Brill 12). Furthermore, the people with the greatest reason to challenge this system are those who are subject to it, the patients and their family. However, those who fall prey to this system are in no position to fight it. Burdened with the illness, be it cancer, a stroke, or some other catastrophe, political and health care reform are hardly a priority. Don't forget, these individuals are also under severe financial stress, accumulating bills left and right. They have entered into the market of health care against their will, pulled into it by tragedy. There is no negotiating power when the life of a loved one hangs in the balance, what needs to be paid is paid without a second thought. Treatment is the priority, haggling over the price of a dressing gown is not (Brill 17). Before leaving the perspective of the patient I want to mention my own experience as patient in the United States health care system. At the very end of sixth grade I developed epilepsy. After the first seizure I remained optimistic that it was an isolated event, a blip in my life that I would never have to deal with again, they lasted for three years. After the second seizure, a mere week after the first, I was prescribed

Depakote. The side effects manifested themselves quickly and the medicine fulfilled its purpose to full effect. Depakote is an anti-convulsant, it also treats manic episodes in bipolar disorder. It does this by acting as a neuro suppressant. It slows the production of neuro transmitters in the brain to prevent the synapses from firing too quickly. It is a mind-numbing drug, furthermore its side effects manifested itself in a special fashion in me. I lost my appetite completely, as a multi-sport athlete, a developing boy, and, an above average student I used more than a little energy. However, I couldn't eat food in the morning, walking into the school cafeteria made me vomit, and even after not eating all day I could barely stomach half a soft taco from Taco Time, my favorite meal at the time. Being an epileptic without an aura isn't easy. An aura is a sort of signal, a warning sign that a seizure is about to occur, it's how dogs can be trained to recognize the symptoms of a seizure before they occur. My particular strain of epilepsy was undetectable, they struck out of nowhere and were "violent" and "massive", these are how they have been described to me by teachers, family, and, therapist alike. I include these details only to emphasize the strain my condition brought on myself and those around me. It destroyed my friendships, no one wanted the liability of the child who was ticking time bomb, set to go off at an unknow time and place. It took five neurologists in three states, over the course of two years before my treatment plan was changed. Every time my family and I checked in it was the same, they first asked me to hold my hand steady, something that is impossible when Depakote gives you tremors, the doctor would shrug off the fact I couldn't hold my hand still as an acceptable side effect and say "He has seizures, we don't know why, Depakote is the only option, good day". After trips to Portland, Seattle, and Boise and hearing the same rhetoric every time my parents should

have given up. However, we went to Spokane to meet one more doctor. He performed the customary check on my hands for the ever-present tremor and asked about other side effects. Listened to my story and immediately recommended lowering my dosage and beginning me on a new anti-seizure drug Kepra. I don't think the knowledge he had was new, and I don't believe that the other doctors were ignorant of this possibility. However, I don't think that the possibility that a change could help me was worth the effort to them. I know my parents had to pay a lot of money for those visits, it's not cheap to travel across the North-West, stay in expensive cities and see the best neurologist this region has to offer. That effort was not reciprocated by those we went to see, I was marked off as a hopeless case and treated as such. My seizures and resultant medication concluded in ninth grade; the tremors remained with me until my sophomore year of college. In the last semester of my senior year, while working at my internship, I had two more seizures. I was taken to the emergency room, met a doctor who immediately prescribed me Kepra and revoked my ability to drive. The EEG I received the next week to examine my brainwaves for the likelihood of recurrent seizures will be explained to me on August 1<sup>st</sup>, as the only neurologist in Helena is out of town. My seizures happened in mid-March, of course this didn't seem to be a problem to the hospital. The primary side effect in Kepra, seen to effect greater than 10% (a suspiciously undefined number) of its users, are tremors of the hands. Maybe I'm sensitive, but the system never made me feel as though I was very important.

After examining the system from the perspectives of three types of people that have the position or a reason to change it, it becomes clear that the health care system of the United States was carefully constructed to oppress certain people and reward a few.

