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Essay by Sally C. Pipes

HEALTH CARE IS NOT A RIGHT

The single-payer con.



CONVENTIONAL WISDOM HOLDS THAT the progressive dream of Medicare for All died—or at least was deferred—when Joe Biden secured the Democratic presidential nomination. Many supposed the former vice president would be more moderate on health care than the president under whom he served. But recently Biden has started sounding a lot more like Barack Obama or even Senator Bernie Sanders. In early July, six unity task forces convened jointly by Biden and Sanders released their policy recommendations for a putative Biden Administration. If implemented, they’d represent the most left-wing governing program in U.S. history.

The healthcare task force stopped short of endorsing Medicare for All. But Biden’s “public option” alternative amounts to single-payer in slow motion. Perhaps most alarmingly, the Democratic presidential hopeful has embraced the idea that Americans have a right to health care. That idea is certainly popular—nearly four in five Americans be-

lieve that everyone should have a right to health care regardless of their ability to pay. But declaring something a right does not make it so. In fact, a government-guaranteed “right to health care” would undermine many of the other more fundamental rights that Americans hold dear.

A False Choice

AT ITS CORE, THE CASE FOR SINGLE-payer health care rests on the assumption that wealthy nations can afford to guarantee a right to health care. That seems simple enough. Who could oppose a societal effort to make sure everyone has access to health care? It’s not a new idea. In 1948, the United Nations unveiled the Universal Declaration of Human Rights. Article 25 of the declaration states, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including...medical care.” Throughout his nearly

50-year-long career, Senator Edward Kennedy pushed for a future in which, as he said at the 2008 Democratic National Convention, “every American...will have decent quality health care as a fundamental right and not a privilege.” President Bill Clinton attempted much the same thing in the 1990s with his unsuccessful push for universal health care, dubbed “Hillarycare” after the First Lady was put in charge of the project. In 2013, President Obama defended the 2010 Affordable Care Act he had signed into law—commonly known as “Obamacare”—by declaring, “In the United States, health care is not a privilege for the fortunate few, it is a right.” Democrats today are carrying on that quest to guarantee a right to health care.

But their rhetoric presents a false choice. Health care is neither a right for the many nor a privilege for the few. It’s a good and a service, just like everything else in our market economy. Scarcity is one of the fundamental concepts in economics: Societies

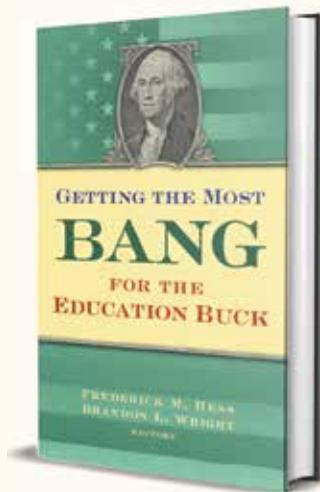
New and Noteworthy Books from AEI Scholars

Getting the Most Bang for the Education Buck

Frederick M. Hess and
Brandon L. Wright

September 18, 2020
Publisher: Teachers College Press
ISBN: 978-0-8077-6441-1

How might school funds be spent more effectively in today's uncertain environment? This up-to-date volume explores a range of ideas to help schools and districts better manage their resources, including how to rethink staffing and management, how policymakers might revisit pension arrangements, how educators and policymakers can leverage technology as a performance-enhancer and not just a cost-cutting opportunity, and how districts might more properly assess the needs and preferences of students and families. As American education enters the next decade of challenges, including shortfalls due to the COVID-19 pandemic, *Getting the Most Bang for the Education Buck* will be a valuable guide for how to spend dollars wisely and well.



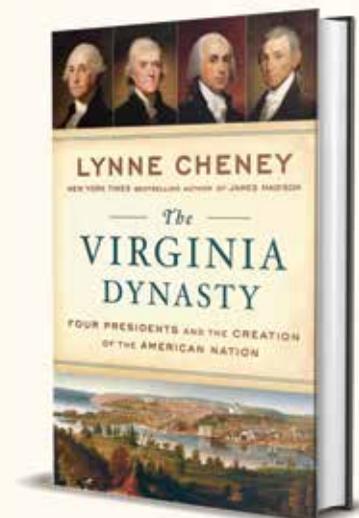
The Virginia Dynasty

Four Presidents and the
Creation of the American
Nation

Lynne Cheney

September 22, 2020
Publisher: Penguin Random House
ISBN: 978-1-1-0198-004-0

From a small expanse of land on the North American continent came four of the nation's first five presidents—a geographic dynasty whose members led a revolution, created a nation, and ultimately changed the world. George Washington, Thomas Jefferson, James Madison, and James Monroe were born, grew to manhood, and made their homes within a 60-mile circle east of the Blue Ridge Mountains. Taking full measure of strengths and failures in the personal and political lives of these men, Lynne Cheney offers a concise and original exploration of how the United States came to be.



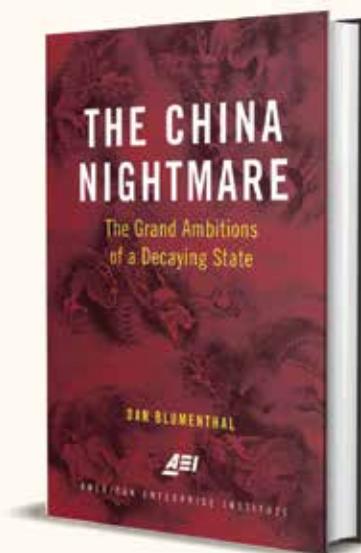
The China Nightmare

The Grand Ambitions
of a Decaying State

Dan Blumenthal

November 17, 2020
Publisher: AEI Press
ISBN: 978-0-8447-5030-9

Once viewed by statesmen and corporations as a great hope, the People's Republic of China has evolved into America's most challenging strategic competitor. Even as it pursues great national ambitions, its future appears increasingly dystopian. *The China Nightmare* tells the story of how China got to this place and analyzes where it will go next and what that will mean for the future of US strategy. Dan Blumenthal makes an extraordinarily compelling case that China's future could be dark, and the free world must prepare accordingly.



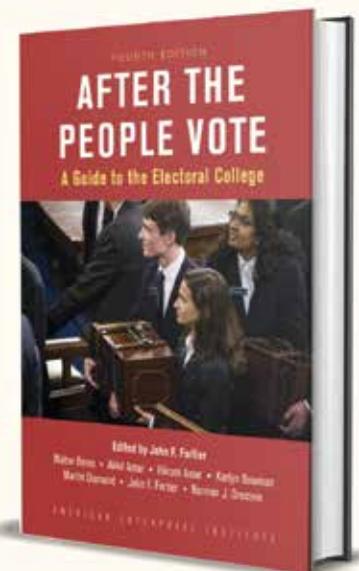
After the People Vote

A Guide to the
Electoral College

Edited by John F. Fortier

Fall 2020
Publisher: AEI Press
ISBN: 978-0-8447-5033-0

The mechanisms that lead to the final selection of a president are complex. Some procedures are sketched out in the original Constitution and its amendments, and others in federal law, congressional rules and procedures, state laws, and political party rules. This new, expanded edition of *After the People Vote*—featuring new sections on public opinion on the Electoral College and proposals for amending the Electoral College system—explains how our system of electing a president works, especially the processes that kick in after the November general election date.



have limited resources. They have to be apportioned somehow. Tradeoffs are inevitable. Establishing a right to health care creates the prospect of infinite demand for care. But health care goods and services are necessarily scarce. There's no way to create an unlimited supply to meet that potential demand. As Northwestern University professor Craig Garthwaite frequently points out, health care is not a public good whose consumption the government can regulate, like parks or clean air. "If I consume health care services, someone else can't," said Garthwaite in an interview with *Vox*. And so by dressing health care up in the language of rights, single-payer advocates are really calling for health care to be free at the point of access—an impossible demand. Willing health care to be free is not a financing plan.

