INEVITABLE INCOMPETENCE

Soaring Medical Costs, Dangerous Medical Care

Saul William Seidman, M.D., F.A.C.S.

Universal Publishers
Boca Raton, Florida

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Universal Publishers
Boca Raton, Florida
USA•2007

ISBN: 1-58112-947-5
13-ISBN: 978-1-58112-947-2
www.universal-publishers.com

Dedication

To my wife, Grace, for all the help, support and love throughout our adventure together.

ACKNOWLEDGEMENTS

I have enjoyed a charmed existence. People in my life have taken the time and energy to influence the quality of my existence. My parents encouraged without demanding a specific path for me to take. My public school education was good enough to allow me an Ivy League education and a partial scholarship. At the University of Pennsylvania, Professor William T. Fontaine, gave me the gift of a coherent view of life. He said, "Pick your world and live it." I worked not to disappoint him.

My father lived by the philosophy of, "Say what you do and do what you say." And, "be kind to the defenseless." He gave direction to my life.

Mentors formed my medical outlook. Dr. Collins, Dr. Scoville, Dr. Whitcomb, Dr. Dunsmore, Dr. Olsen and Dr. Osterholm had faith that I would practice neurosurgery in an always ethical, kind and considerate manner. Medical school allowed me to work with Dr. Di Palma. He gave me a summer research job involving dialysis, I was on the wrong side of peritoneal dialysis and I tried to use the bowel to dialyze rather than the peritoneum. He remained supportive through my futile attempts.

My interest in the neurologic system I attribute to Dr. Truex and Dr. Olsen. The order, mystery and beauty of the neurosciences were demonstrated by these fine teachers. Neurology and neurosurgery have been stimulating and satisfying pursuits, always challenging. My patients were kind and patient. They trusted. I worked to be worthy of the trust. People are the most fascinating animals; constant learning was the gift they gave me. They are still giving in my retirement as nearly every day I answer a question for a friend or acquaintance. I still maintain a bench of physicians who can provide an answer when I cannot. My colleagues have encouraged and supported while not always agreeing.

Our poker group of physicians is a source of entertainment and continuing medical education.

My wife, Grace, has been supportive and positive through all of the changes over the past 18 years. Always ready with encouragement. Confident I could accomplish what is right and helpful. My siblings have stimulated me with surprising comments and direction. My children never know what their father may do next. They too tolerated my efforts to express my thoughts and opinions about what I felt important.

My friends in and out of my professional world have been continually supportive. Dr. Charles Fager, Dr. Wallace Sampson, Mary Katherine and Dr. Jonathon Kelley, Lynn Farris Schafer, Max Gahrahmat, Martin Baccaglio, Barbara Cantor, Dennis de Champeaux, the El Camino poker group, the neighborhood poker group and the folks at the Decathlon Club did not lose faith.

Rebekah Galy at Universal Publishers has provided support and guidance through my attempts to express myself. Her staff, too, has been consistently helpful. I have been fortunate at every stage of my careers.

And thank you, the patient and the reader for allowing me the privilege of expressing myself.

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INTRODUCTION

INCOMPETENCE IS INEVITABLE
Why Medical Care is Expensive and Dangerous

Those who cannot change their minds cannot change anything.
George Bernard Shaw
1856-1950

We have two choices. We can follow the delusion of "universal health care" or we can accept a market approach to health care. Putting patients in charge of their medical care is a market approach. It guarantees competence, at least.

Universal health care is sickness care administered by politicians, bureaucrats, CEOs and other proven incompetents. None of these "medicrats" knows how medicine is practiced. All these administrators are driven by politics and economics. Excellence is destroyed in the initial stages of what is called "single payer" health care. The destruction of competence follows the destruction of excellence.

I was a neurosurgeon for thirty years; I am now a patient. Grace, my wife and I have experienced incompetent medical care. I want real and useful knowledge of my doctors and the institutions in which they work. Most of my trusted colleagues are retired. I know few of the next generation as I did my generation. I need the knowledge we lack. Where and from whom do I get my medical care?

The Canadian Medicare and the National Health Service (NHS) of the UK are failed models. Both models create higher death rates from major diagnoses. Both models bring longer and longer waiting times for definitive care. Physicians and institutions in both systems remain anonymous. Patients are deprived of useful knowledge

Medicine was practiced. Medicine was a lifelong learning experience. Medicine was integrated. That was only yesterday. The present bureaucratized, fragmented and disintegrated program called "medical care" bears little resemblance to the practice of medicine. Today's medical care is dysfunctional.

