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Drawing the Line: Healthcare Rationing and the Cutoff Problem, by Philip M. Rosoff

At the beginning of Shakespeare's *Coriolanus*, the citizens of Rome are rising up against the authorities with bats and clubs. There is too little corn, the price of food is high, the poor are starving, but the patricians' store houses are crammed with grain. Enter Menenius Agrippa, one of the patricians, but one who "hath always loved the people." Menenius, calm, pompous, and self-satisfied, speaks to the citizens. He relates a parable: "There was a time when all the body's members, rebelled against the belly." These body members complained that while they did all the work, the belly was not only idle and inactive but was "cupboarding the viand." The belly replies that although it is true that it receives the food at first, it is but the storehouse, and it sends that food to all the body members. Menenius concludes: "The senators of Rome are this good belly...No public benefit which you receive, but it proceeds or comes from them to you." Menenius's speech calms the citizen rebellion for the present. The citizens accept that although they are suffering most, the privileged senators are acting in their best interests. Menenius maintains the status quo.

Drawing the Line can be read as Philip Rosoff's reply, on behalf of the citizens, to the complacent Menenius. The setting is the modern United States and the issue is healthcare. Rosoff writes, in the context of almost 50,000,000 people in

the United States being without health insurance: "[I]t is shameful that the power of modern healthcare is only available [in the United States] ... to those who have the money to pay for it. ...To deny our fellow Americans the benefits of good and decent healthcare is an ongoing tragedy" (p. 204). Even those with some insurance cannot always afford decent healthcare, because they do not have the resources to cover the gap between what their insurance will cover and what the healthcare will cost. Rosoff argues that the United States, being wealthy, can afford good and decent healthcare for all its citizens, and has a moral duty to do so.

Rosoff made the moral case for comprehensive healthcare reform in the United States in his previous book: *Rationing Is Not a Four-Letter Word*. In that book, he argued that what was needed was a single-payer healthcare system that would ensure that everyone in the United States could enjoy the benefits of good medicine. He argued that for such a system to be affordable, there would need to be methods to limit the interventions available in a sensible and fair way. The central aim of *Drawing the Line* is to discuss how such rationing can be achieved, and to "offer a deeper rationale and justification for how to make these kinds of important clinical and moral judgements." He goes on to say that "[t]he devil is most certainly in

the details." This book is mainly about those details.

In chapter 1, Rosoff makes a useful distinction between two approaches to rationing healthcare. The first he calls *money-primary*. This is the approach adopted, for example, in the United Kingdom, and also in the Oregon Health Plan. In this system, the amount of money available for healthcare is first established (for example by government) and then the decisions are made on how best to spend that money. The second approach he calls *benefit-primary*. With this approach, the standards of healthcare—what actual care should be provided—are first established, and then the money is made available to meet those standards. Because the money provided cannot be unlimited, in deciding the standards of healthcare, some thought has to be given to how much the various interventions cost. With this second approach, if meeting the standards chosen costs more than the country is willing to afford, then the standard may be reduced. The key difference is that with the benefit-primary approach, but not with the money-primary approach, decisions about the level of funding are taken in the light of full knowledge of the standards of care that can thereby be achieved.

Rosoff comes down firmly in favor of the benefit-primary approach. We see, in the United Kingdom, the weakness of the money-primary approach. The money that governments are willing to provide for the National Health Service is becoming insufficient to support a decent level of healthcare. In the United Kingdom, a proper discussion of what standards of care are appropriate to a modern health service is long overdue.

Rosoff's focus, however, is exclusively on the United States. He claims that a healthcare system should meet four criteria: equity, affordability, excellence, and a satisfied public. It is not

possible, he argues, to meet all demands for healthcare. Some rationing will be necessary. Such rationing, he says, should be done "American style...fairly and generously" (p. 194). There is, I assume, a certain rhetorical irony intended. Rosoff is calling on his fellow Americans to live up to standards of fairness and generosity that are so patently lacking in the way that healthcare is currently delivered. This word *generous* keeps recurring throughout the book. It is the book's leitmotiv. It plays a crucial, although not an entirely explicit, role in the argument.

The central, and explicit, argument concerns the question of how the rationing—"drawing the line"—can be achieved in a manner that is fair. Rosoff reasonably rejects various criteria for rationing based on characteristics of patients such as age, life expectancy, and, in particular, the ability to pay. He also rejects, too readily in my opinion, approaches based on cost-effectiveness analysis (CEA) and the quality-adjusted life-year (QALY).

The substantive part of Rosoff's argument is that rationing should be achieved using the twin criteria of *healthcare need* and *clinical appropriateness*. *Need*, roughly, is proportional to how ill the patient is. I will say more about *need* in a moment. *Clinical appropriateness* is about the effectiveness of the relevant intervention (treatment or investigation, for example), the difference it makes, and the probability that it will have the desired effect. In addition, Rosoff believes that some interventions are inappropriate and should be rejected on the grounds that they are just too expensive, or are effective in so small a proportion of relevant patients that the cost per patient of the benefit is too high. Rosoff's position is not as far from the cost-effectiveness approach as he would like to think. There might be some very cheap interventions for

patients with minor illnesses that would be a higher priority using the cost-effectiveness approach than using Rosoff's needs-based approach; and conversely there might be some people in dire straits for whom there is an expensive intervention with a small chance of success who would have a higher priority using a needs-based approach. But, in most situations, the two analyses will yield similar results in deciding healthcare priorities.

