**Obamacare and Medicare: A Physician's View**
**Guest: Dr. Jane Orient**
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***Dr. Jane Orient received her M.D. from the Columbia University College of Physicians and Surgeons, and has served as executive director of the Association of American Physicians and Surgeons.***

**WOODS:** I have been familiar with the—is it the Association of American Physicians and Surgeons?

**ORIENT:** Yes, it is, and you spoke at one of our meetings and gave a terrific presentation.

**WOODS:** Thank you. Yes, I enjoyed that very much, and I have known about you for even longer than that. Toward the end I would like to get a little something about the story of your organization vis-à-vis the American Medical Association. But for now, what prompted me to invite you on was that I happened to be on the website, which is AAPSOnline.org, and I saw that you had written something on the general subject not simply of Obamacare, but on the so-called repeal-and-replace movement that we sometimes hear about from some Republicans. What were you saying about that?

**ORIENT:** Well, this sound bite of "repeal and replace" may sound good, but it's very disturbing because it suggests that the Republicans have accepted the underlying premise, mainly that we need a national plan to fix something called the health care system and just fix it a little differently from the Democrat central planning program without acknowledging that the government does not have any constitutional authority to do this. It totally lacks the competence to do this, and Obamacare is simply making the situation worse than it was before. But without understanding what the problem is, you really can't come up with a replacement. Well, if we want to replace it, it's with freedom, but I don't think that's what the Republicans mean. I think they are talking about still another Rube Goldberg scheme.

**WOODS:** So in other words, the Republicans, if they were to replace it, would not be replacing it with a free market system or replacing it by just getting rid of it and trying to roll other interventions back, but they would just keep the parts of Obamacare that they happen to like. What are those parts?

**ORIENT:** I think that they like, or the people seem to like, things about not allowing insurers to charge or to deny coverage for pre-existing conditions and letting, the 26-year-olds be children for yet another year or not allowing cancellation of insurance plans. But actually, what Obamacare is doing is canceling a whole lot of insurance plans right in the middle of treatment, which is what they criticize the free market for supposedly doing, but it is illegal and it's contrary to contractual provisions to cancel insurance because somebody gets sick. They've got a so-called solution to a non-problem.

**WOODS:** But some people would say that having a pre-existing condition and having difficulty getting coverage is a problem. How do you answer that?

**ORIENT:** Well, it is a problem that was created by the government, by having a system of insurance that is exempt from taxation, if and only if it's bought by your employer. So every time you change jobs, you have to be underwritten again. So at any time during your life you could develop a pre-existing condition. What we really need is a sort of insurance that says, okay, this is non-cancelable. You buy the insurance, and you keep it in force continually. We don't cancel it just because you develop a condition. So there's only the pre-existing condition once, and if you're responsible you pay insurance when you're young and healthy, and then you keep it in force all the time. But there's no incentive to do that under Obama's plan or under the ill-advised plans that are in states like New York and New Jersey that say, oh, we can't charge you for pre-existing conditions. That would be mean, and we'll charge everybody the same thing for the policy with

maybe some age bands or something, and this means that it's stupid to buy insurance before you're sick because you can buy it at the same price once you get sick.

**WOODS:** Haven't they tried to cope with that problem by saying there's a limited range of sign-up periods during the year, thereby limiting people trying this strategy?

**ORIENT:** Yes, that's called the open enrollment policy, and in fact, that's what companies are doing under Obama's plan, so they can't charge extra for people who are sicker. They are saying the market is now closed until November to get coverage in 2015 unless you've changed jobs, or you've gotten married or had a child, or had some other life-changing event. So they have restricted signups to a very narrow range of time.

**WOODS:** Now, I can understand how the general public is likely to be affected by Obamacare. In some ways we'll have to wait until it's fully implemented to see the full cascade of effects, but I can at least conceive of how it might affect the general public. I can see what it's going to do to insurance companies. I can see all the incentives that are created there. But what's it like on the other side of things? What's it like being a physician and having the prospect of Obamacare, but then also all the other various interventions by government? How does that affect the practice of medicine by a physician?

