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The Case of Dr. Oz: Ethics, