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From the time I was little, I had always dreamed of becoming a doctor. Though I grew up on a farm, my folks always encouraged me to pursue my dream, even though that meant not following in my father's footsteps as a farmer in western Kansas.

I had always pictured myself in the healing profession, sharing the forgiveness and healing power of Christ to those who were hurting in body, mind, and spirit.

In 1982, I graduated from Oral Roberts University in Tulsa, Oklahoma, a body, mind, and spirit university. I met my wife, April, there, and in May of 1982, we were married. I subsequently attended Oklahoma State University in Tulsa, where I received my D.O. degree. I was well on my way to living out my dream as a physician. While living in Tulsa I entered the Army Reserve, and with that took an oath to uphold and defend the Constitution of the United States against all enemies. This was a very proud moment for me, as my father had served in the Marines in the Korean Conflict.

In the late 80's and early 90's, I was very concerned about the spread of HIV, and I pursued an opportunity at Yale University after graduating from medical school. I managed an outpatient clinic whereby heroin addicts received detoxification on an outpatient basis that I helped to develop. This population was, of course, at risk for the spread of AIDS.

After a two year substance abuse fellowship, our clinic's published success rate won several million dollars of federal grant monies. At that time, my mentors encouraged me to pursue a specialty in Psychiatry at Yale. So, I entered and completed the Yale Psychiatry Residency program in 1995, which added another three years to my postdoctoral studies.

During my time at Yale, I became aware of the use of brain scans and its application in diagnosing impulses that addicts and other patients had. Studying brain scans in the university setting was difficult, mostly due to the fact that we had only one functional brain scan machine, and many others competed for time on that machine. So, when the opportunity presented itself in 1996 of joining a Neuropsychiatric private practice in Northern California with 3,000 brain scans on file with the latest brain scan machine available, I accepted a position there. I was also able to continue to publish studies on substance abuse and brain scans.

After a year of working for Dr. Daniel Amen in Fairfield, California, I opened up my own practice in Davis, California, while continuing to collaborate with him on using his excellent brain scan machine for my patients. My practice grew very quickly, mostly from referrals from other physicians due to my substance abuse fellowship and Psychiatric training. Many patients who had been problematic to others were also given to me by the clinic.

My patients were typically people whose diagnoses were lost in the chasm between Neurology and Psychiatry, proper. This can occur when a temporal lobe seizure disorder creates a constellation of symptoms that resemble ADHD, but must be treated primarily with anticonvulsants, before considering a stimulant for any residual ADHD. Many of them had tremendously complex medical needs and some of them needed daily supervision. These were the ones that moved to houses in Davis, CA.

I would typically make rounds early in the morning, sometime dispensing medications to those who had been unable to manage their medications on their own. This dramatically cut down the abuse potential of a medication like Ritalin, and since this was similar to making house calls in New Haven, CT, as I did

throughout my Substance Abuse Fellowship, and Psychiatric residency, I thought that it was or should be the standard of care. It certainly was the standard of care when I was at Yale, so I thought this should be acceptable in Davis, CA. I did not realize that without the protective arms of Yale around me, however, this behavior, which was helpful to my patients, became suspect to the town authorities.

Throughout our married life, my wife and I had always shared extra rooms in our home with others. Some were patients, some fellow physicians. Now that we were in California, when the needy presented themselves for treatment, and we found that they had neither safe housing nor ability to afford medications, sometimes we would intervene by offering them a room at the boys house, or even a temporary respite in our house.

I have been deeply ingrained with the oath I took, the Osteopathic version of the Hippocratic Oath, which states that we will treat our patients as friends, and the religious command I had to care for how I treated the least of these, in matters of hunger or medicine. They had been put in my path; I could not turn them away.

While at Yale, the treatment and medications were given free to the patients, paid for by grants. While training at Walter Reed on active duty in the Army, medications were paid for by the Army. In California, this was the first time I had ever encountered patients who needed life saving medicine, who sometimes could not afford to buy it. So, since my practice was successful, I used up to \$5,000 a month to buy medicines for patients, while we were getting them on State services. In retrospect, in the town of Davis CA, this was not a wise move.

As I was used to the rigorous, thorough practice of medicine at Yale, I was shocked to encounter a substandard practice of it in California. We began to sense that what had been praised and well-funded on the East Coast, with in-house treatment and outpatient detoxes, was now scorned, mocked and put under surveillance in California. The authorities could not accept that I was a Christian doctor, treating some of my live-in patients for free. They thought otherwise and after spending quite a bit of time and money investigating me, they finally resorted to actions below the law. I was always fully cooperative with any questions they or the State had about the care I was giving.

Fully mindful of the penalties of perjury to Congress, I shall now describe what happened on the day that my world turned upside down. I will only state facts that can be independently verified.

