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Healthcare Reform: What Must Be Involved?

Part III – Hard Choices; Personal Choices

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This is the third in a three-part series on healthcare reform. It is also the third series on healthcare reform published by Your Life Your Health. The other two series and the first two articles in this series can be found at www.jameslhollymd.com under Your Life Your Health by clicking on the icon entitled *Healthcare Reform – Public Policy*. The premise of the conclusion to this series is that choices must be made. The reality is that the United States government cannot print or borrow enough money to give everyone every healthcare procedure, test or treatment that they want and sadly, the United States government cannot print or borrow enough money to give everyone every health procedure, test or treatment that they may need. If this premise is accepted, and to reject it is to reject reality, then the citizens of the United States of America and those who serve them in the Congress are in the position of having to make choices.

In 1997, I wrote a Father's Day piece in which I said:

“I don't remember the first time I met my father, but I do remember my first impressions of him: he was big, strong and invincible. We both were older when, through the lessons of life, I discovered that my father was vulnerable. I was amazed to learn that he was not invincible. Surprisingly, it was then I discovered his real strength; it was not in his size or in his muscularity, it was in his character, his courage, and his convictions. It was in his choices.

“When as a small child, I thought my father was omnipotent, I loved him; I feared him, and I felt very safe around him and through him... When I discovered my father had limitations, I discovered he was who and what he was because of choices he had made. I remember the first time he told me – with a sense of failure on his part – “we cannot afford that.” He may have thought I loved him less, but I truly loved him more, because I found that my father was a man of limitations making choices, which meant he was a man of character. And, while he could not afford everything, he could afford to guarantee, and then pay, the entire hospital bill for an infant child of a total stranger. He could pay the college tuition and expenses for an Indian boy who lived in an orphanage. He could pay the utility bills for African-Americans in a community where racial prejudices were not only acceptable, but encouraged, demanded and honored.

“In his limitations, my father was taller, stronger and more awesome in my eyes than he had ever been when I thought he was invincible. And, as I discovered that he was a man of limitations, my father's character began to grow inside of me... It was in discovering that my father was a man of choices, rather than a man of unlimited possibilities, that I discovered what a father really is: a man who limits his horizons and/or immediate happiness for the benefit of those whom he loves.”

The people and the leaders of the United States of America must discover the same thing about their country that I discovered about my father. There is a limit to what the country can do and to what the country can provide for its citizens. The only question is who will make those choices and what will be the standard on the basis of which those choices will be made.

In the July 19, 2009 *New York Times*, an extensive article appeared which promoted the rationing of healthcare as the only way to manage the cost of healthcare in the future. Subsequent letters to the editor responded positively and negatively to this article. The article's author's name, Peter Singer, of Princeton University, seemed familiar to me. As I read the article, I remembered his letter to the editor in the 1985 *Journal of Pediatrics* in which he argued that a pig might have greater value than a human child who was born with severe birth defects. In subsequent years, Singer would be bolder in proposing that a child would not be considered a child until at least a month after birth during which month healthcare professionals could determine that the child had no value to society and therefore could be euthanized.

In the August 2, 2009 *New York Times* an opinion piece appeared which reviewed the current state of technological advances in medical science and discussed those advances in relationship to healthcare policy, asking the question, "How much longevity does a person have the 'right' to?" The suggestion was that a judgment as to the resources which society should expend upon a person could be based on the person's contribution to society, or even upon their ability to make a contribution. This is more subtle than Singer's position but it starts at the same place: a human being has value only based on mental, or physical ability, contribution to society, or the potential for contribution to society.

If we are at the point of having to make choices about healthcare availability, should that choice be made on the basis of a person's IQ, financial statement, family ties, ethnic background, or other arbitrary standards? The Declaration of Independence of the United States of America begins with the statement, "We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with inherent and inalienable rights; that among these are life, liberty, and the pursuit of happiness..." "Inalienable" means "incapable of being repudiated or transferred to another." Neither the individual nor the government can surrender, remove or abrogate the right to life. No government, no jurisdiction, no law, no policy and no other instrument of social or governmental decision-making process can make a distinction between humans for determining access to healthcare on the basis of any asset, liability, capacity, incapacity, productivity or lack thereof. This must then be the context of the discussion of healthcare policy; it is the context of the Constitution and the social doctrine of our community which establishes irrevocably the value of the individual based on that individual's "human-ness" and not on the basis of their wealth, education, station in life, productivity, or other performance measure.

If then this is the foundation of the discussion, how do we deal with "rationing" of healthcare versus the "rationality" of healthcare decisions? Furthermore, what are the "rights" which each individual can claim to healthcare; what are the "responsibilities" each individual has

for his/her healthcare, and what are the “realities” of the circumstances in which those “rights” and responsibilities” must be exercised?