Clearly, though, economics is not a concern for those who maintain that there's an individual right to health care. Dr. Adam Gaffney, the president of Physicians for a National Health Program, said on the website *Common Dreams* that making people pay for health care "is just a way of punishing the sick and the poor." The National Economic and Social Rights Initiative (NESRI) gave Medicare for All "full marks for...providing equal care to all residents regardless of immigration status, income, or past health record." Conspicuously absent from this analysis was any discussion of how to pay for the plan. But even setting aside the practicalities of supply and demand: what would it actually mean to have a right to health care?

By What Right?

A RIGHT IS SOMETHING TO WHICH A person is morally and legally entitled. Broadly speaking, there are two types of rights: negative and positive. Negative rights require others to step aside and allow people to act independently. Most of the rights we hold dear as Americans are negative rights. The Declaration of Independence states that everyone is "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness, [and] that to secure these rights, Governments are instituted among Men." Note what this means: Life, liberty, and the pursuit of happiness are not things a person can get from the government. They're things we're born with. Government exists to secure these rights by establishing conditions that allow us to live freely. That is how negative rights and liberties work: they can be protected, but not given or taken away. Hence the language of the First Amendment:

"Congress shall make no law respecting an establishment of religion...or abridging the freedom of speech." Our rights to freedom of religion and speech don't come from government—government is simply prohibited from infringing upon them.

By contrast, positive rights give us something and require someone else to give it to us. The right to health care would be a positive right. If the government is to enforce that right, then it will have to be the one to directly provide or otherwise finance the provision of health care. Negative rights can be defined and secured—that's what our government does best. Defining the criteria for positive rights, on the other hand, is tricky. What does a right to health care guarantee? Is it just a right to free medical care? Perhaps it's a right to quality medical care, or efficient medical care. If so, which tradeoffs are we willing to make? The government can provide shoddy medical care to a lot of people quickly and

Once the government
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cheaply. But that's probably not what single-payer advocates have in mind.

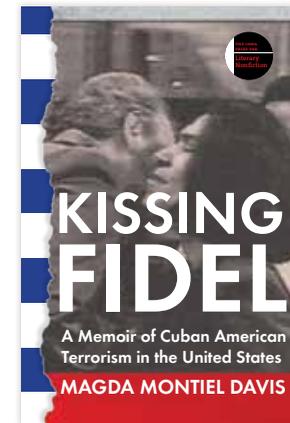
These and many other questions arise as we try to establish a baseline for what we mean by a right to health care. Such difficulties are in part why we don't claim to have a "right" to other basic necessities. Imagine the debate that would ensue over a "right to food." Does that mean a right not to go hungry? Maybe it's a right to consume the necessary number of calories each day. If so, does it matter where those calories come from? It's easier and cheaper to consume 2,000 calories at McDonald's than at a farmer's market. But that isn't the healthiest option. The complications are overwhelming, and they don't come with easy solutions.

Similarly, rights presuppose a level of equality that cannot be achieved in health care. Does a right to health care entitle everyone to seek treatment from the best doctors or at the best hospitals? And to ensure equal protection of that right to health care, would the government have to ban people from

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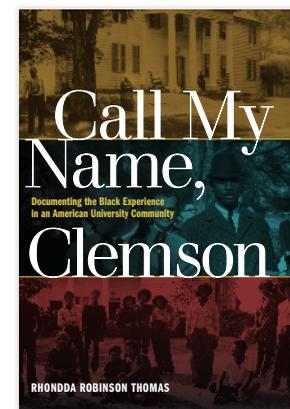
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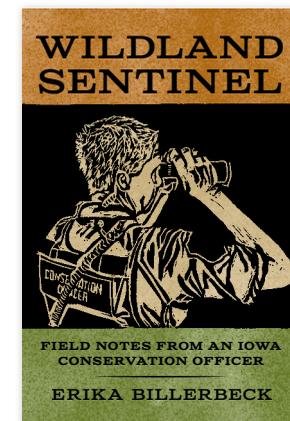
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paying extra for better treatment? Perhaps top-notch facilities would be prevented from offering innovative procedures and instead compelled to offer a suite of government-sanctioned services. This puts the government in a bind as well. If there's a \$100,000 pill that can cure a group of patients, but the government can only afford to give it to half of them, what do we do? In countries with single-payer programs, equality often takes precedence over health. Nobody would get that pill.

