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**"Horses At Clam Beach"**  
**Stephen Kamelgarn, M.D.**

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# What Healthcare Reform?

**STEPHEN KAMELGARN, MD**



Well, the old news is that the Affordable Care Act, better known as "Obamacare," survived a challenge in the Supreme Court. Why it ever became a case for the Supreme Court in the first place beggars the imagination. It was based on a perfectly legal plan that had been instituted in Massachusetts in 2002, during the tenure of the current Republican candidate for president. The precedent of the government mandating some action on the part of its citizens goes all the way back to the presidency of George Washington who required merchant seaman to put up some sort of bond to cover their widows. But that's another story.

While the individual mandates did survive Court scrutiny (the cause of the original lawsuit in the first place), the five upholding justices did state that the individual states had the option of not expanding their Medicaid programs, programs that would rain down a tremendous amount of federal largesse. But by not expanding Medicaid not nearly as many people would be covered by the plan in 2014, as originally projected. The states have eighteen months to decide whether or not to expand the Medicaid eligibility requirements. The Republican governors of at least six states, including Texas and Florida, have already stated that they're going to opt out of the expansion.

This is a time when the states are broke. Not only people, but whole states almost went under in the crash of 2007-08, California most notably. While it is true that most of the expansion will be financed by the Feds, the states will have to pony up some of their own money. Medicaid expansion was expected to cover 17 million people, with the feds paying an estimated \$931 Billion through 2022. However, the

states would still get stuck with a \$73 billion bill<sup>1</sup>. At least a couple of billion would probably show up on California's ledger. In a state as broke as California, even that "small" amount could be "unaffordable." For the past two years we've witnessed massive cut backs in Health, Education, and infrastructure maintenance. This should make one feel sympathetic to the state in their dilemma.

And I would feel sympathy too, if I didn't happen to notice that in the past two years the one sector of the state economy that was not hammered by cutbacks was prison construction and expansion. The crime rate hasn't gone up, so why do we need more prisons in this age of austerity? As a nation, we incarcerate more of our citizens than any other nation on Earth (including the "terrorist" states of Cuba and Iran). While California scores merely 17th out of the 50 states, we still put 467 people per 100,000 population behind bars, just below the national average of 504 per 100,000. (Louisiana is #1 at 853 per 100,000) Our prisons are filled with thousands of nonviolent drug offenders, why not let them go home, attached to an ankle bracelet to maintain them under house arrest. Or better yet, just let them go home. Just that act alone would probably save California millions of, if not a couple of billion, dollars a year. Seems simple, no?

The prison industry has become, to the states, what the Defense Department is to the Feds: a sacrosanct, untouchable sacred cow that can gobble up whatever funds it needs to maintain its existence. While it is true that prison construction is not the largest slice of the budget pie, it still consumes a tremendous amount of resources. But I

digress.

The point of this whole argument is that if California (and/or other states) can't, or won't, expand their Medicaid programs then a lot more of all this work will have gone for naught. Even if the plan had been implemented as written, at least 25 million people would still be without health coverage. Now, with the states having the option to "opt out," we have no idea how many of the 17 millions of people, supposed to be covered by Medicaid, will remain uncovered.

Obama and his policy wonks worked for two years on a plan that was designed not to be universal, and even that minuscule amount of reform was fought tooth and nail by the retrogressives in Congress and their health insurance bank rollers, ultimately engendering a lawsuit that went almost nowhere. And now, with the latest decision from The Supremes, even that micro-reform can be partially dismantled.

So here we are, four years later, after some semblance of Health Care Reform has been passed and has actually survived a (bogus) Supreme Court Challenge, what are we left with? Well, the US is still the only industrialized nation on Earth that doesn't provide health care for its citizens. What a legacy.