The corporate and government controlled model of medical care has resulted in increasing patient injuries and deaths every year. The concept of iatrogenic (physician caused) injury and death has accompanied medical care through the ages. Today, it is a growth industry. The Food and Drug Administration (FDA) describes a 14% increase in

injuries and illness from drug interactions year over year. Unnecessary surgeries, unnecessary prescription drugs and unnecessary procedures are legion. To gain excellence a physician must love what he does. This love has been squeezed from the physician by the fragmentation of our profession. We are now supposed to communicate by email. At 5 o'clock we go home. We now hand off patients to the next shift. We now do not know our patients; they do not know us.

Medical teaching is done in institutions that de-emphasize clinical diagnosis. The non-invasive tool such as MRI and CT scan has made us lazy. Has it made us fat too? We have learned not to think but to order a scan or a procedure. Differential diagnosis[1] was a great art developed over years of experience. This art is aborted by the ease of too many misused tools.

Bureaucrats now dictate policy. We entertain at least 500,000 medicrats in Medicaid and Medicare. They do not provide any medical care. They and their private sector equivalents absorb $500,000,000,000, about one third of all medical expenditures. Half of the $1.8 trillion in medically related expenditures are wasted. Money for medical care for all exists without the over-funded bureaucracies.

The model of the National Health Service (NHS) is an unequivocal disaster. The British bureaucrats outnumber the doctors six to one. (Doctors 110,000 versus "administrators" 640,000) These drones absorb two thirds of the all medical expenditures in the U.K. Rates of surgical deaths are 4 times higher in the UK than in the USA. Death rates for breast cancer, prostate cancer and heart disease are substantially higher in the National Health Service. Today, October 17, 2006 the following email was received from http://www.netdoctor.co.uk

[1] Differential diagnosis is the list of possible diseases that correspond to the patient's symptoms.

This website is compilation of news from the NHS: "Meanwhile, it recently emerged that the NHS cancels 620 operations per day, mainly because of administrative and management errors. This represents a rise of 25 percent in cancelled operations over the past three years. Furthermore, over 7,700 operations were cancelled last year because the necessary equipment was either missing or dirty." This is the model called "single payer" by our short sighted politicians; our leaders, of course, receive special medical care.

The Canadian model produces progressively less medical care and progressively poorer medical care. Waiting times for definitive care force patients to go to India or the US for care. The Canadians' are abused but the politicians pretend to be unaware.

Acronyms are created to pretend to provide medical care. The groups these acronyms represent provide more and more wasteful expenditures.

I was fortunate to practice neurosurgery in the golden age of medicine. Physicians were rewarded for excellence. Surgeons were not anonymous to their colleagues or to their patients. Patients sent friends, family, neighbors and business associates to the offices of talented physicians and surgeons. Patients had the choice of who they would trust. They were not forced to see a "preferred provider". The preferred provider is either an employee of an HMO or a doctor who will accept the insurance company's pay scale. The patient's employers were not forcing them to choose the cheapest "health insurance". Medical and surgical decisions were made on the basis of patient need. My needs and the institution's needs were consistently secondary. No interference from insurance companies, bureaucrats, state agencies and other incompetents was tolerated. Patients were in charge, choosing who would provide their care.

Physicians and surgeons worked in teams; the surgical team in the operating room, the post-anesthetic team, the ICU nurses and floor nurses took care of my post-operative patients. The diagnostic team, the radiation team and

oncologists all knew each other. Trust and stability are essential to a functioning and safe patient care world. We knew each other. We watched each other; we talked. In the current era this cohesiveness has been destroyed.

Advances in diagnostic and therapeutic modalities came in torrents. The diagnostic advances were thrilling. CT scanning came in the 70s; the MRI arrived in the same decade. The art and science of clinical diagnosis suffered from the availability of these mostly non-invasive tools. Abuse occurred as a result of the thoughtless use of these tools. Surgical procedures were sometimes made safer. Surgical procedures were also made more dangerous as institutions pushed more and more expensive procedures.

Too many procedures, too many complicated procedures followed in the wake of new tools. Some expensive and complicated procedures have replaced simple inexpensive procedures. The hundreds of new and sometimes better medications are prescribed in multiples. Too many drugs prescribed too frequently have resulted in harm, not health. The new tools and drugs have led to higher levels of medical error and adverse events[2]. Patient injury, iatrogenic (physician caused) illness, deaths and drug reactions have increased yearly.

Policy making now is in the hands of Congress, bureaucrats employed by Medicare, Medicaid, state agencies, HMO board room executives and insurance executives. Administrative and bureaucrats consume at least 30% of medical expenditures in the USA. Policies are mandated by non-physicians and others in offices where patients are never seen.

