**Statement**

**of**

**Jeffrey A. Singer, MD**

**Senior Fellow, Cato Institute**

**before the**

**House Oversight Committee Select Subcommittee on the Coronavirus Pandemic**

**September 14, 2023**

# Oh Doctor, Where Art Thou? Pandemic Erosion of the Doctor-Patient Relationship

Cato Institute • 1000 Massachusetts Ave., N.W. • Washington, D.C. 20001 • (202) 842-0200
Fax: (202) 842-3490 • www.cato.org

Chair Wenstrup, Ranking Member Ruiz, and members of the Select Subcommittee on the Coronavirus Pandemic. Thank you for the opportunity to provide my thoughts about how government agencies have contributed to the erosion of the patient-doctor relationship and have threatened physician and patient autonomy.

My name is Jeffrey A. Singer. I am a Senior Fellow in Health Policy Studies at the Cato Institute. I am also a medical doctor specializing in general surgery and have been practicing that specialty in Phoenix, Arizona, for over 40 years. The Cato Institute is a 501(c)(3) non-partisan, non-profit, tax-exempt educational foundation dedicated to the principles of individual liberty, limited government, free markets, and peace. Cato scholars conduct independent research on a wide range of policy issues. To maintain its independence, the Cato Institute accepts no government funding. Cato receives approximately 80 percent of its funding through tax-deductible contributions from individuals. The remainder of its support comes from foundations, corporations, and the sale of books and other publications. The Cato Institute does not take positions on legislation.

In my 40 years of private practice attending to patients with acute and chronic general surgical conditions, I have first-hand experience of government agencies progressively intruding into physicians' clinical decision-making processes and often casting a chilling effect on what clinicians feel comfortable communicating to their patients. Beyond the assault on their autonomy, clinicians face ethical dilemmas when concerns about job security—or even if they can continue practicing their profession if they fail to adhere to orthodoxy—distort their best judgment regarding what they perceive to be in their patient's best interest.

In my Cato Institute study, "A Hippocratic Oath for a Free Society," I argue that physicians must always "prioritize the autonomy and rights of individual patients."[1] I call for doctors to take an oath declaring:

*I will respect the crucial scientific advances in medicine but will always question the assumptions my profession has inherited and will judge them in the light of the latest evidence. I will gladly share any knowledge I have gleaned from years of research, study, and clinical experience with health professionals in all disciplines. I will respect my patients' autonomy, thoroughly explain all the diagnostic possibilities and therapeutic options as I understand them, offer my best opinion and advice from among these options, and accept their decisions.*

Government public health and other regulatory agencies have made it increasingly difficult for clinicians to honor that oath. This became much more apparent during the recent coronavirus pandemic.

[1] https://www.cato.org/study/hippocratic-oath-free-society

As I state in my essay *Against Scientific Gatekeeping*, "a problem arises when some of those experts exert outsized influence over the opinions of other experts and thereby establish an orthodoxy enforced by a priesthood. If anyone, expert or otherwise, questions the orthodoxy, they commit heresy. The result is groupthink, which undermines the scientific process."[2]

During the coronavirus pandemic, most medical scientists, for instance, uncritically accepted the epidemiological pronouncements of government-affiliated physicians who were not epidemiologists. At the same time, they dismissed actual epidemiologists as "fringe" when those specialists dared to question the conventional wisdom. The media parroted and magnified these rejections, further suppressing any pretense of heterodoxy.

In my essay, I postulate that the deference to government-endorsed positions is probably related to funding: "While 'the free university' is 'historically the fountainhead of free ideas and scientific discovery,' President Dwight Eisenhower observed in his farewell address 'a government contract becomes virtually a substitute for intellectual curiosity.' He also warned that 'we should be alert to the…danger that public policy could itself become captive of a scientific-technological elite.'"

Most physicians today are employed by hospitals or by large multi-state corporate clinics. Many of these organizations derive significant income from government funding and government-run programs and are thus reluctant to stray from the recommendations of government health agencies. They insist that their physicians adhere to these recommendations, even if they might personally disagree with the scientific rationale of those recommendations. Employers discourage them from communicating their reservations and concerns to their patients.