The right to health care may also be in tension with other rights, especially those of health care professionals. Negative rights basically require people to "live and let live." Positive rights are more invasive. Can the government compel hospitals to take on more patients than they have beds for? Can it force doctors to log longer hours, work in subpar hospitals, or perform operations that go against their better judgment? The right to health care would also impose duties on every citizen. The U.S. Supreme Court famously found in *Schenck v. United States* (1919) that the right to free speech "would not protect a man in falsely shouting fire in a theatre and causing a panic." Similarly, just because everyone has a right to travel does not mean they can careen down the interstate after consuming an entire bottle of scotch. If I have a right to health care, do I also have a duty to keep myself healthy? Do I waive my right to health care if I'm a smoker or if I'm obese? Would we be comfortable with the measures that officials in the United Kingdom have implemented to prohibit certain patients from having surgery unless they lose weight or quit smoking? Once the government is responsible for guaranteeing a right to health care, it has a plausible claim to micromanage what we eat,

how much we exercise, and how we generally comport ourselves.

Medical Paternalism

UNIVERSAL HEALTH CARE IS PART OF Canada's national identity. In 2012, a national poll found that 94% of Canadians felt their single-payer system was a "source of collective pride." Health care was more popular than hockey, the maple leaf flag, and the queen. In 2004, Canada's government-run broadcast service, the Canadian Broadcasting Corporation, held a vote to determine the greatest Canadian. Canadians chose Tommy Douglas—the father of Canada's single-payer system.

Americans would never take this much pride in a federal entitlement. There's a reason for this. According to a 2011 survey from the Pew Research Center, close to six in ten Americans think "allowing everyone to pursue their life's goals without interference from the state" is more important than the state guaranteeing that "nobody is in need." This attitude is built into our national mythology and identity. President Herbert Hoover called it "rugged individualism." It informed the American Revolution and the settlement of the American frontier. Rugged individualists bristle at the idea of the government telling us what to do. We know that smoking is bad and eating vegetables is good, but we balk at the idea of public officials ordering us to do one and not the other. Single-payer systems necessitate the kind of paternalism Americans have always rejected.

The more a government's health bill increases, the more it tries to intervene in the daily lives of its citizens. The United Kingdom recently imposed "calorie caps" on fast-food restaurants in an attempt to reduce national

caloric intake. The British government has also imposed a tax on companies that make sugary beverages in hopes of forcing manufacturers to reduce the amount of sugar in their products. In the United States, too, several local governments have taken to nannying their residents for public health reasons. In 2012, the New York City Board of Health banned the sale of large sodas and other sugary drinks at the behest of Mayor Michael Bloomberg, although the courts prevented the ban from ever going into effect. In 2014, Berkeley, California imposed its own soda tax. Chicago followed suit in August 2017; it repealed the tax just two months later after widespread protest from city residents. In 2019, researchers at Stanford University found that Philadelphia's soda tax hadn't done much to decrease calorie or sugar intake. But our public caretakers have, if anything, grown more zealous—it's likely that government overreach during the COVID-19 crisis has been motivated, at least in part, by this trend of state-enforced medical mollycoddling.

Alas, single-payer advocates rarely engage in these debates. Without a clear conception of what they mean by a right to health care, they forge ahead with plans that promise to pay for everything under the sun. Those promises are only revealed as empty when it's too late—when the financial realities of a single-payer system prevent the government from keeping its promises. If we're not careful, Americans will be conned into trading away our basic freedoms and receiving false promises in return.

Sally C. Pipes is Thomas W. Smith Fellow in Health Care Policy at the Pacific Research Institute where she serves as president and CEO. This essay is adapted from her new book, False Promise, False Promise: The Disastrous Reality of Medicare for All (Encounter Books).

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