[2] Adverse events are unintended consequences of physician and institutional care. These events lead to injury and death.

The Old Paradigm of Patient Care
Doctor → Patient
Patient $→ Doctor

The New Paradigm of Patient Care
(1) Taxpayers $$$$$$$→
(2) Congress $$$$$$→
(3) Executive Branch of State or Federal Government, Medicaid, Medicare $$$$$ →
(4) Executive of HMO, PPO, Insurance Company$$$$→
(5) Department Head $$$→
(6) Medical "Provider" $$→
(7) $ Patient

1. Taxpayers provide the money. 2. Medical policies are dictated by political decisions of Congress. 3. The executive branches of the federal and state governments are policy makers. 4. The CEOs of health care organizations are another level of decision makers. 5. The department heads of HMOs, PPOs and other heads of medical or surgical specialties are another level of judgment. 6. The doctor making decisions regarding patient care is 6th in the food chain. 7. The patient is 7th and last.

The first four levels are bureaucratic monstrosities; consuming at least a third of medical dollars. The physician and patient are the last to be rewarded. Hospital administrators are paid at least twice as much as the finest surgeons in the National Health Service and in American hospitals. Like old Las Vegas casinos, skimming is the rule.

The corruption of medical care is the result of interference by non-physicians in the process of patient care. Laws have been tailored to encourage the corporate practice of medicine. Political contributions influence the laws to the

benefit of the medical corporations. Social engineering by vote hungry politicians instituted changes leading to more medical bureaucracy. The central planning model has consistently led to poverty and corruption. The self-perpetuating nature of governmental systems, Health Maintenance Organizations (HMOs), insurance companies will always fail to provide what is promised.

The trend toward incompetence has accelerated over the past generation. Medical schools, government regulations, third party payers and the self-interest of centrally controlled medical models have contributed to the deterioration. We are importing medical doctors from third world countries. English is not their first language. Their culture is not the American culture. Their idiom is not the American idiom. Their ethical backgrounds are different. Many third world cultures are riddled with corruption. Medical and surgical specialists from India and Pakistan are not recognized in Canada or the USA. These same "specialists" are imported into the British National Health Service as "skilled Asians". The National Health Service was initiated in 1948; the Brits have decades more of the destruction of excellence and competence by medical bureaucracies. It is only a matter of time before we dumb down our criteria as to who is acceptable.

This trend is exacerbated by American trained surgical and medical specialists retiring earlier and earlier. Some of the most talented physicians are frustrated by the bureaucratic meddling. They leave the profession. They prosper in new ventures. Two work as medical analysts for financial institutions. Two started medically related corporations. Two started successful wineries. A neurologist is CEO of a biotech company. An oncologist departed clinical medicine for an administrative job; a pulmonologist left for an administrative position; both at higher compensation and no night call. Two are inventors of new processes, one is venture capitalist and one is a gifted actor and musician. One may even become a writer. These were

not the dangerous doctors; they were the most gifted. All the above examples are doctors I know personally.

The rising expenses and increasing dangers of medical care in the United States is continually discussed in board rooms, congressional hearings, editorial pages and a dozen other venues. In 2005, Americans spent $1.58 trillion on medical care, more than they spent on housing ($1.37 trillion) and food ($1.27 trillion). Medical expenditures are the highest of all personal consumption.[3] The causes of the uncontrolled rising expenditures and iatrogenic disasters have remained unrecognized or hidden under a veil of propaganda. At least half of medical expenditures result from unnecessary medical intervention. Over-prescribing medications, drug reactions, inappropriate drugs, surgical misadventures and other areas of bungling are the main cause of the huge increase in medical expenditures. The wrong questions are asked and the wrong answers sought.

A glioblastoma is an aggressive malignant brain tumor. In 1967 the average life expectancy after this diagnosis was made was five months. Today, it is ten months. Treatment costs have increased probably 100 times in a generation. Though we have gained little for the patient in the past 39 years, the process is unaltered. Should neurosurgery consider a new thinking?

Excellence in the care and treatment of patients is not rewarded. In the past, the top physicians were rewarded. Physicians are not black boxes. Physicians are individuals with different interests, talents, skills and motivations. Physicians are knowable. Physicians and surgeons can and should be periodically evaluated. Physicians must be transparent. Physicians must be accountable.