**ORIENT:** If a physician participates in insurance panels—most of them do, although more and more of them are wising up—it means that their ability to do their job is increasingly constrained. They are constantly filling out forms, looking at changes in a little bit of regulation, trying to comply with just really intrusive and meaningless, and onerous, and costly documentation requirements. They don't have time to listen to their patients. They can be punished for offering what the bureaucrats consider to be too much treatment or the wrong treatment for their patients. So many of them are quitting their independent practice. They can't afford to keep them open. And they are going with a big institution and just following orders just so they can get their paycheck until the time comes when they can retire. So we're going to have patients, maybe some of them will realize what's happening and some of them won't. But they are going to be getting care that might as well be rendered by a robot. But it's worse than that. It's rendered by someone who has a conflict of interest and who may be sacrificing his own financial stability, or maybe his own career, if he does what he believes is right for a patient.

**WOODS:** What would be an example of a physician who would be conflicted between doing what's right for a patient and abiding by government regulations?

**ORIENT:** Well, he will be considered an outlier if the codes he submits, the number of treatments that he does, are more than average, and that means that either he will be penalized by having a so-called bonus withheld, or he might just be stricken off the panel, saying, you know, you're just not a team player. You're costing us too much money. We're not getting any savings, which can only come about by restricting care, so you're out of here. Once that happens, he could find his ability to work for anybody else diminished or canceled. Physicians are very well aware of this, and it kind of gets incorporated into their own thinking that if they do something that will be considered a little too much or a little above average, they could suffer.

**WOODS:** I had been under the impression that because of third-party payments, because almost everybody has medical insurance, and the cost of procedures gets submitted to these third-party payers—that the problem was not a problem of physicians who were ordering too many tests or offering too many treatments getting into trouble for doing so. I thought the problem was that they ordered too many of these things in the first place because they knew that there's some third-party payer that'll pick up the tab.

**ORIENT:** Oh, you're exactly right. This is a corrupting influence of nobody being responsible for his own bill. But the control mechanisms that are instituted to try to cope with that problem, managed care, puts all the incentives the other way.

**WOODS:** I see. Now what about the response though that for all the bureaucratic inconvenience that this causes, and for all the transformation of physicians into robots, this is still a small price to pay for getting medical care for all our poor and elderly?

**ORIENT:** Well, in the first place, it's not medical care, and the second place, it's not going to all our poor and elderly. It's restricting the total amount of care that can be delivered. It may be driving out of business the independent doctors who care the most, the most skillful, the most accomplished. It may be shutting down the institutions that really care about patients and just leading to generalized shortages, which means that there's less and less care available and of poorer and poorer quality. So how can you say that that's an

advantage?

**WOODS:** Well, tell me about this. I read anecdotal pieces about physicians who have more or less dropped out of the mainstream system of accepting third-party payment, and they will just put a sign in the window, and they will say this is a cash-only practice and it's $35 a visit for a standard visit, and they've got some kind of price schedule that's easy to access. What are the benefits of doing that? And is there going to be an acceleration of this?

**ORIENT:** I hope so. I hope so that we help to tell these—you know, anecdotes is kind of an insult these days. These are real-life stories of real-life physicians, who instead of just caving in and going to work for a big institution or of hanging up the shingle all together, decide to go back to the old-fashioned way of working for their patients. The advantages are that they can save so much in their overhead that they can keep their prices very low. They can spend all their time doing things that benefit a patient and don't spend their time doing mindless, stupid, repetitious, absurd, counterproductive busywork to satisfy the bean counters. They love their profession again. The patients love it because the doctors are looking at them and talking to them and spending more time with them, and the prices are quite reasonable, and they can figure out what's going on. The prices are known ahead of time, and it's just a really terrific good deal.

**WOODS:** Now, what about Medicare and Medicaid? There are a lot of people who say they favor a free-market approach to medicine, so we need to repeal Obamacare, but Medicare and Medicaid are the elephants in the living room that are not, of course, free market. They are government programs. But you very, very rarely, if ever, hear a prominent free-market person saying that this means, of course, that we'll have to scrap or substantially modify those programs. Where do you stand on those programs? And how do you defend yourself against people who say that, of course, Medicare and Medicaid have kept countless people alive who would have had no access to anything otherwise?

