



CANS

NEWSLETTER

California Association of Neurological Surgeons

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President's Message: Medical Marijuana and the Wages of Sin...

Kenneth Ott, M.D., F.A.C.S.

Sin taxes are a great favorite of our legislatures...we all can do well by doing good. I call these taxes "the wages of sin." These governmental "wages" go back to the beginning of our country. In fact, these "wages" go back to the beginning of our civilization.

These tax laws are termed "sumptuary laws" and were passed in the olden days to prevent inordinate expense (sumptus) in order to regulate or restrain luxury or extravagance based on moral, religious, health or public safety. The Romans even passed laws to restrict the expensive use of Tyrian purple dye in dress!

Now our state and federal governments make considerable money for sumptus. We heavily tax alcohol and cigarettes to promote health and well being. What greater good? Of course, as with much social legislation, there are unforeseen consequences. A few years ago the Canadian government greatly increased taxes on cigarettes. The tax was so onerous that a major number of cigarettes sold in Canada were contraband...sort of the reverse of Canadian Club whiskey smuggled into the USA from Canada during prohibition. Canadian tax revenues declined, forcing the tax to be reduced. In 2009 it was estimated that more than one half of cigarettes sold in Canada were contraband resulting in a \$2 billion dollar loss of tax revenues to the Canadian government.

Remember the lawsuits against Big Tobacco a few years back? During the hysteria a lung cancer plaintiff won a multi-billion judgment against RJ Reynolds. I recall it was more than \$100 billion. To appeal the decision the state law forced RJR to pony up a significant amount of the judgment up-front. RJR threatened bankruptcy. Wait a minute...many of our states already had budgeted previously won pay-outs from Big Tobacco. The bankruptcy of RJR threatened this immense largess. So the state law was changed. RJR then appealed (and eventually won) the judgment without the up-front billions of dollars. Heaven forbid the smokers and drinkers of California stop their sins. We depend upon this money. Our hospitals receive a significant tobacco tax stipend for their operations to this day! In 2007 this sin waged California more than \$ 2 billion.

Think about other sins. Remember the controversial poker halls in LA years ago? Now we have Las Vegas style gambling nearly everywhere...all taxed. Recently Ohio caved in to gambling...guess why...the WOS.

Kids are getting too fat drinking sugar-laden soft drinks. Tax sugar drinks. Here is a sumptuary opinion from President Obama: "I actually think it's an idea that we should be exploring. There's no doubt that our kids drink way too much soda. And every study that's been done about obesity shows that there is as high a correlation between increased soda consumption and obesity as just about anything else. Obviously it's not the only factor, but it is a major factor." Save the kids ...tax the sugar.

The never ending thirst for tax dollars has challenged the imagination of state and federal legislatures. The ultimate sin, the acme of legislative imagination is danger of the toxic chemical CO2. The earth is warming, CO2 will kill us all and cockroaches will take over the hot planet. Plants will thrive and glaciers will melt, swamping Florida...A Nobel Peace Prize recently ennobled this reality. What to do...do well by doing good of course! Tax the CO2 emissions...save the planet and do well by doing good. Cap and Trade is the extension of this unproven philosophy...world- wide good!

One problem is that these sumptuary laws are regressive, (as if taxing the productive members of society is progressive). The approximately 50% of our country who pay little or no income tax will be soaked with sumptuary taxes...and they won't even know it.

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And now the sin of Mary Jane. The people of California passed proposition 215 (Compassionate Use Act) in 1996, the first state initiative to legalize the medical use of marijuana. This law rendered physicians immune from criminal prosecution if they follow certain guidelines. The patients were also protected from prosecution. The slippery slide began.

More recently the California Supreme Court struck down the state's limits on how much medical marijuana a patient can possess, concluding that the restrictions imposed by the Legislature were an unconstitutional amendment of a 1996 voter-approved initiative. This decision means that patients and caregivers with a doctor's recommendation to use marijuana can now possess as much as is "reasonably related to the patient's current medical needs," a standard that the court established in a 1997 decision.

The federal government accelerated the slide: Attorney General Eric Holder said at a press conference that the Justice Department will no longer raid medical marijuana clubs that are established legally under state law. His declaration is a fulfillment of a campaign promise by President Barack Obama, and marks a major shift from the previous administration. Holder's declaration is a high point for the movement to legalize medical marijuana, which has been growing for decades despite federal hostility.

"It's good news for people in California who are so ill that they have gotten a doctor's note in compliance with the law," said Sen. Barbara Boxer (D-Calif.) when told of Holder's promise. "If you have a doctor's note, you should be able to get whatever medicine you need." Sen. Dianne Feinstein (D-Calif.) was not as quick with approval. "I've got to think about that a little bit," she said. (Huffington Post, January 24, 2010).

