

Physicians and Lobbying

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*But here more slow,
Where all are slaves to gold,
Where looks are merchandise,
And smiles are sold.*

—Samuel Johnson, “London”

Many physicians regard lobbying and lobbyists with a sense of suspicion and even distaste. When most of us entered the profession of medicine, we did so with the intention of helping other people, making a difference in their lives. Lobbying, by contrast, has the appearance of an inherently self-serving activity, the exploitation of the public that George Bernard Shaw [1] had in mind when he labeled all professions “conspiracies against the laity.” Yet what is lobbying? Is it morally suspect, the sort of thing that high-minded physicians should seek whenever possible to avoid? Are there situations in which lobbying by or on behalf of physicians is advisable, even necessary? How can we distinguish between appropriate and inappropriate lobbying activities?

The word *lobby* comes from a Latin word for a cloister. Over time, it came to refer to an entranceway, a foyer, or a waiting room near the entrance of a building. In government buildings, the lobby is the public area outside the entrance to the legislative chamber or officials’ offices. As such, it is a natural place for people who wish to influence government policy to gather. The term *lobbyist* now refers to someone who seeks to influence public officials for or against a particular piece of legislation or course of government action, and *lobbying* is now the most common name for this activity. Today there are approximately 40,000 registered lobbyists in Washington, DC, a num-

ber that has more than doubled since 2000 [2].

Lobbying is a lucrative business. The median annual salary of Washington lobbyists is nearly \$100,000, and the starting salaries for well-connected former congressional aides who join lobbying firms are approximately \$300,000, exceeding the median national income of physicians [2]. The hopes of former South Dakota Sen Tom Daschle to become the Obama administration’s secretary of Health and Human Services were dashed in part when it was revealed that, despite never having registered as a lobbyist himself, Daschle had earned over \$2.1 million from a prominent Washington lobbying firm. He had also failed to pay over \$100,000 in taxes. Having pledged to “keep special interests out of the White House,” the Obama administration accepted Daschle’s decision to withdraw his nomination [3].

The lobbying industry’s public image has been tarnished by high-profile scandals. Getting elected to federal office in the United States has become a very expensive proposition, which makes politicians very keen on raising money. Additionally, getting favorable legislation passed can provide big windfalls to selected interest groups, which makes them eager to donate to candidates in hopes of influencing their votes. One of the best known lobbying scandals in recent years was that of Jack Abramoff. Accused of defrauding various Indian tribes of tens of millions of dollars, Abramoff was convicted in 2008 by a Washington court of trading expensive gifts and sports trips for political favors, and he is now serving time in a federal prison [4].

Despite the widespread public disdain for lobbying and lobbyists, advocacy has a place in the American political process. For the legislative process to produce good laws and for the executive branch of government to formulate good regulations and policies, it is necessary for government officials to be well informed. If they lack understanding of key issues, bad laws and policies are likely to result. Yet most government officials lack expertise in more than one field, and they must rely on input from more knowledgeable sources. For example, most federal legislators are not health care professionals and thus do not understand the daily practice of medicine to the extent that a physician would. To avoid the neglect of such perspectives, health professionals need to ensure that their voice is heard.

To understand the place of advocacy and lobbying in American politics and culture, it is helpful to draw on the insights of one of the most astute students of American culture in the nation’s history, Alexis de Tocqueville. His *Democracy in America* [5] is perhaps the most quoted book on America ever written. Tocqueville understood the rough-and-tumble nature of democracy and argued that it is perfectly natural for different groups of people to unite to promote their perspectives in the halls of government. In *Democracy in America*, he outlined the vital role that advocacy plays in American life and provided an ethical framework for distinguishing between more and less defensible forms of lobbying.

Born in Paris in 1805 to an aristocratic family, Tocqueville was 25 years old when he and a comrade,

Gustave de Beaumont, spent 9 months traveling through North America to prepare a report on the US prison system for the French government. They submitted their report in 1832, but in the course of his travels, Tocqueville had made observations on many other aspects of American life. In 1835 and 1840, he published the two volumes of his masterpiece, *Democracy in America*. A sprawling work, *Democracy in America* resists easy summarization, but its principal purpose was to explore why democracy was so much more vibrant and healthy in America than in Europe.

One of the most important themes of the book is the role of voluntary associations in American civic life. In chapter 5 of book 2 of *Democracy in America*, Tocqueville wrote,

Americans of all ages, all stations of life, and all types of disposition are forever forming associations In democratic countries knowledge of how to combine is the mother of all other forms of knowledge, and on its progress depends that of all the others.

In other words, for Tocqueville, associations are not just means of getting things done. They embody one of the most important ends of political life; namely, they help us see what is happening. The give and take of conversations in associations helps us define our dreams, our vision of what we think ought to be happening in our communities.

In short, Tocqueville saw the propensity to form voluntary associations as one of the geniuses of the United States and a radical departure from the attitude toward civic life in his native France. Consider this story. Some years ago, a group of French dignitaries was touring the United States and spent a day visiting a variety of philanthropic organizations, including a health care clinic, a shelter for victims of

domestic violence, and a day care center. At the end of the day, one of the French visitors turned to his host and said, “This is all very interesting, but I am puzzled by one thing. Please tell me, who authorizes all this activity?” He was able to conceive that such organizations were not operated by the government but found it inconceivable that they could exist without government permission.

In the United States, in contrast to France, citizens are less inclined to look first to government to redress social ills and improve the quality of life. People who perceive an unmet need, such as health care for the homeless, feel empowered to join together and address the problem without the assistance or even the consent of government. In France, by contrast, people would be more inclined to look to the government to solve the problem. Tocqueville believed that this American impulse to form voluntary associations enabled the United States to persist and flourish as a representative republic. People did not see themselves as dependent on the government, and as a result, they were more jealous of their political liberties and more resistant to despotism.

A key feature of such associations, in Tocqueville’s view, is their level of devotion to improving civic life. He recognized at least two kinds of associations. Some genuinely sought to improve the lives of citizens by cultivating intellectual and moral virtues. For example, scouting organizations prepare girls and boys to be better people, by cultivating the virtues of self-discipline, generosity, and cooperation. In contrast, other associations exist not to improve civic life but to gain special favors for their members from the government. In both cases, such organizations would not be possible

absent the right of free association, and in both cases, the associations might engage in what we call lobbying. The distinguishing feature is not lobbying itself but whose interests such groups lobby for.

A good association, for Tocqueville, is one that gives people an opportunity to build better communities and a better society, thereby magnifying freedom and self-expression. A bad association, from Tocqueville’s point of view, is one that fosters isolation, greed, and selfishness. Bad associations think first and foremost of their own selfish interests, while good associations act with a view to the common good. Although people are brought together in associations because of distinctive interests they share in common, their work in and through associations will contribute to the common good only if they act on behalf of purposes larger than their own selfish desires. In short, in good associations, people seek to add value to society rather than extract value from it.

In retaining lobbyists or in lobbying themselves, it is vital that physicians and professional medical organizations avoid selfishness and promote the interests of patients and the public first. Many health care organizations have recently begun to forbid physicians to accept free travel, meals, or even ballpoint pens from industry representatives, out of fear that it might inappropriately influence medical decision making. We call such arrangements conflicts of interest because they tempt physicians to put their own interests before those of patients. If even ballpoint pens constitute such a conflict of interest, how then could we justify physicians’ and professional organizations’ spending large sums of money in an effort to steer legislation and regulation toward their self-interest? To re-

main true professionals, physicians must abide by what we profess, namely, that patients come first.

Tocqueville recognized that legislation and rules would ultimately prove insufficient to ensure that physicians put patients first. He said that no law can make a constitution work in spite of morals. Good morals can always transform bad laws into good conduct, while good laws can always be overturned by bad morals. The key for physicians and professional organizations is not to put all our faith in better laws and rules but rather to do our best to ensure that good morals predominate throughout our educational programs, work environments, and professional lives. If we do not base our practices on a sound moral bedrock, we become not the defenders but the subverters of the common good.

If Tocqueville was right, lobbying is more than a necessary evil. In fact, it is not even necessarily evil at all. If a lobbyist's principal function is to educate rather than to influence, and if the influence is aimed at the best interests of patients and communities, then the net effect of lobbying on our society can be a good one. Older Americans need a voice in the formulation of health policy, but so do younger Americans. Hospitals, health care equipment manufacturers, and pharmaceutical companies need a voice, but so do physicians.

The goal should be to preserve a sense of moderation and appropriate proportion about the amounts of time, effort, and money involved. It would be unfortunate if half of every dollar spent on health care went to support the lobbying efforts of different health care interest groups. Ultimately, the only beneficiaries of such a system would be professional lob-

byists. Every health professional and professional organization has an obligation to ensure that lobbying does not become a perpetually escalating arms race, in which each competing group regards its ranking in lobbying expenditures as the principal indicator of its success. This would be equivalent to pointing to the upwardly spiraling amount of money we spend on health care as proof that we have a great health system.

What criteria can we use to determine whether lobbying activity is ethically sound? Here are some simple questions that every physician and every lobbyist can ask to determine whether the means of lobbying are truly serving the ends of medicine.

1. Does the lobbying activity aim to promote interests of patients? Although the list of such interests is long, it includes some basic objectives: safety, quality, and efficiency foremost among them. If advocacy seeks to enhance the safety of patients and those who care for them, to enhance the efficacy of care, and to reduce waste, then it is likely serving the best interests of patients.
2. Are the voices of patients—not health care consumers, but patients—taken into account? It is important that health policy take full advantage of the insights of experts, but the perspectives of those being cared for are equally and perhaps even more important. We can learn a great deal by paying attention to the behavior of patients who are free to make their own health care choices, a freedom that Tocqueville would say deserves to be respected for its own sake.
3. Does the lobbying activity promote professionalism throughout

medicine and health care? As professionals, physicians are charged with upholding a higher standard of conduct than “Buyer beware,” the motto of the marketplace. Physicians are expected to maintain and build the trust of patients and communities, securing our confidence that our physicians are treating us the way they would want to be cared for themselves.

The ultimate concern for everyone who lobbies, and everyone on whose behalf lobbyists are retained, is not how much money is spent or how much influence is wielded but how much of a difference has been made on behalf of those we serve. Greed is professionally unbecoming and represents a betrayal of public trust. If the public comes to view physicians and professional organizations as mere fronts for self-interest, then respect and trust in physicians will quickly erode. Equally important, morale within the health professions will crumble, as medicine ceases to be a public trust and becomes just another way of making a buck. We should always bear in mind that what we lobby for and how we lobby reveal who we are as physicians and citizens.

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