Clinicians have used hydroxychloroquine safely for decades to treat rheumatologic disorders and for prophylaxis against malaria. In the early days of the pandemic, when we knew little about what medical interventions might work against the virus, several observational studies with significant limitations suggested the drug might work as an antiviral treatment. Randomized controlled trials (RCTs) have since shown the drug does not work against COVID-19. But before the RCTs, with thousands dying every day from the infection, it was not unreasonable for clinicians to consider using the drug off-label based on observational reports.

[2] https://reason.com/2022/04/03/against-scientific-gatekeeping/

The Food and Drug Administration categorizes treating COVID-19 with the drug as an "off-label" use. The FDA lets doctors prescribe drugs off-label all the time. One in five prescriptions written in the United States are for off-label uses.[3] Much of what clinicians read in the peer-reviewed scientific literature are clinical studies and case reports of off-label uses of various FDA-approved drugs to treat various conditions. Clinicians then use that information, along with their own clinical experience and judgment, and knowledge of their patients' risks and potential benefits when attending to their patients. Doctors are ethically bound to inform them of the possible benefits of the drugs, as well as the risks, and offer it to them. In many cases, the FDA later approves these drugs for those conditions. In others, as with hydroxychloroquine, subsequent research reveals the drug to be ineffective.

However, that's not how events transpired with hydroxychloroquine. Then-President Trump expressed enthusiasm about hydroxychloroquine, calling it a potential "game changer."[4] A firestorm of criticism ensued; some critics were public health officials, and some were partisan adversaries. This caused governors in many states to prohibit doctors from prescribing hydroxychloroquine off-label well before the results of randomized controlled trials were known.[5] Pharmacies, too, derive much income from government-run health plans. Many instructed the pharmacists they employed not to fill hydroxychloroquine prescriptions unless they were for FDA-approved uses.

Politicizing off-label prescribing chills objective clinical medical research. These critics failed to appreciate that medicine is both an art and a science. Clinicians must often apply imprecise scientific knowledge to variable human predicaments. The intrusion into the practice of medicine by non-clinician public health officials and by lawmakers and bureaucrats who are untrained in medicine yet have the hubris to tell physicians how and what they may use to treat their patients threatens the integrity of the medical profession, and indirectly imperils patients.

While the intrusion into the practice of medicine accelerated during the pandemic, it is not new. As I wrote with constitutional scholar Trevor Burrus, government agencies, including law enforcement agencies, have been directly or indirectly telling doctors how to practice medicine for over 100 years to support drug prohibition.[6] Relatedly, starting in 2016, state lawmakers started dictating, in statute, the medical management of pain. That practice continues to this day, even

[3] https://www.ahrq.gov/patients-consumers/patient-involvement/off-label-drug-usage.html
[4] https://thehill.com/homenews/administration/488877-fauci-on-differing-with-trump-on-coronavirus-game-changer-just-want/
[5] https://reason.com/2020/04/07/doctors-not-politicians-ought-to-decide-whether-off-label-drug-use-of-hydroxychloroquine-is-appropriate-for-covid-19-patients/
[6] https://www.cato.org/white-paper/cops-practicing-medicine

after the Centers for Disease Control and Prevention admonished lawmakers for misinterpreting and misapplying the CDC's pain management guidelines and revised them in late 2022. This has led to patients being undertreated for pain and doctors being afraid to treat them properly. Will lawmakers or government agencies next dictate what drugs doctors use to treat high cholesterol? Or hypertension? Or diabetes?

The decades-long trend of government meddling in the art and science of medicine has and will continue to erode physician autonomy and the patient-doctor relationship. But more importantly, physicians are ethically bound to respect their patients' autonomy as sovereign adults. Impeding them from informing their patients of the myriad diagnostic and therapeutic options and imparting their best and honest opinions to them assaults *patient autonomy*.

Respectfully submitted,

Jeffrey A. Singer, MD, FACS
Senior Fellow
Cato Institute