Most recently the Los Angeles City Council voted to a "comprehensive medical marijuana ordinance" the "clamps strict controls on dispensaries" (LA Times Jan 19, 2010). "Our moment is now. Our moment is today," said Councilman Herb Wesson. "We've been discussing this for two-plus years. It's time for action." This "action" contains draconian provisions forbidding clinics from selling marijuana within 1000 feet of schools (one high school football field), and, hey, they have to close shop by 8 PM...did I mention the provision they can't display a neon cannabis sign? Some moment, councilman.

The taxation of marijuana will be a windfall for our ever-spending state legislatures. I don't know how you feel about the legalization of marijuana use but it seems inevitable that its use will become fully legalized and taxed in California. The wages of sin and marijuana are addicting.

Did I also mention estate taxing because you had the misfortune of dying after paying all your taxes on your wages and investments? Life itself has become the ultimate sin! ❖

(Editor's note: Dr. Ott, who does not smoke, attended medical school at UCSF during the hippie times of 1966 to 1970 and did not inhale.)

Meetings of Interest for the next 12 months:

Neurosurgical Society of America: Annual Meeting, April 11-14, Pebble Beach, CA

CANS: Board Meeting, April 24, Oakland, CA

AANS: Annual Meeting, May 1-5, Philadelphia, PA

New England Neurosurgical Society: Annual Meeting, June 17-19, Chatham, MA

Rocky Mountain NS Society: Annual Meeting, June 26-30, Telluride, CO

North American Spine Society: Annual Meeting, October 5-9, Orlando, FL

Western Neurosurgical Society: Annual Meeting, October 8-11, Santa Fe, NM

Congress of Neurological Surgeons: Annual Meeting, October 16-21, San Francisco, CA

Cervical Spine Research Society: Annual Meeting, December 2-4, Charlotte, NC

CANS: Annual Meeting, January 14-16, 2011, San Francisco, CA

Letter to the Editor: You Get What You Pay For

Readers of this newsletter and members of the Board of Directors of CANS will remember that I was an early supporter of Health Care Reform; I started writing about it as president-elect of CANS more than three years ago. What I had in mind was a complete overhaul of a system that is complex and full of problems and deficiencies; some would say broken. However, and to be completely fair, despite all the problems ours is the envy of the world. It is not perfect; it needs fixing, we all agree! However, a thoughtful solution will have to be incubated away from a malignant political process and shielded from a vicious lobbying influence.

What we are getting, instead, is a bill that is not only prohibitively expensive and one that we cannot afford, but a bill that does not come close to resolving the issues everyone agreed must be addressed and resolved; it is a bill that expands insurance coverage, but it restricts access, invades privacy and rations care. If the bill passes, no longer will I be able to be alone in my examining room with my patient; Uncle Sam, or more malignantly, one of his growing numbers of marginally educated middle managers, will be the third person in the room telling me what I can do and cannot do and what test I can or cannot order, based on flawed and very biased “comparative efficiency research” and based on other factors that have nothing to do with this particular patient. I will be in a sense stripped of my clinical judgment and independence.

The main problem with both the Senate and the House bills, in my view, is the fact that the president and the politicians responsible for drafting them have not been truthful with us.

When I first came to the U.S. in 1972 as a young doctor, I fell in love with America and with Americans. There was a sense of enthusiasm and a can-do attitude that was so contagious, I became convinced that I should be able to conquer the world. I succeeded in a way that would not have been possible in my own country of origin or anywhere else in the world. I was also impressed, then, with what everyone knew as “common sense”; and it seems as though Americans had a very healthy dose of it!

Well I am happy to say that the sense of enthusiasm and a can-do attitude are still very much a part of the American psyche, but I am sad to say that “common sense” died sometime ago.

How else can one explain our President, a decent, honorable, intelligent and well meaning man, a man I trusted early on and voted for with the majority of Americans, telling us with a straight face that the Health Care Reform bill will get us better quality care for cheaper cost?

Had he not heard the All-American saying: you get what you pay for? I have. In fact someone told me that when I was trying to buy a piece of junk in New York City on my very first outing there. I was comparing two similar items. The first was selling for five dollars and the asking price for the second was twenty. When I asked the shop keeper what was the reason for the discrepancy, he simply told me: you get what you pay for! My English was so poor, then, that I had to ask him to explain to me what he meant. Oh, and by the way the cheaper item was made in China.

I still remember this saying, as most Americans do; it was coined by wise people based on our national collective experience! Yes, you get what you pay for. And no, it is not possible to get less expensive and better quality health care, Mr. President.

It is now possible, in fact hopeful, with the election of Scott Brown from Massachusetts to the U.S. Senate, that this complex madness called Health Care Reform bill will not pass. And if does not, then maybe wiser people and clearer heads will prevail and will decide to shift the work on designing a needed reform away from the lobbying infected political process. And when they do that, I hope that they will listen to the American People. ❖

Moustapha Abou-Samra, M.D.
Past President, CANS

It's 2010 Whether You Like It or Not

Randall W. Smith, M.D., Editor

As we prepare to attend the annual AANS meeting in Philadelphia in May, we can bask in the spotlight of what the future might bring to many or all future professional society meetings. No printed program will be handed out at the meeting registration desk. Troy Tippett, current AANS President, took umbrage with the printing costs and tree destruction inherent in a printed program as well as cost of providing a satchel in which to haul the program and other pieces of paper around during the meeting. The printed program replacement will be an iPod pre-loaded with the program plus any abstracts and the electronic posters provided at kiosks in recent meetings.