On the morning of May 29, 1999, I was arrested for the unlawful distribution of a controlled substance. At 7:15 a.m., our home was raided by a SWAT team. My wife awoke to five policemen breaking open our bedroom door, guns drawn, screaming at her to get out of bed and down on the floor. They handcuffed her for several hours – saying that she was not being arrested but being “detained” for questioning. I had already left the house to make my morning rounds. When my wife asked to see a search warrant, she was told that one would be forthcoming, (since they didn’t have one until the courts opened at 9 a.m.). The three other people who were staying with us had their seizure disorder medication taken from them, their pain medicine (one patient had a few Vicoden for her Fibromyalgia) and their stimulant medications taken. They also took all of the empty bottles that my wife had saved in the garage of all of the people we had bought medication for that she was saving for tax purposes. Most of these prescriptions were antidepressant or anticonvulsant medications, not controlled substances.

At the same time across town, my office was being broken into. Many patients charts were taken, including all of my back copies of triplicate prescriptions that I was required by State law to save, and most importantly my computer system that had a custom program to keep track of all patients’ medications, serial numbers of the triplicate prescriptions, and dates that they were prescribed. When the prosecutor’s office gave me back this computer 1 ½ years later, they said that there was no medical data

on it. It had been erased while in their custody, but since I had a back-up copy of the data on a disk that they didn't find, I was able to bring the computer back with all of its lost data.

The worst thing they did that day was to take my triplicate prescriptions which had just been issued for that month. Even though the DEA were also present at the time of my arrest, and at my house raid, they told me and the town police that they had no problem with my triplicate prescriptions, the town of Davis police force said they did have a problem with them and were still taking them from me, in direct violation of State law that mandates a hearing must be conducted before triplicate prescriptions are confiscated.

So, I now had 100 patients that I had to refer immediately, with no court hearing and no recourse. These patients were children entering into summer school, needing their Ritalin, and some were patients with chronic pain. Thankfully, all the physicians to whom I referred these 100 patients kept them on the same doses as had worked for them in the past.

All – except for one patient who was on a higher dose of stimulant, and other doctors initially didn't want to take on his care due to his complex medical needs. These higher doses of stimulant medications had literally brought him back from a serious depression in which he had made a serious attempt at suicide before I took him as a patient.

With his parent's desperate pleas and the fact that I had treated him for three years, I felt responsible to make sure he had a smooth transition to another doctor's care. Since I still had legal authority to issue white prescriptions, I gave him a white prescription and told him that until we could find another doctor to take him, he could fill it in Nevada as they had no requirement for a triplicate form for controlled substances. This action earned me a second arrest, and my bail was set at \$500,000 dollars, clearly an attempt to financially deplete me. The judge even said that "we couldn't even hold you for a day, so money doesn't appear to be a problem."

In desperation, we hired a San Jose attorney, who told me that he taught at Stanford. With \$25,000 given just for the preliminary hearing, and \$50,000 given to him up front to prepare to fight a trial, he dragged out my case for 1 ½ years, ultimately calling my parents in Kansas without my permission or knowledge, and told them that he thought I could get up to 27 years in jail. This prompted them to drive 24 hours straight to Davis, to plead with me to take a no contest plea to one count of improper distribution of a controlled substance, and to get out of California. They said they might die and I would not be able to be with them at that crucial time. They also reminded me that without my computer records, and the files that had not been given to my defense lawyer, how could I expect to get a fair trial on my memory and word of proper diagnoses and treatment of my patients. So, I plead no contest to one count of an unlawful prescription. I did not want to do this, but my wife and my parents did not want to risk a trial with a potential outcome of state prison time for the maximum sentence of 27 years. So, I gave in. In exchange for pleading no contest to something I did not do, I spent 4 months in county jail and worst of all, accepted a drug charge on my record. I was devastated.

When the Osteopathic medical board investigated this, they refused to accept my backup copies of computer records for all my triplicates for the past three years, stating that since the police said that they were not there in my computer at the time of the arrest. They stated that I must have made these records up from memory. There is no way that I could remember all the data including serial numbers of three years of triplicate prescriptions. When I asked them if I could just go back to the Army, their reply was no, because they did not trust the Army to properly supervise me. They ultimately revoked my CA license. I never got past the administrative section of the CA medical board to the doctors on the board. I felt that if they could just see what had been done, and hear on a case by case basis the tremendous gains that patients had made under my care, that they would rule differently.

During my earlier years of training, I had previously been licensed in New York where I had moonlighted in various ER's. When the State of New York reviewed my case, they had a three doctor panel. They listened for hours and reviewed all of my back copies of my recovered records from the computer, and most notably said that they thought I should be able to have my license renewed, since I had suffered "legal malfeasance," in California. Their carefully considered ruling was overturned by an administrative lawyer from the New York Department of Health, and it has been stated that until CA says that I can practice again, they will take no further action, other than to suspend my New York license. The thought of me going back to CA puts my family into such fear and depression, that I cannot bring myself to put them through further trauma.