**ORIENT:** Well, we were against Medicare and Medicaid to begin with. They are unconstitutional. The chairman of the House Ways and Means Committee at the time, a Democrat from Arkansas who had been chairman for decades, said he was never going to let it come to a vote because it would bankrupt the country. But then when Johnson came into power with his landslide vote, he said, "Okay, I can count." Now, we're going to run on this forever and ever and ever, because once the politicians are in control, there is always a dispute about, you know, we need to shovel more and more money into it and Medicare is going to crash and burn—that it's just inevitable. It was unconstitutional. We are against it. We need to phase out of it so the fewest number of people get hurt, but as a matter of fact, if Obamacare is unconstitutional, so is Medicare.

**WOODS:** Well, then what are people supposed to do when they are elderly, and they don't have a lot of money? Now, it turns out that the wealthiest cohort in the United States happens to be the over-65s, but even if we leave that aside, think about an indigent 65-year-old man, let's say. He has got no hope of getting medical care. He doesn't care about your constitutional objection.

**ORIENT:** Well, back before 1965 people were not dying in the streets. Half of the elderly had good private insurance plans, and they were really angry when President Johnson got them canceled for them. The others had access to care through charitable institutions, through their state or county, or just through charity by doctors and hospitals. As soon as Medicare went into effect, the price of medical services doubled or tripled overnight, so it was much more difficult for people to afford them, and as I say, all of the private insurance plans were gone. So immediately this had a bad effect on medical care for everybody. To say that we have to magically do away with poverty and illness and the need to be charitable to our fellow man, or else we're going to stuck with a miserable socialist system, is just accepting a terrible, terribly flawed assumption.

**WOODS:** What would you say to people who respond by pointing to the various government-run health programs around the world and who will say, yeah, yeah, you get some horror stories about rationing and wait lists, but if you ask these people, if you poll them, they are all basically pretty happy with those systems, so if anything, we should be more radical than Obamacare and try to adopt some of these successful systems from Europe.

**ORIENT:** Well, some, or Canada, and every time I give a talk there's somebody in the audience that says, "Oh, I know some Canadians. I was a Canadian. It's a wonderful system." And if you poll the people, yeah, a lot of them are in favor of it because they're not sick. They are not lying in a hospital bed or sick. The vast majority of people aren't sick. And they can say well, I don't have to worry about a medical bill because it will be paid for, assuming you can get any medical care, but in Canada there's even a lottery for people to get

a primary physician, and without a primary physician you can't see a specialist at all, and even if you do there are long waiting periods, and there are people who die on the waiting list. In Britain there are people who are starved to death in the hospital because there is nobody to feed them or to even take reasonably decent care of them, and these things, they are just not well covered in the press. If you even quote the British press, people will say, oh, I don't know about that. That must just be the right-wing propagandists casting mud on the National Health Service. Everybody knows it's a beautiful, wonderful system that we ought to have. But I think if you have been sick, or you have been in one of those hospitals, or you have been the family member of somebody who's been in one of them, then you see a different picture, but people will say, oh, you're just telling us anecdotes.

**WOODS:** Last week I was hosting the Peter Schiff Show, and the producer sent me an item that CNN reported about VA hospitals in the US, and I think there was one in Arizona, for instance, in which their publicly stated policy is that no veteran who goes in for care will have to wait more than X number of days to get it, something like 30 days. But then they realized that they can make those public policies all they want, but they are coming up against the limitations of resources. So they established a secret waiting list so that they didn't have to admit they were violating their officially stated policy. These secret lists, they had hundreds of people who were on them for months and months who then died because they were waiting for treatment. So you can speak all you want to about your wonderful policy of seeing everybody promptly, but you know what they say about actions speaking louder than words.

**ORIENT:** Well, the government routinely lies. I mean how many times do they have to lie to us before we finally get the idea that that is just their modus operandi? I worked at the VA after I finished residency for about five years, and our job was to be the gatekeeper and to kick veterans out after they had waited all day if they were not seeking care for a service-connected disability. We violated it all the time, but it was against the rules. That was our role as gatekeeper. These people did not get the treatment that they deserved.

**WOODS:** Dr. Orient, I'd like to know the story of the foundation of the Association of American Physicians and Surgeons because I think, if memory serves, it has something to do with the fact that the American Medical Association and the physicians that formed this new organization didn't see eye to eye on important matters of philosophy and ideology.

**ORIENT:** Yes, in 1943 the Wagner-Murray-Dingell Bill. That was Dingell the elder. The father of the Dingell, the younger, who was the power behind Obamacare was pending in Congress, and AMA was not fighting it, so a number of AMA members set up this parallel organization maybe to be the conscience of the AMA and to do the political work opposing socialized medicine that the AMA was declining to do that point. The AMA did come around and did something to fight Medicare in 1965 but after Medicare passed, then the AMA has just continually moved leftward, and so it is still endorsing Obamacare even though it lost a big chunk of its members when it decided to do that.

**WOODS:** Now did some of those members go over to your organization? Do they know that you exist or does everybody think that it's the AMA or bust?

**ORIENT:** Not everybody knows that we exist. We are becoming better known. We're getting more press than we did before, but you know, the power of the propaganda is pretty great. The AMA can pretend that we don't exist, or if they acknowledge us at all, will call us right-wing extremists, you know, we believe in things like the U.S. Constitution and the patient/physician relationship and putting the patients first instead of population health, and these are considered to be extreme ideas these days.

**WOODS:** Well, let me ask you a very frank question as we wrap up. Of course, you are in a beautiful profession, and we all admire what it is you do, but surveying the situation right now and taking into account what a young physician is likely to experience over the course of his career, do you advise young people to enter medicine anyway and just fight the SOBs from within the profession? Or do you advise them to do something else altogether?

**ORIENT:** Well, a lot of college career counselors are telling the young people—smart people don't go into pre-med. And many physicians have gone so far as to threaten to disinherit their children if they follow in their footsteps.

**WOODS:** Wow!

**ORIENT:** Many children are deciding they don't want to follow in daddy's footsteps because his life is so

hard, and he's so frustrated, and it's becoming harder and harder for him to do his job. I tell medical students, frankly, if it's your vocation, if it's your calling, if you can't not do it, and you are doing it for love, don't let anybody stop you, but if you're going into it hoping that you'll be respected and make a good living and can always count on that, you've got to think twice about that, because doctors are the villains these days. They are the scapegoats.

**WOODS:** Are there any areas of medicine where the doctor is somewhat freer to practice the way a normal doctor would like to practice, or they all uniformly the same?

**ORIENT:** There are some that are worse. The ones that are the very worst are things like kidney disease and ophthalmology, because all in-stage renal failure is on Medicare. A high percentage of eye patients are elderly, and so almost all of the doctor's livelihood comes from these government programs. What doctors are doing more and more is they are going into more alternative, niche practices of medicine where they can still charge their patients what the service is worth—plastic surgery, or just plain alternative, more holistic medicine. A lot of psychiatrists are opted out of Medicare and Medicaid.

**WOODS:** So this might be information that somebody who does want to enter medicine might want to bear in mind. Now, I have a fairly diverse audience listening in. I am sure I have a cohort of physicians listening in. Why should they join the Association of American Physicians and Surgeons?

**ORIENT:** AAPS is the only medical organization that's really based on principle. We do not have any business interests. We are not on the take for selling materials to comply with government regulations or to promote managed care or pharmaceuticals. So we do truly represent the views of our members as they were based on principles of the old-fashioned, pre-revolutionary medicine, the sanctity of the patient/physician relationship. And we fight for our members. We fight against sham peer review. We fight against increasingly intrusive bureaucratic attempts like maintenance of certification. We fight against prosecution of physicians for acting in their own best judgment, which is happening more and more. We fight against threats to one's ability to opt out of Medicare or to opt out of insurance. We provide tools for physicians to maintain a truly independent practice. So if you are a private physician, you believe in the patient/physician relationship? AAPS is your organization.

**WOODS:** I hope very much that people, whether physicians or not, will check out the website, AAPSOnline.org. There's a lot of interesting information there. There's plenty of material that the layman can understand about precisely that—the physician/patient relationship and about public policy related to health. Dr. Orient, I appreciate your time today, and I hope we can direct a whole bunch of promising physicians over to your organization. Thanks so much.

**ORIENT:** And thank you so much for the excellent work that you're doing, Tom.