

## VIEWPOINT

## When Physicians Engage in Practices That Threaten the Nation's Health

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**In December 2020**, less than a year after severe acute respiratory syndrome coronavirus 2 was identified as the cause of the coronavirus pandemic, an extraordinary collaboration between scientists, the pharmaceutical industry, and government led to 2 highly efficacious, safe vaccines being approved by the US Food and Drug Administration to prevent coronavirus disease 2019 (COVID-19) infection.<sup>1,2</sup> Had the US been in its expected role as a global leader in medicine and public health, this would have been a fitting capstone of US commitment to science and how that can change the course of morbidity and mortality related to a frightening new disease.

However, a less flattering story emerged about the inadequate US response to COVID-19. A number of leaders in federal, state, and local government, guided by political exigency and recommendations from a small number of physicians and scientists who ignored or dismissed science, refused to promote sensible, effective policies such as mask wearing and social distancing. This contributed to the US having more infections and deaths than other developed nations in proportion to population size, with disproportionate effects of COVID-19 on already disadvantaged racial and socioeconomic

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groups.<sup>3</sup> In contrast, countries like Taiwan, South Korea, and New Zealand, where respect for science and truth and a collaborative relationship between public health and government leaders prevailed, were far more successful at controlling the pandemic.<sup>1</sup>

Among the ways in which science-based public health evidence has been dismissed in the US is the replacement of highly experienced experts advising national leaders with persons who appear to have been chosen because of their willingness to support government officials' desire to discount the significance of the pandemic. A leading example was the elevation of Scott Atlas, MD, a neuroradiologist, who left a position in academic medicine in 2012 to become a senior fellow at the Hoover Institution (a public policy think tank affiliated with Stanford University), to the White House Coronavirus Task Force. In his short tenure on the task force, Atlas disputed the need for masks; argued that many public health orders aimed at increasing social distancing could be forgone without ill effects; maintained that allowing the virus to spread naturally will not result in more deaths than other strategies; stated that

young people are not harmed by the virus and cannot spread the disease; reportedly pressured the Centers for Disease Control and Prevention to issue guidance (later reversed) stating that asymptomatic individuals need not be tested<sup>4</sup>; and made unsupported claims about the immunity conferred by surviving infection. Nearly all public health experts were concerned that his recommendations could lead to tens of thousands (or more) of unnecessary deaths in the US alone.

History is a potent reminder of tragic circumstances when physicians damaged the public health, from promoting eugenics to participating in the human experiments that took place in Tuskegee to asserting erroneously that vaccines cause autism. It can be difficult to hold physicians accountable, especially when they are acting in policy roles in which malpractice lawsuits will not succeed. Professional self-regulation serves as the primary vehicle for accountability and is critical if trust in science and medicine is to be maintained.

To that end, action from within the medical profession is an important but underused strategy. The Hippocratic Oath binds physicians to "do no harm," an injunction that transcends individual patient-physician encounters to situations in which physicians make medical recommendations for populations. For instance, the American Medical Association's Code of Ethics states that physicians making media statements should ensure that the information they provide is accurate, appropriately conveys

known risks and benefits, is "commensurate with their medical expertise" and confined to their area of expertise, and is "based on valid scientific evidence and insight gained from professional experience."<sup>5</sup> It "is ethically inappropriate for physicians to publicly recommend behaviors or interventions that are not scientifically well grounded."<sup>5</sup> These directives reflect an awareness that physicians' words are often assigned great importance, even for areas in which physicians lack expertise.

There is precedent for both medical professional societies and boards of medical licensing to take action when physicians violate their ethical responsibilities in nonclinical contexts. The Federation of State Medical Boards defines competence as possessing the requisite abilities to perform effectively within the scope of professional practice while adhering to ethical standards, and defines the practice of medicine to include using the designation "Doctor" "in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition."<sup>6</sup> Accordingly, many state licensing boards and professional societies have adopted policies providing for

action against physicians who provide non-evidence-based testimony as expert witnesses in litigation.<sup>7</sup> These actions could include a formal review to determine whether the physician has engaged in “unprofessional conduct,” with penalties as severe as license revocation or expulsion from professional organization membership. The same rationale supports action against physicians who violate the standards of professionalism in policy advisory roles. The argument for action is even stronger than in the expert witness context, when the physician’s words have a narrower influence and judges have a legal responsibility to exclude experts who are not qualified or who present information that does not comport with accepted scientific knowledge.<sup>7</sup>

As the Atlas example illustrates, not all physicians serving in such roles maintain active licensure, certification, or professional organization membership. However, even for situations in which the conferring organizations cannot revoke privileges, they can declare that a physician’s actions are inconsistent with the standards of professional conduct. This may have a powerful influence in undercutting rogue physicians, thereby minimizing the deleterious effects of their actions on public health.

When a physician holds a university (or affiliate) appointment, a question arises about university leaders’ role in responding to demonstrably false statements by the physician that could harm the public’s health. The most effective action is to publicly state that the university does not endorse the physician’s claims and finds them contrary to the weight of scientific evidence.

To be sure, this can be complicated. Academic freedom is a core value of the university, and public speech is an important pillar of such freedom. Academic freedom requires that faculty be free to engage in intellectual debate without fear of censorship or retaliation. Universities should be places where a diversity of viewpoints can flourish. More pragmatically, university leaders are responsible for multiple constituencies and must navigate pressures from trustees, donors, and others. In addition, there are legitimate concerns about the proverbial slippery slope when universities announce an allegiance to a particular position on a scientific or other matter.

But to take the view that respecting freedom of speech requires institutional silence when science is being subverted is to misunderstand the concept. To add speech is not to suppress it; voicing words of protest is not censorship or retaliation. Even where the

First Amendment applies (eg, to officials in public institutions), courts have long held that it does not require officials to remain silent, even if their own speech expressly criticizes another speaker’s message. Furthermore, universities have not kept silent when a faculty member’s statements transgress other core values of educational institutions, such as counteracting racism and anti-Semitism. Universities have a responsibility to speak out for truth and science in support of public health. Silence is not an option, as has been tragically observed throughout history.

Faculty also can have an important independent voice within a university. For example, more than a hundred faculty experts challenged the veracity of Atlas’ claims in an open letter.<sup>8</sup> In response, Atlas’ attorney threatened a meritless defamation lawsuit, prompting all signatories to reaffirm their commitment to the letter. Separately, the Stanford Faculty Senate voted 85%-15% to adopt a resolution: “We strongly condemn [Atlas’] behavior,” as it “violates the core values of our faculty and the expectations under the Stanford Code of Conduct, which states that we all ‘are responsible for sustaining the high ethical standards of this institution.’” The threatened lawsuit has not materialized, but Atlas’ influence in the media had remained robust despite scientific outcry (even after he resigned as White House Coronavirus Task Force adviser on December 1, 2020).

As challenging as this situation has been, it does not stand alone in history. It affirms that physicians and scientists have a professional obligation to respond when science is being misrepresented. Reasserting the scientific consensus through opinion articles, open letters, and research syntheses and commentaries in peer-reviewed journals alerts policy makers to the need for caution before acting on a single adviser’s recommendations and shapes how journalists explain matters to the public. Individuals must also honor their professional obligations as physicians and scientists when they are offered roles in public health policy. As difficult as it may be for some physicians or scientists to acknowledge that an important role exceeds their expertise, professionalism demands honesty about what they know and do not know. Without this, when the voices of physicians are coupled with the power of national leaders and provide support for misguided policies, serious public harm can result. When this happens, physicians must speak out or risk being complicit. These are some of the important lessons of the COVID-19 pandemic that should not be forgotten.

#### ARTICLE INFORMATION

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