The Availability of Health Information

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Today it is becoming increasingly difficult for consumers to select a physician properly. In every large city, thousands enter the health care system through emergency wards, simply because they know no better way. The contributing factors are the mobility of our society, the increasing density of population in larger cities, and the fragmentation and depersonalization of the medical care process.

To date, most of the information available to the public on how to select a physician is found in lay periodicals. Articles on how consumers should evaluate physicians have appeared recently in Ladies Home Journal,¹ Good Housekeeping,² and Newsweek.³ Addressing the same problem, Consumer Reports⁴ has described how to develop a directory of physicians. Public officials have also provided some information. Pennsylvania’s one-time insurance commissioner published a series of Shopper’s Guides, to hospitals, to health insurance, to dentistry, and to surgery.⁵ Notable for its absence from the list of those providing this trickle of information is the medical profession, although

R. H. Egdahl et al. (eds.), Health Services and Health Hazards
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at least one study has concluded that there is in fact no information deficit—that most physicians will answer consumers' questions over the phone.\footnote{6}

Public attention has recently been drawn to this issue by the actions of the Federal Trade Commission and the Supreme Court.\footnote{7} The FTC has charged the American Medical Association, the Connecticut State Medical Society, and the New Haven County Medical Association with “anticompetitive actions,” and proposes to require them to loosen their strictures on advertising. The AMA replies that it approves of legitimate advertising, including fee information, but forbids solicitation of patients. “Solicitation,” as defined by the AMA, is inherently deceptive: it is the attempt to gain patients through testimonials, inflated self-laudatory claims, or falsehoods.

However, societies are already reluctant to take action against such deceptive advertising because of the United States Supreme Court’s 1977 decision in Bates et \textit{et al.} \textit{v. State Bar of Arizona}.\footnote{8} The court concluded that states may not prevent the publication in a newspaper of truthful advertisement concerning the availability and terms of routine legal services. The court’s opinion rests on the unsupported assumption that lawyers—and therefore, presumably, physicians, although this is yet to be decided—will not advertise anything but “routine” services, which the court totally fails to define, or if they do advertise more, that the profession and the courts will be able to protect the public from the few practitioners who abuse their trust. But the existing administrative machinery of both the medical profession and the courts has already proved wholly inadequate to police the profession effectively.

To be sure, the public needs information concerning physicians, their work and their fees, but at the same time the public needs protection from the unscrupulous and incompetent practitioner anxious to prey on the uninformed. It seems that these twin goals can best be served by permitting organized medicine to experiment with and perfect programs that would announce to the public the probable range of fees for specifically defined services and thus give patients some idea of the potential cost when seeking medical assistance. However, such programs should be confined to the known and knowable. The court’s almost casual assumption that the price advertising it authorizes can be policed effectively by medicine or the bar reflects a striking underappreciation of the nature and magnitude of the disciplinary problem.

The first to respond to this new climate of opinion signaled by the FTC and the Bates decision was the New York State Board of Regents.\footnote{9} On July 28, 1977, they voted unanimously to permit physicians, dentists, and other professionals to advertise not only their services but also their prices in newspapers and magazines. Regent Emlyn Griffith described the action as allowing “factually accurate and dignified advertising.” Both the Supreme Court and the New York Regents barred price advertising from radio and television because “the possibility of abuse seemed to be greater in the electronic media than in the printed media.”

As one reviews the current scene, certain facts do seem to stand out. It is becoming increasingly difficult for members of the general public to obtain accurate information concerning the training, hospital affiliations, and practice profiles of the physicians in their community. The most readily available information comes not from medical directories found on library shelves but