## Notes

1. "Many Governors are Still Unsure About Medicaid Expansion" The New York Times July 15, 2012
2. "List of U.S. States by Incarceration Rate" [http://en.wikipedia.org/wiki/List\\_of\\_U.S.\\_states\\_by\\_incarceration\\_rate](http://en.wikipedia.org/wiki/List_of_U.S._states_by_incarceration_rate) §

# **The Aurora Massacre: Thoughts on Deterministic and Probabilistic Phenomena**

**LUTHER F. COBB, M.D.**



The recent shooting incident at Aurora, Colorado, had the depressing familiarity of other such events, so much so that it has almost become stereotyped as to how the public and the media respond. There is the initial shock and horror, almost unthinkable to those who haven't been in such an incident, followed by the intense 24 hour media response, the impromptu memorials at the scene, the leisurely courtroom follow up (for those perpetrators that survive their assault), and the seemingly endless debate and recriminations about what cause these sorts of things to happen, and why are they so common here in the USA? Of course, similar and even worse tragedies occur in other countries, such as the truly awful assault in Sweden where over 70, mainly very young people, were ruthlessly murdered, but it does happen here more often.

Naturally, we seek answers, and candidates for blame. In Aurora, there are going to be lawsuits against the theater, of all things, alleging that there was not enough control over the entrances and emergency exits to prevent the assailant from leaving the theater and then returning on his deadly mission. Of course, that's only because the theater will have the deep pockets to absorb the loss, but that seems to be the least of the factors involved.

In the natural scientific realm, prior to the development of modern physics, the world seemed to operate in a Newtonian clockwork fashion, such that if we knew the initial conditions and motion of a physical system, we could predict the motion forever after, and discern cause and effect in a reliable, deterministic way. Now, between

chaos theory and quantum mechanics, we know that the world is much more random and unpredictable. (There is a wonderful book on this subject by Nicholas Nassim Taleb called "The Black Swan", which I highly recommend.)

In a similar fashion, that is how I see what happened here. Did the presence of assault rifles, other firearms, easy availability of limitless supplies of ammunition via the Internet, large volume ammunition clips, violent movies and video games, or violent images in ordinary political discourse cause this to happen? Was any one of these factors the reason for it? More importantly, would elimination of one (or any one of a host of other factors) save us from having this happen yet again to another innocent crowd of unsuspecting victims?

I tend to doubt it. Despite the fact that when the Second Amendment to the US Constitution was adopted at a time when the heaviest and deadliest weapon available to the ordinary citizen was a muzzle-loaded musket, which took two minutes and eighteen separate steps to reload (if one were very well trained), I don't think gun control alone would solve the problem.

No, although that is certainly a factor, I think gun violence is more like radioactive decay than a cause and effect event. By that I mean that there are a certain number of people who are predisposed to gun violence, and a certain number who have access to firearms, and a certain level of interpersonal violence and violent and random mental illness in the population, and a certain number who will get access to heavy assault weapons and high-volume clips, etc. etc. Each of these factors is part

of the problem, but it is only the multiplicative product of all these factors that can lead to this kind of tragedy. If any one of these factors were to be decreased, the overall incidence would also decrease. Or so it seems to me. So, just as a certain radioisotope will decay at a predictable rate, but one cannot say at all which of those atoms will decay at any given moment, so these factors, and of course others, can combine probabilistically to produce this outcome. Some isotopes, like Technetium, decay at a very rapid rate, while others, like Uranium and Thorium, decay much more slowly, and as such are less deadly to handle.

I have had a lot of experience in trauma surgery, including directing a major urban Level I Trauma Center for 12 years, and although I have seen a lot of people injured by gunfire, I have never seen a situation wherein a dastardly burglar was shot by a homeowner defending his property. I have seen just about everything else, though, including an awful lot of self-inflicted gunshot wounds. Personally, although I hunted with my father as a kid growing up in the South and know very well how to handle firearms safely, I do not own any and don't want to, because even though I know what I'm doing I think they are more of a danger to me and my family than a means of protection.