My hope now resides with my expired license in Connecticut or even Oklahoma where I have had good records of training. Once I get a state to license me, I will go straight to the Army, where I served honorably for 10 years; the Army has already said that they could use me here at Walter Reed. I would even prefer a tour overseas, so that the returning wounded could see that I have a combat patch and would relate to me better. I believe I know something personally about how to rebuild your life after great trauma. I simply want to discharge the skills that I have spent so many years getting and desire to be in an institution where the Constitution of the United States is still revered and followed.

Since there are two cases that highlight the type of patient care that I gave in Davis, and these folks don't have the honor of having their voices heard by Congress, I feel that I should briefly describe their stories:

Suzanne was a 57 year old woman who was known in Davis as the town's worst drunk. She had lost her housing years before when she lost her disability due to her alcoholism. Her case was made more complicated by a Temporal Lobe Seizure disorder and Fibromyalgia. I sent her to the town's local ER, when she showed up in my office one day with early signs of potentially life threatening alcohol withdrawal seizures. The hospital accepted her referral from me over the phone, but when they saw it was Suzanne, whom they knew had no way to pay for her care, they did no treatments other than to give her cab fare, with instructions to get out of the county. No other treatment facility would take her, either. So, I took her into my home where she successfully completed her alcohol detox.

Over the next 6 months, she cleared up all her many public court cases for public drunkenness, and the court even ordered her as a part of her probation to continue treatment with me. She was also on a low dose of opioids for her Fibromyalgia and anticonvulsants for her seizure disorder. She progressed from barely being able to think straight, to six months later being able to play the piano again and recite the Night before Christmas from memory. She was also reconciled with her daughter. When I asked the police how they could explain her progress on the day I was arrested, they said that they could not.

Judy was a 37 year old heroin addict from the next town over in Woodward, CA. I had been treating her daughter for ADHD and when I asked her grandparents where the mother was, they shook their heads and said she was a heroin addict and prostitute, and that they could not even acknowledge her when they saw her on the street. I told them that we could find her and detox her because I felt that this would go a long way in helping her daughter with her anger and ADHD. We found her and since there was no treatment facility that would take her either, she also moved into our house while she was working on reintegrating with her parents and daughter. She was on parole and when she was approached after my arrest, she was given a choice by the police -- to either say that I had been sexually inappropriate with her or had given her medications for sale. If she chose neither, she faced going back to prison to serve out her time. She chose the latter and served 11 months in a CA state prison. She told them and us that she could not lie just to make it easy for herself.

My office secretary was also a recovering alcoholic whose children I was treating for ADHD. Court records of her divorce showed that the police came to her after she sent her children to school with an afternoon dose of Ritalin in their pocket. They told her that unless she said that I gave them Ritalin without even properly diagnosing them, they would file child endangerment charges. Since she was afraid they would be returned to their father's custody, she agreed to lie. Her divorce records in Suisun, CA, record these facts about what choices the police had offered her. This was the charge that I plead no contest to -- since their records had been confiscated, and I had only my word as proof. I do understand and forgive why she buckled under such tactics by the Davis police.

While the DEA did not object to my practice, they did nothing to stop the town police from illegally seizing my triplicates. The fact that one county over they had one month before employed similar tactics in the prosecution and arrest of Dr Frank Fisher, from which he was eventually exonerated, is something that the town police could have taken a page from the same playbook. I am afraid that the war on drugs has been turned into a war on doctors and patients.

My seventh great grandfather, John Waugh, came to Virginia to serve as a Church of England parson in 1660. During that time, he got into trouble with an English court, controlled by powerful few for such offenses as taking in pregnant, unwed girls cast out from their homes from Maryland and performing marriage ceremonies for young couples who were in love without parental consent. He was even thrown in jail in Jamestown.

When he was elected from Stafford County to the House of Burgesses in 1699, they denied him his seat, saying that a member of the clergy could not serve in the House due to having two masters, the King and the people he would represent. His wife was Elizabeth Madison. His progeny helped to craft this government of a more perfect union, with a Constitution and Bill of Rights.

It is a terrible irony that the Bill of Rights has been turned into a "Bill of Wishes" -- only for those wealthy enough to prosecute when it is violated. I hope that this House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, which has oversight supervision of the DEA, will consider my testimony when thinking about how the tactics used in the war on drugs is spilling over into local town cops' attitudes about dealing with doctors with whom they disagree.

I don't seek revenge, because that will cripple me. I don't even seek justice, because no amount of money could compensate me for the pain I saw my patients and family put through. I only seek remembrance, so that this won't continue to happen to others, and that the practice of medicine be freed from fear of intimidation for treating patients in good faith. Thank you for your time and attention. I will be happy to respond to any questions you might have about my testimony.