Antidiscrimination Language and the Hughes Act of 1970

The passage of the Hughes Act of 1970 was easily the most significant advancement in substance use care in the last 100 years. People in our era may not realize it, but passage was dependent on people in recovery who worked hard to ensure there was help available for future generations. The Bill, formally titled the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act became law in the 11th hour of the legislative process. Any reader who was served in a publicly funded program benefitted from its passage, myself included. It is landmark, although not perfect legislation. It has been called our Magna Carta.

There had been language in the Bill that would deny federal subsidies to hospitals that discriminated against alcoholics. It is important to note that in that era, alcohol was perceived as a more significant problem than other drugs. There was less stigma against alcoholism and a broader base of advocates supporting recovery from alcoholism. Alcohol was considered as separate from other drugs, which seems odd from our vantage point in history. Conversely, funding for other drug addictions beyond alcohol were prioritized, largely for political reasons around law and order.

I once pulled the Hughes Act to look for the antidiscrimination language. I could not find it. Where did it go? Federalizing Medical Campaigns against Alcoholism and Drug Abuse, recounts how the law squeaked through the legislative process and was signed into law on New Years Eve, 1970, in the final moments of the 91st United States Congress:

> *Despite widespread support for an extensive federal alcoholism initiative, the passage of authorization legislation faced an uphill battle. The Senate passed S. 3835 on August 10, 1970, but a slightly weaker version did not clear the House until the very end of the congressional session. With no time to convene a conference committee, the Senate passed the House version on December 20. Both the director of the Office of Management and Budget and the secretary of DHEW counseled Nixon to veto the bill. But after behind-the-scenes lobbying from Brinkley Smithers, Thomas Pike, and other influential alcoholics, Nixon reluctantly signed the bill into law at the last possible moment. The final result (P.L. 91-616) was a compromise between Hughes and the administration. NIAAA became a full-fledged institute, but it remained within NIMH, and most hospitals were not punished for discriminating against alcoholics. Although the final bill authorized $70 million for 1971, the Nixon administration requested only $6 million, raising tensions (page 140).*

The antidiscrimination language was removed in the final moments of back room political horse trading. This tells us a few things, including the architects of the Bill were quite aware of medical care system discrimination. It also is clear that powerful forces concerned enough about this kind of accountability used their political power to have President Nixon remove the protections as a condition of signing it into law. It shows us that in that moment, there was a lack of political will to protect people with substance use conditions from discriminatory medical practice.

53 years after the passage of the Hughes Act and healthcare system discrimination against persons with substance use issues remains pervasive. I wrote "take the drug addicts out to the hospital parking lot and shoot them" two years ago. I posed similar measures to what was taken out of the Hughes Act. I wrote: "we need to have zero-tolerance policies on discriminatory treatment of persons with a substance use disorder written into every hospital policy. They should include strong administrative sanctions for all staff who discriminate against us and everyone who witnesses it and fails to report it. Put such policies in place in every medical institution in the country. Then enforce them."

To further examine healthcare related substance use stigma, in collaboration with a harm reduction organization, Elevyst we conducted the largest survey on substance use and recovery stigma in healthcare ever done in the US. We

found pervasive stigma. Broadly, healthcare workers don't think we heal and don't want to be anywhere near us. Changing this is perhaps one of the most critical issues we face if we are to make progress with the addiction epidemic.

What is perhaps most tragically ironic is that medical care system discrimination against persons experiencing substance use issues is devastating healthcare workers. A recent article in US News noted that compared with those who are not health care workers, social workers and other behavioral health care workers are more than twice as likely to die of overdose. It recommends confidential services for evaluation and services. The very same thing we all need to avoid discriminatory treatment, including in healthcare settings. The article cites the need for confidential help. The same thing the rest of us need, but that is a different topic for another day.

What was true in 1970 is still true today. We need strong laws to prevent discriminatory practices against all people seeking help for substance use conditions in all medical care settings. On New Years Eve, 1970 protections for people like me was removed by President Nixon to pass our Magna Carta of substance use care. It had to be removed for it to pass because discrimination was prevalent and there was a lack of political will to address it. Perhaps there was fear of accountability for what was occurring in that era for discrimination against people with alcohol use disorders.

We should amend the Hughes Act and add in the very language that was taken out but broaden it to include all substance misuse and addiction needs beyond alcohol. Discrimination against people seeking help with their substance use in medical care settings is killing our community members. We will not change it until we put in place sanctions to protect us within all healthcare settings in which it occurs.

It is also likely true that the institutions who are afraid of accountability are at least as powerful and influential today as they were in 1970. But is there enough will to finally protect people seeking help from what remains widespread discriminatory care? These views are so deeply rooted in the culture that they can't seek help in those same systems either. Can we acknowledge that discriminatory views kill some of the very same healthcare workers who hold them?

The question is, when those who are around 53 years from now, in 2076 look back over time, will they note that we were the generation who decided to forge through and set strong anti-discrimination protections into our federal law? Or instead that we kicked the can forward to their generation and left millions of Americans subject to discriminatory practices in our healthcare institutions?

History shows us; it is clear what we should do.

The question is will we?

What do we want for the next generation?

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