I do think that if there were a single intervention that would make more difference than any other, it would be adequate, easily available mental health care for all. From what I have seen of the individual responsible for this atrocity, he clearly looks to be mentally ill, and detached from

**"Aurora" Continued Page 7**

**“Reply” From Pg 6**

section (5) I found that its writer noted that indeed recorded child abuse increased in the USA from the time we first started collecting data in 1979 until about 1993, but that “Since 1993, however, child maltreatment has decreased slightly and since 1999 has leveled off.” The article goes on to state that “While the statistical data indicates that child abuse has risen dramatically over the past three decades and continues to be a serious problem, it is difficult to say what impact legalized abortion actually has had.”

The last issue I would like to discuss stems from Dr. Holmes’ statement that “Out of the millions of aborted babies there might have been an Einstein, a Schweitzer, a Beethoven....” This is certainly true. But there might also have been a Hitler, a Stalin, an Idi Amin or a Pol Pot. One must ask the question, which of these two extremes in personality is more likely to develop among unwanted children, an Einstein or a Hitler?

And which is more likely to develop among wanted children, a Schweitzer or an Idi Amin?

Thank you for this opportunity to reply.

- (1) See <http://www.law.cornell.edu/uscode/text/18/1462> for the full text of the current Comstock law.
- (2) See <http://www.lectlaw.com/files/elw05.htm> for a letter by Rep. Pat Schroeder on the implications of the current internet gag rule.
- (3) See <http://www.infanticide.org/history.htm> for ‘A Brief History of Infanticide.’
- (4) See <http://bjs.ojp.usdoj.gov/content/homicide/children.cfm> for data and graphs regarding USA infanticide statistics.
- (5) See [http://www.abort73.com/abortion/child\\_abuse/](http://www.abort73.com/abortion/child_abuse/)

**“Aurora” from page 5**

reality. Jared Lochner, the man held for the shootings in Tucson, was recently adjudged by the courts to be legally insane also. Although the man in this incident appears to have been seen by a psychiatrist, I doubt if it was at a level of intervention that could have helped. There are many reasons for this, including our society's stigmatization of and insensitivity to serious mental illness, plus the lack of health care coverage for adequate treatment, including recognizing that it is a true disease (or rather set of diseases) of the brain, that predictably crops up in just this environment and age group.

So, just as with so many intractable problems, I do not see any easy answer, and I think that those who think there is one are deluding themselves, and in the case of talk radio, cable news, and the blogosphere,



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# THE C.M.A. RESOLUTION PROCESS

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The California Medical Association (CMA) resolution process is a remarkable demonstration of the power of grassroots democracy. Through this process, a single physician's idea can lead to a change in any state policy or law that affects public health or the practice of medicine.

Resolutions by District Ten physicians have been enacted into law include handgun control measures, bicycle helmet requirements for children, standardized health insurance cards, needle exchange programs, access to women's health services, etc.

The resolution process begins with identifying a problem that affects our ability to care for our patients or to practice medicine in an ethical and economically feasible manner. These issues often surface in casual discussions in doctors' dining rooms. The problem that one physician is experiencing is frequently shared by other physicians in the community. Discussion with colleagues can help to clarify and focus the issue so that it can enter the resolution process.

An example of such a problem occurred several years ago, when a large, statewide HMO suddenly changed its formulary policy. The HMO had negotiated a favorable contract with a drug company, including kickbacks for exclusively using the company's antidepressants and other medications. Abruptly, patients were denied coverage for antidepressants that had previously been covered and were told that they must change medication to the contracting drug company's antidepressant. This policy change created havoc for physicians and directly impacted good patient care. Recognition of the problem led to development of a CMA resolution that eventually reversed this HMO's policy.

Once a problem has been identified locally, it is carried to the CMA district level.

There are 12 CMA districts in California. Humboldt-Del Norte County is in the 10th District, which also includes Mendocino-Lake, Marin, Solano, and Sonoma counties. Resolutions are written by CMA Delegates and Alternate Delegates in each district, based on input from their colleagues.

All resolutions follow standard format. They begin with background information that supports the concept. Then they include the phrase, "and be it resolved that the CMA", followed by a clear statement of the action requested from the association.

In the fall of each year, the resolutions from each district are discussed and modified by the district's delegates. The revised resolutions are then submitted to CMA, which evaluates each resolution to determine if it agrees with current CMA policy or addresses an issue that has not surfaced previously.

