THE CASE OF DR. LOUIS E. SCHMIDT: MEDICAL RIGHTS IN THE EARLY 20TH CENTURY

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“Doctors Expel Dr. Schmidt,” the bold headline proclaimed. The Wednesday, April 10, 1929 Chicago Tribune also noted, “Charity Clinics Condemned At Medical Trial, Famous Physician Faces Accusers.” Physicians of the Chicago Medical Society had taken action against Schmidt for his association with a charitable organization that had violated the medical profession’s ethical ban on advertising. At the meeting, the paper said, “Dr. Schmidt, white haired and 60 personally faced his accusers” and that “Several hundred physicians—more than had attended a session of the council for many years, it was said—jammed themselves into the small meeting chamber.” The doctors, “surrendered professional dignity many times as they cheered and applauded and orated during the proceedings.” In the clearly one-sided battle Dr. Louis E. Schmidt and a small group of supporters who had accompanied him “were greatly outnumbered. The vote against him was almost unanimous.”

How had a famous physician come to be expelled from his profession’s order? How did the controversy change the meaning of who was entitled to medical treatment and at what standard of care? And how did that expulsion lead to national attention that culminated in assertions of rights for both the material interests of physicians and the interests of medical care for the public?

The few scholars who have dealt with the topic of Schmidt’s expulsion have written about medical costs as a threat to physicians’ livelihoods, curtailing public health intrusions in medical care, and the developing professional and corporate associations of doctors. Others have looked at the social and charitable development of medicine and the decline of medical dispensaries. As a focus of historical inquiry, the right to medical care is only now being explored. By looking at Schmidt’s case in terms of rights, we can better see why the dispute

1 Chicago Tribune, April 10, 1929.
captured the attention of the country. More importantly, the case helps illuminate the context, development, and meanings of rights talk and medical rights versus the material interests of physicians in the early 20th Century.

Thomas Neville Bonner provides a history of the social development of medicine in Chicago. Writing in 1957, he briefly examines the Schmidt controversy and offers an assessment of the dispute that is framed in terms of rights and is notable for its early, specific reference to medical rights. He states:

As for the recipients of charity, critics have insisted that all human beings have a right to the benefits of modern medicine without stigma or feelings of ‘proper shame.’ But defenders of the profession have questioned whether this right extends to the very best and the most expensive type of medical care. If the charity patient deserves the best medical care, why not the very best food, clothing, and shelter?

Paul Starr characterizes the Schmidt case as a symbol of the American Medical Association’s battle to prevent the domain of public health from intruding on physicians’ control of medical care. In “Organized Medicine and the Public Health Institute of Chicago,” Conrad Seipp argues that Schmidt’s troubles was said to result from organized medicine’s attack on the practice of medicine by group practices and cooperatives. Called “contract practice” at the time, the model ultimately came to be known as “the corporate practice of medicine” and is a common form of medical practice today. But at the time, contract practice was considered a threat to physicians’ economic welfare by the AMA. Seipp shows, though, that the public health initiatives to fight venereal disease could not have jeopardized physicians economically because most Chicago practices did not treat venereal disease. Instead, the AMA was threatened by a more organized service delivery system.

The historiography of medical history also informs Louis Schmidt’s case. Historian Charles Rosenberg argued that medical dispensaries formed the basis of medical care in America from 1786, when Philadelphia established the first dispensary, through the 19th Century, before the modern hospital. Because physicians, a refined elite who provided care, formed the core group

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that allowed the dispensaries to function and because dispensaries fit the needs of society, dispensaries became the popular source of medical care. When, “well before the end of the nineteenth century,” hospitals offered physicians a place with a ready supply of patients, more scientific and diagnostic facilities, and more prestige, dispensaries declined. Rosenberg focuses exclusively on dispensaries in the east and never mentions Chicago, but his work shows a time of transition until, by the 1920s, physicians like Schmidt’s contemporaries made efforts to push aside dispensaries (like those operated successfully under Schmidt’s hand) that they viewed as rivals.5

The history of the American medical system in the late 19th and early 20th Century, far from being fixed and stable, experienced a shift from social and charitable work with little professional or economic focus. This shift was driven not only by improvements in technology and patient care, but by “social and economic conflict over the emergence of new hierarchies of power and authority, new markets, and new conditions of belief and experience.”6 The unique social, economic, and political power of American physicians developed based on their perceived technical knowledge and claims of authoritative scientific competence and allowed them to “exercise authority over patients, their fellow workers in health care, and even the public at large in matters within, and sometimes outside, their jurisdiction.”7 Interaction with this system provoked “widespread awareness of the extent and impact of inadequate health care among the lower classes.” By the late Teens and early Twenties, some proponents of providing universal health care based their assertions on “a foundation of rights.” This exclusively middle class notion of rights derived from citizenship combined with an expression of value, financial or otherwise, from the person receiving or “earning” benefits. It never caught on, though, as a widespread assertion in this period. It is important to note that, in this same period, progressives began asserting the idea of “social obligation” that emphasized individual and community duty to aid those in need as a way to avoid, politically and socially,

outright assertions of a universal right to health care that had become untenable in the face of expressions of profession medical power.\textsuperscript{8}

Historical arguments in the last decade recognize that “Most Americans feel that health care, especially their health care, is a right and not a commodity” which implies an “instinctive moral feeling that health care should be universally accessible.”\textsuperscript{9} These rights have typically been arrayed against notions of the political and economic obligation to provide public health care. In this way, “the public welfare programs at least conferred some rights to benefits.”\textsuperscript{10}

Much of the debate in political science and public policy centers on determining the existence, definitions, standards, and working parameters of medical rights.\textsuperscript{11} Observing these public tensions lead to a recent examination of medical rights more in terms of “the quality and experience of health care than with its availability.”\textsuperscript{12} Looking at the historical basis for the interaction of patients’ and consumers’ rights as a movement to influence medical institutions to their benefit highlights that:

While originating in different spheres—citizen rights tied to Enlightenment political and legal notions, consumer rights to modern economic theories—these arguments have often overlapped. Popular uses of ‘rights talk’ regarding health care reflected this messy intertwining of political and economic rights.\textsuperscript{13}


\textsuperscript{13} Tomes, 87.
Understanding how the right to medical care was understood in the context of Dr. Louis E. Schmidt’s expulsion from the Chicago Medical Society helps to show how the intersection of the assertion of medical rights, notions of social obligation, and economic and political tensions informed the outcome of the case. These interests account for the local and national attention in the case. Debate over these opposed interests—the material considerations of physicians and the cost and availability of medical treatment—developed into rights talk and increasingly broadened the notions of who these rights applied to.

Schmidt graduated in 1895 from Northwestern Medical School. From a prominent family in Chicago medicine, he rapidly racked up bold achievements and astonishing accomplishments and would eventually be called “the Father of urology.” After three years of study in Vienna, Breslau, Berlin, Paris, and London, he returned to Chicago and created one of the first urology services in the country at Alexian Brothers Hospital in 1898. He initiated the formation of the Urology Department at Northwestern in 1900 when he was thirty years old and immediately became the department’s chairman for the next forty-eight years. In 1902, Louis Schmidt published *Genito-Urinary and Venereal Diseases: A Manual for Students and Practitioners.* Included in an article he published in 1909, he lists his affiliations as Clinical Professor Genito-urinary Surgery, Northwestern University Medical School; Professor Genito-urinary Diseases, Chicago Policlinic; Attending Genito-urinary Surgeon, Alexian Brothers, Michael Reese, German, Wesley, and St. Mary's Hospitals; and Director of the Genito-urinary Department of the West Side Jewish Dispensary, Chicago. Moreover, he also served on the staff of St. Luke’s Hospital.14

He presided over the Illinois Social Hygiene League, created in 1916, an organization that ran clinics that provided affordable treatment for venereal disease.15 What amounted to an epidemic in these diseases ravaged Chicago. In a wave of clinic establishments following World War I another group, the Public Health Institute, had begun providing efficient and low-cost

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14 Louis E. Schmidt, “The Gonorrheal Vaccine Treatment and the Antigonococcic Serum Treatment in Reference to Gonorrhea and Its Complications, but with Particular Reference to Joint Involvements,” *The Therapeutic Gazette XXVI*, no. 9 (September 15, 1909), 609.
treatment for men infected with venereal diseases in Chicago in March 1919.\textsuperscript{16} Women and black patients received treatment in added clinics by 1923. High demand met the opening of the clinic and the facility examined and treated 1,955 patients in the first month. The Public Health Institute clinic “charged very low fees: three dollars for an examination, six gonorrhea treatments for four dollars, injection of antisypilis drugs for one to three dollars,” far less than specialists.\textsuperscript{17} They treated indigent patients for free or with charity funds.

The CMS went on to charge that Schmidt, the ISHL president for several years, was subject to and in violation of a CMS Code of Medical Ethics pledge that, in part, had forbidden the advertising of medical services and that the Public Health Institute, an organization Schmidt was only loosely associated with, had publicized medical treatment. The CMS revoked his membership. Though he had tried to argue his case on the basis of the charges, by the time of his 1930 AMA appeal, Schmidt argued that the currents underlying his case consisted of “issues which I believe attack the rights of the public to receive expert medical care at a price they are able to pay, and issues which shall seriously retard the advance of our great profession.”\textsuperscript{18} Schmidt and his contemporaries came to discuss rights at this time differently, Schmidt in terms of the right to medical care, and physicians in terms of the right of the patient to choose their own doctor and types of care (so long as it conformed to the material interests of physicians). At the same time, all considered the scope of access to that care.

1. The Chicago Medical Society had previously skirmished with clinics and dispensaries,\textsuperscript{19} closely following and scrutinizing the clinics’ growing numbers and their practices of charging minimal fees for services that the Society felt competed for patients and undermined the physicians’ compensation. Cooperating under contract with the Public Health Institute, the Illinois Social Hygiene League received repeated warnings from the Chicago Medical Society

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\item \textsuperscript{16} Trustees of the PHI have included Marshall Field III, Harold F. McCormick, General James Ryan, Lester Armour, and John D. Pirie, Sr. \textit{How Laymen Cut Medical Costs}. Chicago: Public Health Institute, 1948.
\item \textsuperscript{17} Bonner, 212.
\item \textsuperscript{18} Louis E. Schmidt, \textit{Facts and the Law in the Case of Dr. Louis E. Schmidt: Read before the American Medical Association}. (Chicago, 1929), 1.
\end{itemize}
that doctors involved with those organizations stop using newspapers, streetcar notices, books and pamphlets, and posters advertising the organizations’ treatments. The CMS escalated their activities and rhetoric to counter the PHI, to vilify and potentially eliminate them as a threat that the CMS said the organization posed to the health of the public.

Figure 1 Full page PHI ad from the *Chicago Tribune*, December 3, 1926.

Figure 2 Full page PHI ad from the *Chicago Tribune*, April 18, 1926.
Self Treatment Won't Cure "Social" Diseases

It only makes them worse!

Figure 3 Full page PHI ad from the Chicago Tribune, June 3, 1928.

Wild Oats

are watered by tears

Figure 4 Full page PHI ad from the Chicago Tribune, July 8, 1928.
The Chicago Medical Society scrutinized the practices and associations of the Public Health Institute for nearly ten years. At least as early as January, 1921, the Chicago Medical Society had taken notice of Public Health Institute advertising. Branch societies and individuals had begun to conduct private inquiries, to report on the Public Health Institute advertising program, and to publicize to the member physicians “the character and conduct of the Institute so that they may know of its unethical standing.”20 By May 7, 1921, the CMS adopted a motion in favor of preferring charges of unethical conduct and demanding appearances before the ethical relations committee after allegations of four of its members being “associated” with the Institute “at various times.”21 Later that year, the CMS created a committee to investigate these members and their connections and, separately, a committee to discuss “the whole venereal situation in Chicago” with the directors of the PHI.22 During 1922, the Special Committee on the Public Health Institute indicated progress in ongoing conferences. A June, 1922 motion was adopted that favored the advertising stand of the American Medical Association and noted that a related AMA communication instructed “that the matter of the Public Health Institute be cleared up.” The Special Committee submitted their report at the October council meeting. It remains unclear whether the AMA meant this as an order to resolve the issues with the PHI or to move more deliberately eradicate the group.

By the end of the year, their intent was clear. A Chicago Medical Society editorial on December 30, 1922 stated that “For the good of the community, as well as for the whole of the medical profession, reputable men should have nothing to do with the Public Health Institute. Let Dr. Berkowitz and his unnamed medical staff plow their furrow alone.”23 For the professed benefit of the public health, the CMS intended to ostracize the medical work of the PHI.

Even as the CMS increased its opposition to the PHI, Louis E. Schmidt committed himself more deeply to public health and the treatment of social disease. Schmidt was appointed Director in charge of the Venereal Disease Control of the City of Chicago Department of Health

20 Chicago Medical Society council meeting minutes, March 8, 1921, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
21 Chicago Medical Society council meeting minutes, May 7, 1921, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
22 Chicago Medical Society council meeting minutes, October 11 and December 13, 1921, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
23 Chicago Medical Society council meeting minutes, February 18-December 30, 1922, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
on March 18, 1923 as a public health official and advisor to Herman Bundesen, Commissioner of Health. In this role, he improved the city clinics and established services in area jails.

That fall, the CMS again escalated the rhetoric against the PHI, referring to them as “a quack institution” and the AMA took an increasingly firm and detailed stance on the ethics of advertising. At their Seventy-Fifth Annual meeting, the American Medical Association House of Delegates passed three resolutions on “Questions of Ethics and Propriety Concerning Institutional Publicity.” The first two resolutions sought to establish a standard that would ban advertising that implied unusual or exceptional ability (of the type associated with quackery) and would consider self-aggrandizement ads that that suggested a higher standard of treatment than similar institutions provide. These practices would be declared unethical because they “are frequently exaggerated and misleading and are detrimental to the best interests of the public, to the institution concerned, and of true medical progress.” Interestingly, in this resolution, public medical institutions like hospitals and sanitariums could use advertising to provide the public facts that illustrated the work, aims and ideals, of the institutions in order to raise capital and operational funds. They considered such advertising “legitimate and desirable,” because “such publicity deals in facts to which the public is entitled and in which it is interested, and is, therefore ethical, provided it carefully refrains from any comparisons, either direct or implied.”

In 1924, as long as advertising was being done by public medical institutions, and presumably dispensaries, in a way that did not use comparisons, the AMA considered that advertising within their set ethical boundaries because the they recognize that the public was “entitled” to medical facts.

Schmidt’s commitment to the ISHL again increased and he garnered more authority within the organization that he used to provide more efficient and less costly medical care to patients. In 1926, having served on the Board of Directors, Louis E. Schmidt became president

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24 Herman N. Bundesen to Louis E. Schmidt. April 12, 1923, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
26 Chicago Medical Society council meeting minutes, October 9, 1923, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
of the League. He led in a comprehensive restructuring in 1928 because he “decided that the medical service needed improvement and re-organization, as the facilities for treatment were poor and the educational work was inadequate.” The ISHL operated at a deficit of several thousand dollars as a result, he felt, of high administrative costs. “A plan was drawn up which aimed at economy, efficiency, and closer co-operation with existing agencies in the field” to alleviate this problem. The ISHL entered into contract with the Public Health Institute, the nemesis of the Chicago Medical Society. The Public Health Institute, to avoid opening a separate PHI clinic, agreed to refer its patients to the ISHL clinic, to pay $1,000 monthly, and to contribute to the costs of improvement and reorganization at the ISHL. One clause stipulated that “The Illinois Social Hygiene League agree to place control of their Clinic and treatment under the care of the Public Health Institute, which will through its representative assume full control over the management of all the clinic property and personnel.” The ISHL services improved almost immediately and operating costs were “materially reduced.”

Organized physicians at the CMS and the AMA in this time prior to Schmidt’s case, used language that at least acknowledged that professional medical care and health information for the public and the community as a distinct group was desirable and, in some cases, an entitlement. But this was arrayed in competition with the good of the medical profession. Schmidt expressly treated “the poor” and it seems that he initially limited his notion of the public to this group. The ISHL contract with the PHI intended to improve services to this public that, in Schmidt’s clearly articulate opinion of the standard of care, needed to be better.

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Due to rumors of the PHI contract, the CMS took action against Schmidt individually to safeguard the material interests of physicians in spite of the improved medical care and education to the community that the Illinois Social Hygiene League provided. Following a year-long financial and treatment upswing at the ISHL, the Chicago Medical Society held a council meeting on December 11, 1928. After they heard a report of the Special Committee to

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29 Agreement of Cooperation Entered into between the Public Health Institute and the Illinois Social Hygiene League, November 28, 1927, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 4.

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Investigate the Illinois Social Hygiene League and the Public Health Institute that affirmed that PHI “has taken over” the ISHL and “was now running it as a part of the Public Health Institute,” the council adopted a motion “that the Secretary be instructed to prefer charges of unethical conduct against Dr. Louis Schmidt because of his connection with the Illinois Social Hygiene League under this arrangement.”

Jonathan Engel has noted that the AMA favored the economic independence that had evolved but that “Physician income had declined precipitously in the late 1920s, and future reductions would threaten the ability of private practitioners to remain independent.” At the same time, the AMA differed with doctors specializing in public health on the role and extent of government in public health initiatives, with the AMA arguing that government should remain largely hands-off. This extended to issues of insurance, with the AMA refusing to accept any changes in the ways doctors were paid or to formalize medicine as a deliberate and articulate system. In 1927-8 physicians, Engel contends, “besieged” the AMA with questions about the intention of the five-year fact-finding endeavor of the Committee on the Costs of Medical Care, an independently endowed organization formed in 1926 to study in depth the cost of medical care. This is another possible influence on the AMA reaction to the Schmidt case and Schmidt may have suffered from the aggressive response of an AMA already on the defensive.

On March 26, 1929, Dr. F. D. Hollenbeck, Chairman of the CMS Ethical Relations Committee notified Schmidt at his office by letter, sent from the CMS offices four blocks away, that they had forwarded the unethical conduct charges to the Secretary and instructed Schmidt to meet with them on April 5. Secretary Dr. James H. Hutton sent Schmidt a two page letter detailing the charges, specified the language of the CMS constitution, and further outlines the parts of the Principles of Medical Ethics of the American Medical Association that “it was felt” Schmidt had violated. The letter accuses that Schmidt violated Article 2, “that the object of the Society is to ‘safeguard the material interests of its’ members.” Schmidt, it said, had violated the AMA Principles Chapter 2, Article 6, Section 2 that read, “It is unprofessional for physicians

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30 Chicago Medical Society council meeting minutes, December 11, 1928, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 14.
31 Jonathan Engel, Doctors and Reformers: Discussion and Debate over Health Policy, 1925-1950, (Columbia: University of South Carolina Press, 2002), 26, 41, 44, 82.
32 Dr. F. D. Hollenbeck to Dr. Louis E. Schmidt, March 26, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 4.
33 Dr. James H. Hutton to Dr. Louis E. Schmidt, March 26, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 4.
to dispose of his services under conditions which interfere with reasonable competition among the physicians of a community.” Hutton’s letter also indicated that Schmidt violated Chapter 2, Article 1, Sections 4 and 7 and quoted those sections at length about the advertised solicitation of patients, the trumpeting of radical cures or skills, and the obligation of physicians to expose and bring before medical or legal tribunals “those who are unfit or unqualified because deficient either in moral character or education.”

Even allowing for the spirited defense of the economic rights of the profession, this would have been a glaringly misplaced charge to level against Schmidt who had been trained at Northwestern Medical School, completed post graduate work in Europe, pioneered the field of urology, and practice medicine in Chicago for over thirty years.

The day before the April 5 meeting, Louis Schmidt drafted a letter running three pages to the ethical relations committee that is marked “never used.” He explained that the Illinois Social Hygiene League remained distinct from the Public Health Institute and possessed independent officers, directors, employees, aims and purposes. The groups operated “solely in the interest of the community – its health, education, and welfare” and the Public Health Institute “is a well-conducted, efficient, useful public agency of high aim and commendable purposes.” Schmidt outlined the financial aspects of the contract and the restructuring of the ISHL that he undertook and pointed out that the alternative had been to shut down the entire operation after ten years of work. He noted that due to the efficiency and lower overhead of the arrangement, “Economy enables us to do better medical work for the community at smaller cost.” As a result, “we have a better clinic, one of the best in the country, and we intend to make it the best in every respect.”

Formal charges against Schmidt sharply defined the divide between the material interests of the CMS physicians and the “purpose” of the ISHL to provide for the medical interests of the community. In this action, the CMS effectively asserted that Schmidt interfered with the material interests of the physicians. Schmidt privately asserted that the ISHL, and, by implication, the PHI, only focused on providing “the best” level of care to the poor community that they treated without regard to the material interests of physicians. Schmidt’s use of high and commendable

34 Dr. James H. Hutton to Dr. Louis E. Schmidt, March 26, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 4.
35 Dr. Louis E. Schmidt to Ethical Relations Committee, April 4, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
purpose here approaches the language of a guiding notion, something higher than medical treatment as a problem or interest.

In Schmidt’s hearing, the CMS Ethical relations Committee focused on Schmidt’s own material interests, his attitude to the PHI counter to CMS orthodoxy, patient treatment, Schmidt’s association with the PHI, and the legitimacy that Schmidt’s status lent to the PHI. The meeting of the Ethical Relations Committee of the Chicago Medical Society took place at 4 P.M. Friday, April 5, 1929, at the CMS offices at 185 North Wabash.

The committee suggested that Schmidt had contracted with the PHI to protect his own material interests, but Schmidt rejected this notion and explained his commitment to the ISHL. The Chairman, Dr. F. D. Hollenbeck, began the proceedings by explaining that Dr. Schmidt was “being tried” based on “the proposition of your connection with the Public Health institute which has been characterized as a quack institution.” Schmidt admitted this connection, but explained that the PHI had no control over the Illinois Social Hygiene League in spite of the language of the contract. Schmidt explained his personal stake in the matter. His personal guarantee of a $75,000 note on the League’s building led directly to his signing the agreement and Schmidt denied any unethical conduct on his part. He argued, “I accepted their financial help in order to cut down the unnecessary expenditure of money.” The ISHL’s finances and services had improved as a result. Schmidt later commented that “My complete and supreme belief in the necessity of the Illinois Social Hygiene League as a civic institution led me into taking on these responsibilities.”

The committee then focused on the PHI and Schmidt conceded their financial support of the ISHL. Hollenbeck explained, “The Illinois Social Hygiene League is not the question. It is the Public Health Institute.” Schmidt pointed out that he did not take money from the PHI as an individual. Instead, he noted, “If this is directly a charge for accepting money from the Public

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36 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 1, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
37 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 2, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
38 Dr. Louis E. Schmidt annotations to Ethical Relations Committee Transcript, October, 1929, 2-3, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
39 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 2, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
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Health Institute, I accept money as far as my institute is concerned. That is definite, no evasion whatsoever. You can put that down in big letters.”

This financial support aside, the outlaw status bestowed by the CMS on the PHI colored the ISHL’s association with the PHI, but Schmidt argued that the ISHL board, made up of people from outside the medical profession, disregarded the CMS prohibitions. The President of the Chicago Medical Society, Dr. Frank R. Morton, countered that “The charge is, Dr. Schmidt, that you, knowing that the Public Health Institute is in disrepute and not recognized as being an ethical institution, have entered into agreement with them as President of the Illinois Social Hygiene League.” Schmidt responded that the Executive Committee of the ISHL considered and accepted the contract and that “As far as the League is concerned, no money for its activities pass through my hands.” He later noted that he concurred with the ISHL directors who had deliberated about the PHI’s status with the CMS and, because many directors were laypeople, they “did not consider that this was sufficient reason not to accept the contract.” Schmidt believed that “If I understand that correctly it is this particular attitude for which the Ethical Relations Committee recommended that I be dropped from the membership of the Chicago Medical Society.”

Morton asked if the PHI had any influence on ISHL patient treatment and Schmidt explained the high standard of care. The treatments for patients of the ISHL, at Schmidt’s direction, “are above the standard. I try to a certain extent to regulate the treatment that I would consider desirable” and this, to him, meant treatment comparable to what he would offer at his own practice. Morton asked about the clause of the contract that transferred control of the ISHL to the PHI, but Schmidt indicated that the clause was never carried out and the PHI did no work at the ISHL. The PHI had no control of the medical care at the ISHL in spite of the language of the contract.

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40 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 2, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
41 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 3, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
42 Dr. Louis E. Schmidt annotations to Ethical Relations Committee Transcript, October, 1929, 4, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
43 Dr. Louis E. Schmidt annotations to Ethical Relations Committee Transcript, October, 1929, 4, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
44 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 3-4, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.

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The hearing turned to the subject of the material interests of physicians. At this point, Dr. Hollenbeck contended that, “As I see it, the whole proposition is the association of the League, of which you are the President, with the Public Health Institute which is engaged in undermining the physicians.” Schmidt shot back, “You can look at it any way you want to. I am collecting the money as stated. If that is the grounds for the charges that is true. I am accepting their money as President of the League. I agree with a great many things. There are other things I don’t agree with. Lots of doctors have a very much closer association than I have. Investigate a couple of hundred of your members.” Although certainly aware of other physicians, hospitals, and universities that treated PHI patients and benefitted from PHI funding, Dr. Bruning demanded, “Give us their names.” Schmidt responded, “My relation with any patients from the Public Health Institute would go into your eye. I have been accused of being a consultant, but that isn’t true. No use arguing that contract. It is there, but it isn’t carried out to the letter.” Schmidt later commented, “I do not quite agree with you as regards the Public Health Institute undermining the Physicians.”

Doctor Morton continued to try to determine the involvement of the PHI in the direction and functioning of the ISHL. The ISHL, Schmidt had suggested to the PHI, would “take care of their free patients, patients unable to pay their price, but who they felt worthy of consideration as far as treatment was concerned.” He related the structure of the ISHL, the costly improvements they have made, and the extent of their social education services.

Though they sought Schmidt’s agreement that PHI funding was a problem, Schmidt suggests that broader, unspoken issues needed consideration. Dr. Galloway asked, “Don’t you believe it is bad for the organized profession to have to get funds from an institute that is outlawed by the profession to do its work?” Schmidt responded, “There is a lot of room for discussion there. I prefer not to take it up.” Dr. Morton, alluding to the CMS negotiations with

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45 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 4, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
46 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 4, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
47 Dr. Louis E. Schmidt annotations to Ethical Relations Committee Transcript, October, 1929, 5, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
48 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 5, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
49 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 6, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
the PHI, asked, “Don’t you think it would be a lot better if they would get in cooperation with organized medicine?” Schmidt pointed out the ongoing discussions between the PHI and the CMS and noted, “I believe when it comes to the state of medicine, the medical profession is up against a hard problem. I think it would be well for organized medicine to settle this problem once and for all.” Schmidt pointed to a larger issue concerning the state of organized medicine.

The committee sought to limit Schmidt’s legitimation of the PHI and asked him to resign the presidency of the ISHL. Morton asked, “Don’t you know, Dr. Schmidt, that indirectly a man of your prominence with an association of this kind gives them some standing?” “When it comes to associating I know a lot worse,” Schmidt responded. Morton stated, “I want you to feel this isn’t a personal thing, but we want you to be with us. Your name means a great deal to them” and “You understand this isn’t personal, but we feel that a man of your prominence should be with organized medicine rather than with an institution of this kind. Would you consider resigning from this position?” Schmidt insisted that, if he did resign, another director would be appointed and, due to his obligation for the $75,000 note, he intended to negotiate with other institutions. Dr. Bruning said, “I don’t believe you are two people. Are you two individuals, or are you the same man practicing in your office and acting as President of the Illinois Social Hygiene League?” Schmidt responded, “I am.” “I think it is personal, and I don’t agree with Dr. Morton at all.” Dr. Bruning said. “As you are a member of the Chicago Medical Society it is necessary for us to talk to you about your connection with this Institute.” The transcript abruptly ends, “The Committee recommended that Dr. Schmidt be dropped from membership.”

The committee clearly sought to end the PHI’s influence by highlighting the group’s attempts to undermine physicians’ interests by providing or enabling the treatment of the physicians’ potential patients. Schmidt continued to argue that the ISHL, under his direction, dispensed the best care to charity patients, which likely only further incited their wrath. Citing concerns about the clinics’ standard of care, the undermining of physicians’ interests by the PHI, and the cross purposes of Schmidt and the CMS, the committee voted to expel Schmidt from the organization.

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50 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 7, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
51 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 8, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
52 Meeting of the Ethical Relations Committee Trial Transcript, April 5, 1929, 8, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
Figure 5 Front page of the Chicago Tribune reporting Schmidt’s expulsion from the Chicago Medical Society.
3.

After the judgment of the committee, a huge shift in sentiment occurred for both sides regarding who these medical concerns applied to, the growing importance of the issue of cost, and the broader meaning of the issues nationally and across classes. Schmidt indicated his desire to appeal the committee’s decision and have his case heard by the general council of the Chicago Medical Society and began to recognize the implications of the issues in his case. The *Chicago Tribune* reported that “Dr. Schmidt was read out of the society even before he had opportunity to express his desire to appeal to the council against the report of the ethical relations committee. When he rose, after the council had approved the report, and reminded them that he was entitled, under the by-laws of the society, to appeal to the general council, he was allowed to read his plea.”

In his plea before the general council, Schmidt pointed to the centrality in his case of the issue of medical costs for the general public, the sick, and, more specifically, the middle class. He stated, “There is so much at stake in this controversy - to the general public as well as to the entire medical profession.” “I am not alone when I say that the profession must quickly bring down the inexcusably high costs of medical care,” he pointed out, “We cannot make all doctors rich by forming a trade union. Ours is a profession, not a trade.” He continues to recognize the interests of the patient over those of the physician when he notes, “We must keep on trying to help the medical man’s lot. But we must not buy him prosperity at the cost of the sick. Let us not break down the reverence of patients for their physician, and turn our noble calling into commercialism.” In spite of his case, he still acknowledged the interests of the medical profession.

The language of his appeal sought some kind of compromise between these competing interests. He stated, “The time will come when both the profession and the public will be better served. If we organize to bring down the cost of hospital, laboratory, and medical care within the purses of all that great majority of our people, known as the middle classes, you will see that all reputable, capable physicians will prosper greatly.” Here, he offered some middle ground.

But he refused to cut his ties and compromise his work and the progress they had made. “The Illinois Social Hygiene League, of which I am president and chief medical officer, is a

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Dr. Louis E. Schmidt Appeal the general council of the Chicago Medical Society, April 13, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
charitable organization. We give free treatments to the thousands of men, women, and children, who have become afflicted with social diseases. As a result, the spread of the disease, which has been the ruin of nations, is waning. Through our connections with the Public Health Institute, we have been able to increase our efficiency many fold.” Having made progress, he continued to favor the interests of humanity over orthodox ethical considerations. He asked, “Is it wrong for medical men to accept help for charitable organizations so they may aid humanity? Must I stop that work because the Public Health Institute, through its lay trustees, advertises the perils of venereal disease? I cannot do it.” He called for a unified crusade of physicians, organized medicine, and charitable organizations and requested that the council “recognize my position as ethical, and that you here and now launch the movement which will bring the great art of medicine within the reaches of the masses.”

The CMS ignored Schmidt’s call for action. The Official Bulletin of the Chicago Medical Society reports, “After listening to Dr. Schmidt’s appeal, motion was adopted that the Council concur in the recommendation of the committee.” The Tribune reported, “Though he asked for a full hearing and a trial, the council simply took a new vote immediately and ousted him over again.”

Many of his prominent colleagues across the nation sided with and encouraged Schmidt and sought a compromise between the competing interests of organize medicine and the public. That week, Dr. William F. Snow, a noted public health physician and author, wrote, “your many friends in New York and elsewhere in the United States are greatly interested in the situation.” He stated, “I think most of us are not taking the matter seriously in any sense except that it may be the beginning of an important battle for proper definitions of medical ethics and for the awakening of the medical profession to a sense of the need for adequately correlating the best interests of the people as a whole with the proper interests of the medical profession as a whole.”

54 Dr. Louis E. Schmidt Appeal the general council of the Chicago Medical Society, April 13, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
56 Chicago Tribune, April 10, 1929.
57 Dr. William F. Snow to Dr. Louis E. Schmidt, April 12, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
The Case of Dr. Louis E. Schmidt

The issue of medical costs, especially for the middle class who were at once the source of medical revenue and could easily be knocked down to a lower class by the expense of serious illness, began to resonate. Because of this, public pressure on the CMS mounted. By April 20, The Chicago Medical Society felt a need to issue a statement that stated their action had been “based on violations of those principles of medical ethics quoted herein, and had no reference to the cost of medical care which was featured by the press.” They argued that “these principles are binding on all reputable physicians and are intended primarily to safeguard the interests of patients by defining the relation of the physician to his patient, to other practitioners and to the public.” In the statement, the CMS said, “It is unprofessional for physicians to dispose of his services under conditions that make it impossible to render adequate service to his patients. To do this is detrimental to the public and to the individual physician, and lowers the dignity of the professional” They condemned advertised solicitations that “lower the tone of any profession,” called the controversy with the Public Health Institute long-standing, and stated that Schmidt’s “connection” to the PHI led the CMS “to discipline him in the way it has done.”

They had clearly shifted their position in favor of the interests of the physician coupled with the physician’s skill and ability to serve and safeguard the interests of the patient. This coupling subsumed the interests of the patient within the interests of organized medicine.

On the same day, an AMA piece, authored by polemicist Dr. Morris Fishbein, set the policy for organized medicine, arguing against charges of CMS aggression, pleading impotence in controlling medical costs, and endorsing individual care over mass care. The Journal of the American Medical Association editorial sought, it said, to detail the background of “a problem which began like a slow growing fungus several years ago and which now, by manipulation, stimulation, and intricate newspaper encouragement, has burst forth into a scarlet odoriferous bloom” and to determine “what must be the attitude of medicine toward the situation.” The editorial argued that “the medical society did not wage, and has not waged, anything like an active campaign against the Institution” and went on to give an account of the PHI as uncontrolled, without regard for medical ethics, and complicit with big business, as it made money rapidly and showed “that venereal disease can be treated in a wholesale manner at a profit.” The editorial suggests that Schmidt personally profited from the contract with the PHI

and that Chicago newspapers gave favorable coverage to Schmidt and the PHI. Discussing the controversy of high medical costs, the editorial asserted physician fees made up only a small portion of medical costs and could instead be attributed to advanced medical science and that organized medicine had ongoing studies seeking ways to address the problem. It concluded that “Eventually these experiments and these studies must yield something in the nature of progress toward a solution if not an actual solution. There is, however, no panacea that will cure the condition. The self-seeking, quasimalicious, uninformed if not stupid, mouthings of notoriety seekers will do more to inhibit as early solution than to solve the problem.” Finally, disregarding the needs of the poor, the editorial suggested that individual care remained the best standard of care, stating that “Patients able to pay for individual care will always receive better attention than those handled by mass methods. Human beings cannot be relieved of their ailments as are motorcars.”

Doubting those who professed publicly to represent the interests physicians, Schmidt later commented, “If anyone claims, and I refer to Dr. Harris and Dr. Fishbein, that my object in making a contract with the Public Health Institute was simply to protect me so that I would not be obliged to shoulder any financial loss, they simply do not understand my supreme confidence in my friends who are associated with me in this work to see to it that I personally would not have any monetary loss. I regret to believe that such an accusation can emanate from the minds of men who proclaim to have the interests of the medical profession at heart.”

Schmidt had come to consider the wider issue of medical costs in terms of not just the ISHL’s largely poor patients, but as more broadly a concern of the middle class. At the same time, the CMS and the AMA had made a concerted effort to try to subsume patient interests under the interests of the physicians.

4.

The public followed Schmidt’s ordeal, the country’s newspapers covered the proceedings daily, and messages of public support flooded in to Schmidt’s office and the papers. Locally, and then nationally, reports in the press and in medical journals argued that the CMS

59 Journal of the American Medical Association 92, no. 16 (April 20, 1929), 1350-1352. Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.

60 Dr. Louis E. Schmidt annotations to Ethical Relations Committee Transcript, October, 1929, 3, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
aggressively attempted to control and enforce monopolistic higher prices for medical care. By mid-April, the Schmidt case had generated front-page news coverage that shifted public attention from the case to issues of medical costs.

A succession of *Chicago Tribune* articles\(^{61}\) beginning in the days before the CMS expulsion had led to national interest (including an article on the front page of section 3 in the Sunday New York Times)\(^{62}\) and letters of support for Schmidt and expressions of opinion concerning these issues. As early as April 7, 1929 the *Tribune* asserted that the Chicago Medical Society had launched a campaign against charity and had been instrumental in stopping or undermining medical projects to assist the poor in the city. The *Tribune* charged that “Activities of the Chicago Medical Society in opposing the establishment of free clinics have resulted in a number of active disputes in which physicians took opposite sides.” The CMS had frustrated plans of the Chicago Lying-In Hospital “where needy mothers might receive at little or no cost advice concerning prenatal care and infant welfare,” had asserted that charity patients of a University of Chicago clinic could afford to pay fees, and had forced St. Elizabeth hospital to drop plans for opening a small clinic and dispensary. The *Tribune* declared that the reason for CMS opposition to the projects was to protect the fees and practices of physicians in the vicinity. The CMS had proclaimed that they were “eager and willing to serve without recompense all those in need of free service, but in justice to the public who do not desire medical pauperization we do not believe service should be given indiscriminately.”\(^{63}\) Nearly every day, from April 9 through April 15, letters concerning the case, from mostly supportive citizens and doctors, appear in the *Tribune*’s “Voice of the People” column. One W. Sayner argues that “the Public will not forever put up with” the high cost and limited treatment “of one of the absolute necessities of continued social life.”\(^{64}\) The Chicago Association of Commerce, a civic group of influential business leaders, issued a statement to the press exclaiming that the controversy threatened to undermine “the entire program of local medical charity for persons of moderate means.”\(^{65}\) Even the *Chicago Defender* weighed in the same day, stated bitterly, “Dr. Louis E. Schmidt, one of the most prominent physicians in Chicago, has learned that most of the noble

\(^{61}\) Articles related to the case appeared in the *Chicago Tribune*, April 7, 8, 10, 11, 13, 16, 18, 25, 1929. Letters of support appeared in the *Chicago Tribune*, April 9, 10, 12, 13, 15.

\(^{62}\) *New York Times*, April 21, 1929

\(^{63}\) *Chicago Tribune*, April 7, 1929.

\(^{64}\) *Chicago Tribune*, April 15, 1929.

\(^{65}\) *Chicago Tribune*, April 13, 1929.
and high-sounding phrases that are applied to persons of his profession are on paper only.” The Defender declared that Schmidt was punished by the CMS “because he insisted on allying himself with a clinic that gave free treatment to patients who were unable to pay” and noted that, unlike most self-interested doctors, “Dr. Schmidt was an exception—and he has suffered the penalty for his attitude.”66 This coverage culminated in a two page article in The Nation, “Shall Doctor’s Fees Be Lowered?” The article, with a byline from Chicago on April 13, 1929, closely followed the content and the structure of the Tribune coverage and brought the case more national attention. The argument that the case was really about medical costs, the article reports, had a basis in public sentiment. It read, “But it is from the laymen that the doctors are hearing in caustic terms. The situation has unleashed all the pent-up animosity of those folks who believe they have been improperly diagnosed by the physicians, gouged by the hospitals, and profiteered upon by the doctors’ allies, the druggists.” The story stated, “Nearly everyone appears to believe that the charge of advertising is only a blind; that behind it lies the true objection—lower charges to patients. The conclusion is inescapable that these doctors are less concerned about ethics than they are about what may happen to their incomes.”67 In the days following his expulsion, Schmidt’s case focused consideration on issues of medical care that resonated nationally and brought support for “one of the necessities of continued social life”—available and affordable medical care.

5.

Schmidt continued to express his beliefs and tried to show that medicine was necessarily commercial and that his professional interests included an obligation to provide adequate medical care to all. In May, 1929, for the Illinois Social Hygiene League’s annual meeting, a dinner was held in Dr. Schmidt’s honor at the Union League Club in Chicago. Schmidt, in his first public appearance since his expulsion, gave a speech entitled “Looking Forward in Medicine.” Michael Davis, Director for Medical Services for the Julius Rosenwald Fund reviewed the text of the upcoming speech and in a letter dated May 7, 1929, stated, “I am

66 The Chicago Defender, April 13, 1929.
delighted that you are coming out so frankly and definitively on a number of important points.” Schmidt’s speech described conducting business as a part of the condition modern medical practice and quotes the writings of members of the AMA that deal with balancing commercial needs with the social obligation of medical care. He quoted AMA secretary Olin West who, in 1922 said that “The one great outstanding problem before the medical profession today, is that involved in the delivery of adequate scientific medical service to all the people, rich and poor, at a cost which can be reasonably met by them in their respective stations in life.” He called advertising right and necessary and took the opportunity to challenge the AMA’s Dr. Fishbein, stating, “I am wondering where Dr. Morris Fishbein, the editor responsible for the article, obtained his information. He knows me sufficiently well to have asked me about the correctness of this statement. He knows that an editorial in the Journal of the American Medical Association reaches 100,000 or more readers and that the publicity was given for no other purpose than to incite antagonism toward me and this, even before I have had my opportunity of carrying my appeal to higher medical authority.” As to the meaning of his own case, he noted, “I am convinced that this publicity which expressed the public attitude has helped immensely to clarify many of the medical issues involved. The issue is not local, but national.” In this speech, Schmidt acknowledged publicly the support for the interests of all people, men, women, and children regardless of class, to receive at least adequate medical care.

6.

Schmidt appealed his case to the Council of the Illinois State Medical Society on May 21, 1929, and this garnered even more national attention that helped further define the need for medical care in the interests of the community. In his appeal, Schmidt explained that the Public Health Institute operates solely for “benefiting of humanity through endeavoring to stamp

68 Michael M. Davis to Dr. Louis E. Schmidt, May 7, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.
69 Dr. Louis E. Schmidt Speech “Looking Forward in Medicine,” Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16. The speech is dated May 16, 1929, but the Chicago Tribune ran an article about the dinner and speech on May 9, 1929.
70 Though his case had not yet been heard by the Illinois State Medical Society, he received a letter from the American Medical Association dated May 9, 1929 that stated, “As you have been reported no longer a member of the Illinois State Medical Society, your name is automatically removed from the membership roster of the American Medical Association, consequently you are no longer eligible to Fellowship.” B. C. Davy to Dr. Louis E. Schmidt, May 9, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.
out social diseases” and that advertising they had conducted was “operated and maintained for public service and not for profit with the sole aim of promoting the public health and furnishing adequate medical care in sickness.” The Council voted 9-0 to sustain the CMS decision. Later that day, Schmidt appealed to the House of Delegates, who also sustained the decision.

The next day, May 22, 1929, Schmidt’s case gained even more national attention when The New Republic published the article “Doctors and the Poor.” The article delved into the background of the Public Health Institute noting that its “advertising is in the public interest since it brings under its treatment many individuals who otherwise would be a menace to the community.” The article stated that in its stand against the PHI, the CMS “gives no credit for any contribution either to public health, medical therapy, or medical economics,” though “informed” physicians, it found, held that “while the Institute may have its faults, it provides treatment to its patients which is on the average far better than these individuals would otherwise receive, and at a cost which they can afford to meet.” Schmidt was subject to sanction, the article speculated, because “Although it is not so stated in the action, the fact that Dr. Schmidt is known to be sympathetic with the aims, purposes, and methods of the institute itself was undoubtedly of considerable influence in determining the action taken.” “The public,” the article argues, “has a vital interest in the problem of the costs of medical care, and, in the end, the public interest must and will be served.” The New Republic asserted that medical treatment benefited the community not just for their own treatment, but that the community benefitted by treating others.

The case even influenced legislation. The New Republic found that the CMS “is now understood to be sponsoring a bill before the Illinois State Legislature to prevent any corporation from engaging in the practice of medicine.” This refers to Senate Bill No. 231, introduced by State Senator Earle B. Searcy of the 45th District on March 7, 1929 and referred to the Committee on Public Health. A bulletin by the Legislative Committee of the Illinois State

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71 Dr. Louis E. Schmidt Petition for Appeal to the Illinois State Medical Society, May 18, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 16.
72 Harold M. Camp, Secretary of the Illinois State Medical Society to Dr. Louis E. Schmidt, May 21, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.
73 Harold M. Camp, Secretary of the Illinois State Medical Society to Dr. Louis E. Schmidt, May 21, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.
Medical Society stated that the bill had been, at some point around this time, defeated and that the Legislative Committee “withheld consideration on account of Dr. Schmidt controversy, and realizing the inevitable defeat of the measure this session.”\(^7\) The controversial public attention stopped this legislation as national attention focused on providing medical care that benefitted the community and, in Schmidt’s most recent public assertion, humanity.

7.

Louis Schmidt appealed to the Judicial Council of the American Medical Association on June, 28, 1929. The atmosphere of Schmidt’s AMA appeal led to overt assertions of rights talk that characterized the opposing interests of both sides as competing rights. He received several letters from officials explaining that the committee had put off hearing the case at their annual meeting in Portland that year.

But before Schmidt had even lodged an appeal, the Chicago Medical Society announced at its annual meeting that they would not budge in their position on the corporate practice of medicine and asserted that this position was a right. In his inaugural speech, Dr. Charles B. Reed, the newly appointed president of the organization, stated that they maintained the action against Dr. Schmidt and that high medical cost had no bearing on the case. The \textit{Chicago Tribune} wrote, “Society must learn, Dr. Reed said, that medical matters must be managed by medical men. State medicine, the pay clinic, the corporate practice of medicine and abuses of the charity organization are wrong in principle, he asserted.” Dr. Reed contended, “We have the right and purpose to oppose these movements, not through selfish or mercenary motives as charged, but in the interest of the community and the rights of the individual” and that physicians would oppose efforts to “deprive an American citizen of any voice in choosing his physician.”\(^7\) Physicians, in the midst of this controversy initiated rights talk and asserted that they considered their material interests, combined with the medical interests of the community and the individual, their right.

Schmidt’s bound and printed appeal to the AMA largely synthesized and summarized the explanations and arguments that he had used up to this point and likewise asserted opposing rights. He wrote, “the chief issue, which I have shown is one of public moment and one affecting

\(^7\) Legislative Committee of the Illinois State Medical Society Bulletin, 1929, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 1 Folder 5.
\(^7\) “Doctors’ Chief Sounds Call for Medical Liberty” \textit{Chicago Tribune}, June 20, 1929.
the future progress toward providing the best of medical care to the middle and low income classes at a price they can afford to pay.” In his appeal, Schmidt echoed the CHS talk of rights:

I believe and humbly assert that the issues of the case are of such great moment to the medical profession, and to society, that I am bound to present fully these arguments in the case. Not that it matters to the profession or public whether Louis Schmidt is expelled from these medical societies—this is a matter of no moment. But the issues upon which he is expelled are issues which I believe attack the rights of the public to receive expert medical care at a price they are able to pay, and issues which shall seriously retard the advance of our great profession.78

8.

In September, 1930, Schmidt drafted an update of the medical issues surrounding the case and the effort “to give these the same kind of medical examination and treatment as those that can afford to pay.”79 More than a year after he had initiated his AMA appeal, the AMA Judicial Council evaluated the case in terms of procedure and not the record of fact and upheld Schmidt’s expulsion.

Though little had occurred to impact health services to the public, Jonathan Engel noted that “The Depression had scarcely diminished most American’s health.” He found that tuberculosis, infant mortality, and infectious disease plateaued or declined slightly. At the same time, malnutrition increased due to poverty and, for the same reason, physicians’ increased charitable care gradually forced a decline in physician income. This, he finds, affected no change in the sentiment of physicians toward medical costs or government intervention.80 Soon after the end of World War II, Chicago dispensaries were absorbed by universities.81

But even in the last year of Schmidt’s life, 1957, Thomas Neville Bonner briefly examined the Schmidt controversy and offered an assessment of the dispute that was framed in terms of rights and is notable for its early, specific reference to medical rights. He wrote:

As for the recipients of charity, critics have insisted that all human beings have a right to the benefits of modern medicine without stigma or feelings of ‘proper shame.’ But defenders of the profession have questioned whether this right extends to the very best

79 Statement by Dr. Louis E. Schmidt, September, 1930, Louis E. Schmidt Papers (1894-1957), Northwestern University Archives, Box 2 Folder 1.
81 How Laymen Cut Medical Costs. (Chicago: Public Health Institute, 1948), 4,33.
and the most expensive type of medical care. If the charity patient deserves the best medical care, why not the very best food, clothing, and shelter? Nearly thirty years later, this discussion persisted unresolved.

Though largely forgotten, the case of Dr. Louis E. Schmidt brought attention and discussion in its time to the right of all, regardless of class and means, to receive equitable medical treatment. But this early rights talk was eclipsed by the assertion of the material rights of physicians as physicians assumed the prerogative to determine the standard of care for their patients.

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