The legal industry is partially responsible for "defensive medicine". Millions of unnecessary tests are thought to be done to protect the doctor from lawsuits. I disagree. I believe

[3] "Taking the Temperature of the U.S. Economy", *The Wall Street Journal*, Saturday-Sunday, Sept. 30 – Oct. 1, 2005 p. A7

good medical care is the ultimate protection from the legal industry. The driving force of the legal industry is money. So-called malpractice insurance is a slab of meat before a salivating beast. It is not the answer.

Dangerous physicians are hidden from public view by HMOs. State agencies, given the mission to discipline and recognizing bad behavior of my colleagues, are by law secretive. Impaired physicians are protected by secrecy during the period of "rehabilitation". Many agencies have been invaded by operatives of the organizations they are alleged to discipline. Only when behavior is egregious does the public become aware.

Newspapers and other periodicals derive billions from medical advertising. The Kaiser HMO, Sutter Health Care, Stanford University, Sequoia Hospital and other bay area medical corporations feed the local media to attract patients. The local newspapers lack the fiber to alienate these sources of income. I do not expect critical reporting to help recognize good from poor or abysmal care.

Dangerous surgeons are allowed to continue to practice; they wound, injure and kill with the blessing of the organization which employs them. Many malpractice suits are settled by confidential agreement. The dangerous physician is thus protected from exposure. HMO arbitration settlements are frequently undisclosed. Subscribers to the HMO are not informed of physicians who have been disciplined, are known incompetents or whose actions have resulted in multiple law suits.

Inevitable Incompetence will detail the growing danger and outrageous expenses in medical care. *Inevitable Incompetence* will provide an understanding of the methods needed to alter the relentless course of rising expenditures and increasing deaths and injuries in the current world of "medical care." *Inevitable Incompetence* will outline the process required to return to excellence.

Disclaimer:

The opinions expressed in this book are those of the author. The opinions are based on personal knowledge, the author's medical and surgical practice, four years of research and discussions with many people regarding their health care experience.

Patients sited in *Inevitable Incompetence* are real people. Their identities are protected.

Saul William Seidman, M.D., F.A.C.S.
Cupertino, California 2006

CHAPTER ONE

TREATMENT MORE DANGEROUS THAN ILLNESS

"Life teaches lessons; it is up to us to learn them."
Anonymous

Treatment More Dangerous Than Illness (Iatrogenesis)[4]

Adverse drug reactions are responsible for 10% to 15% of all hospital admissions. Automobile accidents are responsible for 45,000 deaths in the U.S. every year. Dr. Leape reports at least 180,000 die yearly as a result of medical error.[5] Deaths in Iraq of American service men and women exceed 3000 over the past several years. Is the soldier safer in Iraq than on the highway or in the hospital in the U.S.?

At least eighty percent of patients seen on referral in my neurosurgical practice improved without any medical or surgical intervention. The history and physical was adequate to diagnose the complaints and reveal a treatment for my patients. These folks were referred by doctors and other patients. Some were self-referred. Headaches, back pain, neck pain are mostly self-limiting. My advice usually consisted of activities which the patient could do himself. Physical therapy, chiropractic manipulation, anti-inflammatory medications are of limited usefulness. All possess the potential to injure. Weight loss and regular rhythmic exercise were cheap and effective. These patients did not need diagnostic MRIs or CTs or other expensive and sometimes dangerous procedures. They did not need NSAIDs.[6] They needed a clinical diagnosis and advice. Surgical treatment was indicated in approximately 15% of patients on whom I consulted.

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[4] Iatrogenesis is physician-caused illness or injury.

[5] " The Hazards of Modern Medical and Surgical Care" .*Maharishi University of Management*, 10/29/2005 http://www.hazardsofmedicine.org/side-effects.shtml

[6] NSAIDs are non-steroidal anti-inflammatory drugs. Potentially severe and severe complications result from these drugs. Aspirin is the gold standard against which these drugs are measured.

Some patients presented brain tumors which were better left alone. An 85 year old with a small benign brain tumor is usually better off having a follow-up brain scan in a year than undergoing the risks of a major surgery. If the tumor increased in size to where it potentially was dangerous, removal might be warranted. I spoke with other ethical neurosurgeons of "Everest surgery". The phrase "Everest surgery" was surgery justified because the tumor was there. Surgery should be done for the benefit of the patient not the surgeon.