CMA also attaches a financial impact statement to each resolution. A resolution that requires sponsoring legislation costs about \$72,000. A resolution that supports existing legislation is less costly and often allows CMA to join with other organizations that share an interest in supporting the legislation. Some resolutions may require only a statement of policy or a discussion with government agencies to enforce existing law or business code.

Each resolution is then assigned to one of the seven reference committees that meet during the annual CMA House of Delegates session now scheduled in November. The Committees are:

**Reference Committee A**

*Science and Public Health*

**Reference Committee B**

*Government Health Programs and Regulation*

**Reference Committee C**

*CMA Membership, Finance and Governance*

**Reference Committee D**

*Insurance and Physician Reimbursement*

**Reference Committee E**

*Quality, Ethics, Legal and Medical Practice Issues*

**Reference Committee F**

*Health Professions and Facilities*

**Reference Committee G**

*Managed Care and Health System Reform*

Prior to the House of Delegates session, all of the resolutions to be discussed are distributed to delegates throughout the state for review. This review allows for broad, statewide awareness of the issues to be discussed at the session. Delegates and alternates are encouraged to prepare testimony for or against any resolution that impact them or their practices.

When the House of Delegates convenes, the reference committee hearings begin. Each committee consists of a chair, five delegates from throughout the state, a CMA staff member and a CMA legal representative. Testimony is heard on each of the resolutions submitted to the committee.

At the conclusion of the hearings, the committee reaches consensus on each resolution. Similar resolutions may be combined into a single substitute resolution, and the committee recommends approval or disapproval of the resolutions as presented.

The following day, the resolutions are discussed by each district delegation and voted on for support or disapproval. The reference committee recommendations are then brought to the full House of Delegates. Any resolution that is challenged is brought for open debate by the entire House. The

resolution may be modified or amended, and then a vote is taken. All resolutions accepted by the House are transmitted to CMA for implementation or for development of policy statements.

When a resolution requires state legislation, a bill is drafted and a sponsoring legislator is found to direct the bill through California's legislative process. The HMO formulary resolution, for example, became AB 974, which prohibits health plans from limiting coverage for a drug that has been previously approved for a patient but is no longer on their formulary. The bill, which also requires disclosure of drug formularies to physicians and patients was later signed into law.

In April of each year, CMA sponsors a legislative day in Sacramento. Physicians from throughout the state assemble in the capital to discuss CMA's legislative agenda, including the many bills that the association is following for support or defeat. The afternoon is spent meeting with individual legislators and discussing these issues face to face. The legislative day is the grand culmination of the resolution process. Participants see firsthand how an idea originating from a single physician can produce a change in the law.

The message is clear: Your ideas can make a difference! Contact your CMA Delegate or Alternate Delegate to discuss your concerns about quality of care, public health or the practice of medicine. Any member can submit a resolution on-line on CMA's Members-Only website, but you also need to have one of your elected Delegates "carry" your resolution through the process. With your help, we can address these concerns through CMA's resolution process. §

**DEADLINE FOR RESOLUTIONS TO THE 2012 CMA HOUSE OF DELEGATES - AUGUST 14, 2012**

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**ALTERNATE:** Mark Ellis, M.D.

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### **CMA PUBLISHES UPDATED PAYOR PROFILES**

The California Medical Association's Center for Economic Services has published updated profiles on each of the major payors in California, including Aetna, Anthem Blue Cross, Blue Shield of California, CIGNA, Health Net, United Healthcare, Medicare/Palmetto and Medi-Cal. Each profile includes key information on health plan market penetration, a description of the plan's dispute resolution process and the name and contact numbers for medical directors, provider relations and other key contacts. Don't waste your time searching the internet for this information. Members can download CMA's Payor Profiles at no cost at [www.cmanet.org/ces](http://www.cmanet.org/ces).

Contact: CMA's reimbursement helpline (888) 401-5911 or [economic\\_services@cmanet.org](mailto:economic_services@cmanet.org)

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