



Healthcare Laws vs. Newton's Laws



Newton's Third Law: "To every action there is always an equal and opposite reaction." Medicine applies Newton's Third Law liberally, from physiology to pharmacology; negative feedback loops, down-regulation, compensatory states, and medication side effects all follow its principles.

ffects all follow its principles.

The body, as we well know, is inclined to homeostasis, and any upset to this balance is met with resistance and dysfunction.

Unfortunately, well-meaning healthcare regulators, policy-makers—and, yes, even fellow physicians—have ignored Newton's Third Law and patient care has suffered.

Such trouble begins when a group of very smart people get into a room to determine policies meant to protect patients or reduce costs.

Nearly every rule and regulation in medicine was born this way. From patient privacy to documentation rules, from practice guidelines to STARK, we have taken *action* to improve quality and safety, reduce fraud and abuse but failed to assess the consequent *reaction*. Both individually and, perhaps even more important, in the aggregate, these rules and regulations have ultimately diminished quality and safety and all but abolished even innocuous free-market practices. (Remember professional courtesies? Yeah, well that's "fraud" now.)

How could this be? When you examine each in isolation, their intended result seems almost guaranteed: Privacy rules certainly seem to protect patient information, documentation rules would seem to limit errant billing, clinical guidelines support a best practice standard, and STARK rules probably limit disreputable self-referral practices.

What say ye, Newton?

Well, I would argue there is a much underappreciated reaction, deserving of closer examination and research to quantify its impact. If we as practitioners spend precious time, not to mention mental energy and focus, working to satisfy requirements by law or mandate, can we not assume that this will be a diversion from patient care? When I am covering my tracks, dotting my i's, or mechanically checking off my review of systems to make sure I am in compliance, I have added no value whatsoever to the encounter if, in fact, I would have been in compliance with the law's intentions in the first place.

The fact of the matter is that rules and regulations to limit the

impact of a few bad apples have had the unintended consequence of weakening the impact of the majority. A weakened majority, I would argue, is more detrimental to patient care than the protection gained from regulating the minority. We must not pat ourselves on the back until we have properly examined the overall impact to care.

I would also argue that the invention of said rules and regulations have simply shuffled money from one party to another. At what cost do we legislate, defend, oversee, and overstaff to support these rules? And for all this expense, penalties are rarely enforced on a percentage basis. Health systems and their well-paid lawyers have found loopholes around STARK. Ironically, it's the individual physicians that lose again. The hospitals are still getting their referrals, yet all the incentives that used to trickle down to physicians are gone. Nothing else has changed.

So, in the end, I think patient safety is a wash, or diminished, and cost of care is increased while productivity and revenue are shrinking. All on the backs of the vast majority of physicians working tirelessly to provide the best care imaginable for their patients.

In an attempt to account for every possible variable in medicine, and to protect against the malfeasance of a tiny minority, we have created an environment of fear, redundancy, waste, and inequity that has unequivocally distracted us from patient care. As if the practice of medicine wasn't hard enough! How much more can we really take?

While I, too, think it is critically important to eliminate fraud, and to promote patient safety and quality, I believe it to be equally important to minimize unnecessary burdens with no proven benefit. We need an honest look at healthcare policy and regulation that holds it accountable beyond simplistic gospel and politics. The health of medicine is at stake; homeostasis has been breached. ■

Lee A. Resnick, MD
Editor-in-Chief

JUCM, The Journal of Urgent Care Medicine