Rationing and Rational

How do these differ, or do they? “Rationing” is defined as the controlled distribution of resources and scarce goods or services. Rationing controls the size of the ration, one's allotted portion of the resources being distributed on a particular day or at a particular time. The rationing of health care has occurred in various forms in the United States and Western Europe in the post-World War II era. Massachusetts enacted a controversial rationing program during the 1980s that was subsequently repealed.

In his article, Peter Singer states: “In the current U.S. debate over healthcare reform ‘rationing’ has become a dirty word. Meeting (in June) with five governors, President Obama urged them to avoid using the term, apparently for fear of evoking the hostile response that sank the Clintons’ attempt to achieve reform. In a *Wall Street Journal* op-ed published at the end of last year with the headline ‘Obama Will Ration Your Health Care,’ Sally Pipes, C.E.O. of the conservative Pacific Research Institute, described how in Britain the national health service does not pay for drugs that are regarded as not offering good value for money, and added, ‘Americans will not put up with such limits, nor will our elected representatives.’ And the Democratic chair of the Senate Finance Committee, Senator Max Baucus, told CNN News in April, ‘There is no rationing of health care at all’ in the proposed reform.”

Rationing in healthcare is not defined by a contractual relationship in which the government agrees to pay for certain procedures but not for others. Rationing occurs when distinctions are made between individuals within a group, in which case it would be declared that a certain procedure would be paid for if a person is below age____, or if a person is mentally competent, or if a person is able to communicate, or if any other of many subjective conditions is placed upon a person’s individual and personal qualifications for care.

If “life” is an inalienable right, laws or policies which differentiate between individuals on any basis other than their human-ness is a violation of those individuals’ constitutional rights. This would not preclude society from declaring contractually that it would provide a certain level of care to everyone but another level of care to no one. However, such a decision would not preclude a person obtaining care at personal expense beyond that which society agreed to provide for all citizens. Nevertheless, no governmental agency could decide to provide a higher level of care to one group and not to another.

Rational Care

“Rational care” on the other hand is that care which is determined by an individual or his/her legal, personal representative, next of kin or guardian. It also means that care which is promised to the individual by society does not necessarily mean access to every procedure, test or treatment known to man. Rational care can and actually should and must be limited to what society can collectively afford to provide for all of its citizens.

On an individual basis, rational care would constitute healthcare decisions which are made in consultation with a personal healthcare provider and could include the withdrawal of current care, or the withholding of extraordinary means of life support based on the individual's, or in the case of the individual's loss of competency, the family's, decision. This would include the rational decision not to support life with extraordinary hydration and/or nutrition, ventilation or intervention with invasive or non-invasive procedures. What the government may not do without "rationing" care; the individual or the individual's family can do on the basis of "rational" care.

There is a time to die. While the Constitution implicitly and the Declaration of Independence explicated does not even give the individual the right to abrogate their "right to life," which means that euthanasia or suicide cannot be legalized, it is not necessary to prolong life artificially. It is a rational decision to recognize that at some point no matter what is done, no positive result will occur. It is rational to decide to go home, to be with your family and to allow the natural course of life to transpire with the support of family and healthcare professionals who can make that process comfortable.

Other elements of rational healthcare are:

- It is evidence-based – care should not be based on opinion, experience, prejudice or personal bias. It should ONLY be based on sound science. Unfortunately, there is not always sound science available in every condition but where there is, it should be the basis and standard of rational care.
- Its foundation is a healthy lifestyle – any claim to a right of healthcare (more on this later) has to be based on the responsibility of a lifestyle which includes exercise, weight control, temperance and no smoking, to name a few.
- Its foundation is also based on preventive care – rational care must include the demand for appropriate preventive care including immunizations and evidence-based screening procedure.
- Expensive and Excellent are not synonyms – we often associate expense with value; in healthcare, just because something is expensive does not mean that it is excellent. Because a unique healthcare delivery model boasted of extraordinary success, SETMA sent a provider to that clinic. The care cost over \$3,000 (out of pocket, no insurance accepted) and consisted of less than a two-minute physical examination, which included assessments available in any routine office visit. Expensive did not correlate with excellence.
- More healthcare is not always better healthcare – In the May 14, 2009 *Examiner*, Your Life Your Health article was entitled "Can More Care Provide Less health?" Please refer to that article at www.jameslhollymd.com under the heading Your Life Your Health.
- Technology cannot add value or quality to life and does not always add quantity -- The things which make our lives valuable are not driven by technology and ultimately, they are not driven by the length of our lives.
- The object of healthcare decisions is the welfare of the individual and not of the family – Very often, healthcare decisions and the associated cost of those decisions are not made for the benefit of the patient but for the benefit of the

family. Guilt for past neglect of a family member or for unresolved conflicts cannot be remedied by irrational care at the end-of-life or in a healthcare crisis which is hopeless.

- End of life decision should be made before the need arises – Every person, age 50 and above, and those younger than that with serious, chronic illnesses, should have a serious conversation with themselves, with their families and with their healthcare provider about their desire for care in a life-threatening situation.