A patient complaining of chronic headaches was operated upon at Stanford's neurosurgical service. Holes were drilled into this woman's skull and normal appearing brain was identified. The neurosurgical resident who dictated the operative report stated that no abnormality was encountered. The university professor's justification for the surgery was the presence of an "arachnoid cyst."[7] I was asked to review the case. Ultimately, I was called to testify in court regarding the alleged cyst. Review of the patient's records, the brain scans and the radiologist's reports revealed no evidence of the so-called cyst. The plaintiff was involved in a litigation resulting from an alleged head injury sustained in a department store. Melvin Belli's law firm was famous in this area for getting large judgments in lawsuits. They represented this person. The lawsuit was for hundreds of thousands of dollars. The plaintiff and the law firm lost. Why would a reputable institution and surgeon do an unnecessary surgery?

Medical care exists in a world of uncertainty. It is possible to achieve competent care today but it is not easy. Dr. Roy Schwarz, Group Vice-President of Scientific Education and Practice Standards of the American Medical Association stated, "We should make people aware of the uncertainties of medicine. Not everybody will be cured and, in some cases, disasters will occur. That's reality. Medical

[7] An arachnoid cyst is a collection of fluid displacing normal brain tissue. It can occur following trauma but is usually congenital in origin.

practice, by necessity, always will be based on trail and error."

In December 2003 the number and costs of treatment errors were measured.[8]

1. Hospital adverse drug reactions:	106,000	$12 billion
2. Medical error:	98,000	$2 billion
3. Bedsores:	115,000	$55 billion
4. Infection:	88,000	$5 billion
5. Malnutrition:	108,000	?
6. Outpatient adverse drug reactions:	199,000	$77 billion
7. Unnecessary procedures	37,136	$122 billion
8. Surgery-Related	32,000	$9 billion
Total	783,936	$282 billion

Other estimates show the death rate even higher. Dr. Leape's numbers suggest a death rate in excess of 420,000 from drug and medical errors alone in 1997.[9] His figures indicate a death rate of 14% from medical error in 1997. The number of medical and surgical errors may approach 1,000,000 per year, with a cost of $300 billion. We know that medical care can be hazardous to our health. Many estimates of medical injuries are uncertain because of under-reporting. Only 20% of medical injuries may actually be reported. Accurate measurement is universally lacking.

The Center for Disease Control (CDC) estimated 90,000 deaths due to hospital acquired infections in the US a year. The cost is $4.5 billion.[10]

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[8] Carolyn Dean MD ND, Martin Friedman MD, et.al, "Death By Medicine" (December 2003), http://www.doctoryourself.com/deathmed.html

[9] Leape L. "Error in Medicine" *JAMA*. 1994 Dec 21; 272(23):1851-1857 Leape L., National Patient Safety Foundation Press Release, Nationwide Poll on Patient Safety Oct 9, 1997 New York. http://www.npsf.org/html/pressrel/finalgen.html

[10] "U.S. hospital infections kill 90,000…", Wall Street Journal, October 20, 2006, p1A

The National Academies call health care the most hazardous industry, accounting for over a million injuries and over 180,000 deaths annually[11]. The Food and Drug Agency (FDA) reported 300,000 adverse-events and 100,000 deaths due to medication errors[12]. The FDA, in March 2005, reported a 14% increase in adverse-event reporting from the previous year.[13] Dr. Kessler, Chief of the FDA, believed "only one percent of all serious drug reactions are reported."[14] Confusion and risk abound.

Patients in the U.S. report that the quality of medical care has gotten worse in the past five years. Four in ten patients make that observation. When asked if they or a family member had experienced a medical error, 34% responded that medical error had occurred. [15]

Inevitable incompetence has resulted and will result from the federal, state, and local meddling in medical care. Changes in medical education, importing of third-world-educated physicians, lack of accountability and transparency are contributors to the growing disaster. Poor communication, inadequate use of informational technology, and inadequate leadership are additional causes of this calamity[16]. Economics, not patient care, is the driving force

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[11] "Identifying and Preventing Medication Errors", Institute of Medicine of The National Academies, January 6, 2005-July 20, 2006

[12] " FDA Takes Steps to Reduce Medication Errors", *Weekly Health Focus*: *Medications,* Thursday January 19,2006

[13] "Reports to FDA About Adverse Events Related to Prescription Drugs Reach record High in 2004, Agency Estimates" *Medical News Today*, 15 March 2005, http://www.medicalnewstoday.com/printerfriendlynews.php? newsid=21232

[14] *US News and World Report*, January 9,1995: 49-54

[15] "Five Years After IOM report on Medical Errors, Nearly Half Of All Consumers Worry About The Safety Of Their Health Care", *Kaiser Family Foundation*, Wednesday, Nov.17, 2004.

[16] "To Err is Human, Building a Safer Health System", Institute of Medicine of The National Academies, November 1, 1999 http://www.iom.edu/CMS