Of course, this ‘few’ seems an ambiguous term, so it must be defined. Already, it has been illustrated how doctors and politicians stand to benefit from the way things are, as well as the CEO’s of pharmaceutical companies and medical equipment companies. Who else is rewarded by this system that accounts for 20% of the United States gross domestic product (Brill 4)? Look no further than the hospital’s themselves. Non-profit hospitals generate greater profits than for-profit hospitals. Not being subject to income tax gives them huge profit margins, and no incentive to keep them down. For example, “the 14 administrators at New York City’s Memorial Sloan-Kettering Cancer Center who are paid over \$500,000 a year, including six who make over \$1 million” (Brill 4). Do hospital administrators really deserve higher compensation than the surgeons and doctors of the hospital? This isn’t an isolated phenomenon, hospital administrators are compensated at almost a minimum of \$500,000 a year, even at smaller hospitals. These salaries are not their only source of income, they also maintain external deals with companies promising them their hospitals business in return for financial compensation (Brill 3). These are the people who preside over and control the health care industry. They, along with the others aforementioned, are responsible for the system in place today.

There is a way to fix this system. Unfortunately, it cannot be a simple reversion to Locke’s state of nature, where man’s property was marked out by his individual labor (Locke 27). After all, in health care the subject of man’s labor is another man, and thanks to Honest Abe we know man cannot be another man’s property. If going backwards isn’t an option, then steps must be taken forward to change the rules that support this inequality. The first step would be to elect new public officials who recognize the system for what it is, of course that would require the public to vote with discretion and not

simply name recognition. The people must recognize that current leaders have failed to uphold the people's rights and elect those people who will respect the "fundamental maxim of all political law, that people gave themselves chiefs to defend their liberty and not to be enslaved by them" (Rousseau 28). Maybe it is an exaggeration to compare the abuse of the people by the health care system to enslavement, but to many people the crippling debt and commodification of their own and their loved one's may feel little distinction. After this first step has been taken, it would be possible to change the legislation surrounding the health care system. Introduce standardized pricing for procedures and equipment, across all hospitals, insurance companies, and, government aid programs. Pharmaceuticals would have to be standardized as well, of course committees would have to be arranged to set these prices, but developed countries like Germany, Switzerland, and, Japan could serve as an easy source of comparison for fair prices. Additionally, all hospitals would be subject to income tax and salary caps would be placed on hospital administrators. The funds produced by these measures could be rerouted in coverage for the poor and those without coverage. Of course, this means that the people must take a coordinated stand, no easy feat. However, if those in the position to best see the problems are motivated to do something about it, the results can be significant. When a pharmaceutical company released a new cancer drug at the price of \$35,000 per month of treatment, doctors banded together. They recognized another drug, which cost only \$5,000 a month as equally effective, and as a unit boycotted the use of the former. Within four weeks the company cut the price for their new drug in half (Brill 31). This stand was only possible because there was an alternative. Which is another change that needs to occur, medicinal patents should be public domain, not privately

controlled by a corporation. This would allow many different researchers to examine the medicine, and possibly increase the rate at which medicine itself progresses. A final reform, one more ambiguous and far harder to bring about than the rest, would be to change the principal focus of the health care system. As discussed above it has been designed to be one of the most economically profitable industries in the world. The primary focus of the health care system must be *health care*, while that may appear to be an obvious statement it is not the reality of the situation. Patients are held in waiting rooms without treatment until it can be proved they can pay (Brill 2), there are more hospital beds available than can be filled in the United States (Brill 11). Still patients are turned onto the street in the middle of winter, without a second thought if they cannot pay for their treatment. This lack of compassion in a system that is supposed to be responsible for the welfare of the people is the core of the issue. The system is fundamentally flawed, because in a free-market economy the bottom line is the most important factor, a factor that should not be of any concern in the health care system.

The fact is the current state of the United States health care system is nothing new, the systems discussed in this paper have been in place for generations, growing and consolidating their power and using it to abuse the legislation system and the people. It creates incentives for those positioned to bring about change, to do nothing. It actively blocks the people from pursuing lines of questioning related to its existence. It abuses the most vulnerable parts of the population, the sick, the uneducated, and those without coverage. It creates bills out of nonsense and expects its consumers (often catastrophically ill) to recognize they must haggle for a better price. The system has developed in the fashion it has because it was built on free-market principles and the laws

that surround it are different from those used in actual business. It must be recognized that the health care system cannot be treated by the same rules as gas and oil, as food and drink, because the rules are not the same. The product is not equivalent, and the consumer does not have any way to balance the power. Standards and priorities must be changed, the health care system of the United States cannot continue to operate in a free-market uncontrolled and unstandardized fashion. The government must be given the power to regulate and control the market, not be controlled by the lobbyist who benefit from the system of greed and extortion that exists today.

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