

Are We Facing the End of the Deregulatory State?

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If the current political winds and polling data are any indication, then today's election portends a sea change in the direction of federal health policy and role of government in protecting the public's health.

Unthinkable even a year ago, the past couple of months have witnessed calls for tighter regulation of banking and mortgage lending practices and the infusion of hundreds of billions of federal dollars into the private economy to stabilize credit markets.

Ronald Reagan's idea, enunciated during his first inaugural address in 1981, that "government is not the solution to our problem – government is the problem" has given way to the view that government may be the only solution to what ails us economically. Moreover, a number of formerly staunch free-market proponents, including recently Alan Greenspan, have acknowledged that the nation has paid a dear price for economic deregulation and the relentless pursuit of small government for small government's sake.

In a similar vein, there has been mounting concern within the public health community about government downsizing and its consequences for our health. Legal expert Lawrence Gostin contends that for nearly thirty years successive administrations have eroded a wide range of health and safety protections resulting in what he terms the "deregulatory state."

The deregulatory state, he argues, is a deliberate product of conservative efforts to play on deep-seated concerns among Americans about overbearing government and the presumed ability of the private sector to police itself. This anti-government campaign and its pejorative terms about the actions of federal agencies – "big government," "top down bureaucracies," "centralized" etc. – have effectively set the terms of the debate about the proper role of government in protecting the public from market excesses and failures.

Gostin notes that the deregulatory state takes many forms, including starving regulatory agencies of funds and the gradual shifting of the burden of regulatory compliance from government to corporations and "industry experts." Underpinning the growth of the deregulatory state is the slow and corrosive abdication of responsibility for basic health governance and oversight by public regulatory agencies and the increasing reliance on businesses to self-police or self-regulate.

Gostin and other critics have cited the Food and Drug Administration (FDA) as a classic example of how the White House and Congress have weakened a once-powerful agency.

The FDA is responsible for regulating over \$1 trillion worth of consumer products or about 25% of the consumer economy, including the food we eat, the drugs we take, and medical devices implanted in our bodies or used in our care. Yet, even as the oversight responsibilities of the FDA have exploded in our lifetimes with the proliferation of new pharmaceutical products and technology and the rapid globalization of food production and distribution, the agency's federal funding has been grossly inadequate for decades.

Consequently, the FDA now carries out 78 percent fewer food inspections than it did 35 years ago and inspects food manufacturers on average only once every 10 years. In 1991, there were 1.5 inspections for each \$1 million worth of imported agricultural commodities; the number of inspections dropped to 0.4 per \$1 million by 2006.

It was thus no surprise that American consumers faced worries this summer about *E. coli* in their spinach one week and salmonella in their fresh tomatoes the next week (it turned out to be contaminated jalapeno peppers). The Campaign for America's Future's research director Eric Lotke wryly noted that "eating a salad is not supposed to be high-risk activity."

The same ideology of deregulation is reflected in historically inadequate resources provided by Nevada lawmakers to agencies charged with facility inspections and the protection of patient safety in Nevada hospitals and outpatient settings. Given the anti-government zeal of conservative state legislators and the timid commitment of those on the left to investments in protecting the public's health, one can only pray that crises of the magnitude of recent the Clark County endoscopy center/Hepatitis C aren't in store for Nevada anytime soon.

Gostin's larger point is that "public health can be achieved only through collective action. Individuals acting alone cannot protect themselves from work hazards, unsafe or ineffective vaccines and pharmaceuticals, impure food and water, a polluted environment or epidemics. Only a well-regulated society can secure the essential conditions for health."

Thus, it is with guarded optimism that the results of today's election represent an important shift in the way we will hopefully be thinking and talking about the future role of state and federal governments in protecting the public's health – instead of debating the appropriate size of government, now is the time to roll up our sleeves and take up the more difficult task of making our government more effective.

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