We will not belabor the carbon footprint of producing an iPod, the extra \$100 in registration fee for the meeting to help cover the cost of the iPod or the number of shares of Apple that Troy may own. We do want to prepare the reader for what to expect once handed the iPod at registration.

First of all, using the device is fairly intuitive but crash instruction will be available at registration so plan to spend a few minutes there, particularly if you are gadget-challenged or don't own an iPhone (an iPod is an iPhone without the phone). Those of you who own iPhones or iPods already will not be able to have the AANS program stuff downloaded to your device. Second, you probably should bring a briefcase in which to put the iPod box as well as other goodies you might glean from exhibitors since there will be no satchel provided.

The iPod you receive, expected to be the newest 8GB model available from Apple, will be fully charged and recharging it at the meeting will be via USB charging stations in the registration area, via a USB port on your laptop if you bring one or a 110 volt charging adapter provided by the AANS.

Those of you who like to make notes in the margin of the program as you hear a presentation, really like to have a paper product or who want your spouse (who will not get an iPod) to have a program should avail yourself of the program posted on the AANS web site (www.aans.org) which can be printed out at home prior to the meeting (34 printed pages for the M-W activities and another 12 for the weekend courses) but be sure to bring a clipboard to keep the program on and facilitate note taking. You can take notes on the iPod but that may be a stretch for the uninitiated.

The iPod has Wi-Fi capability and free Wi-Fi will be available in the convention center for those that wish to send messages to other attendees but using the device for general web surfing and checking your home/business E-mail won't be possible until you register the device with Apple and sync your iPod with your computer which **should not be done** at the meeting since it may erase the meeting program.

The AANS web site will be posting tutorials prior to the meeting (the first is posted now) and it will be prudent to peruse them all. This will be the first professional meeting in the US to utilize the electronic format (the CNS once gave out PDAs which didn't fly with the rank and file) and AANS should be given credit for pushing the envelope. It will be interesting to see how this all works, what the attendee feedback is and where it will go in the future. Stay tuned. ❖



THOUGHT OF THE MONTH

(Lifted from a book entitled "Disorder in the American Courts")

ATTORNEY: Doctor, how many of your autopsies have you performed on dead people??

WITNESS: All of them. The live ones put up too much of a fight.

TIDBITS from the EDITOR

NPI Primer Available

As most of the readers of this newsletter know, we all need a National Provider Identification number to correctly bill Medicare and other carriers. There is some trick requiring two numbers if a neurosurgeon is incorporated. Just who needs what is fairly well addressed in a booklet provided by the Feds. It is provided as a separate .pdf file entitled "NPIBooklet" attached to the E-mail you received announcing this edition of the CANS newsletter. ❖

Substance Abuse Help

We have noted in this newsletter that the Medical Board of California has discontinued its substance abuse program because one consultant deemed it to be ineffective and because the MBC was in the police business and not the treatment business (although we docs entirely fund the MBC with our license fees). The CMA promised to deal with this and has. They now have a **Physicians' and Dentists' Confidential Line**. This is a confidential hotline for physicians and dentists who have substance abuse or psychological/emotional problems. Callers are quickly put in touch with hotline staff, all of whom are physicians or dentists with expertise in the field of addiction who are supportive and nonjudgmental, and all calls are treated with the utmost confidentiality. A caller does not need to be a CMA member. The hotline numbers are: Northern California - (650) 756-7787; Southern California - (213) 383-2691. As the CMA says, "Asking for help is one of the most difficult and heroic things you can do." ❖

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Neurosurgical Position

Any CANS member who is looking for a new associate/partner/PA/NP or who is looking for a position (all California neurosurgery residents are CANS members and get this newsletter) is free to submit a 150 word summary of a position available or of one's qualifications for a one time posting in this newsletter. Submit your text to me by E-mail (rhs-avopro@sbcglobal.net) or fax (858 683-2022). ❖

Comments can be sent to the editor, Randall W. Smith, M.D., at rhs-avopro@sbcglobal.net or to the CANS office at janinetash@sbcglobal.net. Past newsletter issues are available on the CANS website at www.cans1.org.

ATTN Vendors: CANS is now accepting newsletter ads.
Please contact the executive office for complete price list and details.

The newsletter is a mix of fact, rumor and opinion. The facts are hopefully clearly stated. The rest is open to interpretation. The opinion is mine. R.S. The assistance of Janine Tash and Dr. Ken Ott in the preparation of this newsletter is acknowledged and appreciated. If you do not wish to receive this newsletter in the future, please E-mail or fax Janine Tash janinetash@sbcglobal.net, (916-457-8202) with the word "unsubscribe" in the subject line.

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