Rosoff's central thesis is that all interventions should be provided that are satisfiers of whatever we decide are true and legitimate medical needs. He writes (pp. 73–4): “[T]rue’ needs and their satisfiers [i.e., the relevant healthcare interventions] would be those that we could agree (by a method that takes advantage of the ‘impartial spectator’ conceit) should then be available to all who meet the criteria of having these needs. Those conditions that do not meet these consensus criteria of instrumental or fundamental importance (of the consequences of not meeting them in some manner) should be better viewed as desires, wants, or preferences.”

It is difficult to pinpoint the definition of need that Rosoff himself espouses. He cites with apparent approval the idea that a healthcare intervention is needed if it enables the patient to realize “some larger life event or plan or goal that is dependent on receiving a health-related intervention” and avoid “some negative consequence that might occur should the need not be satisfied” (p. 65). Rosoff also quotes Adam Smith's definition of “necessaries” (p. 64): “whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without.” Such definitions allow for wide interpretation. Judgments must be made about what is to count as *healthcare need* and as *clinically appropriate*, and how to deal with the many

tricky issues, which are legion, that impact on those judgements and to which most of the book is devoted.

Who is to make these judgements? Rosoff proposes that these judgements, the key decisions, should be made by committees that he models on the *Rand Appropriate Method* (RAM). This method sounds similar to that established by The National Institute for Health and Care Excellence (NICE) for making resource allocation decisions in the English National Health Service. Rosoff's committees will decide which healthcare interventions should, and which should not, be provided to the entire population using public money, through applying the twin criteria of healthcare need and clinical effectiveness. The committees, he writes, should include physicians, experts in evaluating evidence of effectiveness, and lay people. There should be no zealots, although there should be some members of special interest groups.

Most of the book is then devoted to discussions of the various problems that the RAM-type committees would have to consider in deciding which interventions should be provided. After spelling out, in some detail, just how many and how difficult these issues are, Rosoff optimistically writes (p. 199): “I suspect that careful, well-meaning, and dedicated deliberation by groups of people who are both knowledgeable and committed to resolving differences and aware of the charge to be both generous but prudent with the public's money would be able to come to agreement on almost everything.”

At the core of this optimism, it seems to me, is the understanding of the word “generous.” But when people discuss medical need that should be covered by public funding, their views are highly affected by their political and moral beliefs. For those with a strong preference for social welfare, the necessary

interventions might include everything covered in many of the richer European countries. This is where Rosoff himself appears to stand. But for those of a more libertarian view, the necessary interventions are likely to be little more than emergency care in life-threatening situations. Such libertarians might think that quite generous enough! Rosoff's analysis of his key concepts, and of *need* in particular, falls short of establishing, for those whom he must persuade, why the level of generosity he desires necessarily results from the application of his criteria.

Rosoff is an experienced pediatrician, and the richness of the book lies in the clinical anecdotes of issues and marginal cases relevant to the question of rationing: issues that his RAM-like committees will need to address. The issues that Rosoff discusses include: expensive interventions that occasionally are very effective; the question of what should count as a *healthcare* intervention (as opposed, for example, to a social intervention); the challenges of the recent developments in "personalized medicine"; the "rule of rescue"; and the question of whether patients who have some responsibility for bringing about their illness should receive publicly funded treatment.

In discussing the "rule of rescue"; that is, whether we should be prepared to spend more per life saved on specific identified patients than on "statistical" patients, Rosoff makes an interesting point. He shows how modern social media have enabled people who would otherwise be unknown to those making rationing decisions to project themselves into the limelight. This, it seems to me, provides further reason to reject the rule of rescue, because otherwise, those patients who are savvy with modern technology will get priority over those who are not. Rosoff, however, wants to allow the rule of rescue,

although, he says, it should only be used occasionally. His discussion fails to justify how his position is fair to those who remain "statistical."

There seems to be a tension also in the discussion about anecdotal evidence and clinician discretion. Rosoff seems to endorse the view promoted by "evidence-based medicine" that anecdotes are not worth the experience they are based on, but he then wants there to be considerable flexibility for clinicians at the bedside to be able to provide normally unfunded interventions.

The book's strength is its detail, and in particular the wealth of clinical anecdotes that show some of the difficult issues that must be tackled in distributing healthcare fairly. Rosoff also makes a strong case for why the United States should, morally, develop a much more comprehensive system of healthcare coverage for the entire population. This is a humane book from a physician who cares about disadvantaged people.

The book has some limitations. First it is completely focused on the United States. Second, in the wealth of detail, it is difficult for the reader to see the wood for the trees, or the philosophical arguments for the clinical details. Third, in the end, the difficult issues are often left for Rosoff's RAM-like committees to solve. Rosoff poses the problems that these committees will face but tends to avoid committing himself to a clear solution.

One might wonder why, in a democracy, there can be 50,000,000 or more of the population receiving what is clearly substandard healthcare. Rosoff briefly addresses this question. He says, first, that more than half of the American population are sufficiently satisfied with their healthcare through employer-provided insurance, and are afraid of what could replace it. Second, he says that those against his approach will always draw on the power of advertising

to tap into the deep-rooted American distrust and dislike of state-provided benefits. Rosoff concludes (p. 202) that: “the impetus for radical reform of health-care cannot come from an outpouring of the expressive will of the people.”

Rosoff’s reply to Shakespeare’s Menenius, therefore, is not to directly address the people, but to focus his rhetorical powers on his country’s patricians.

—Tony Hope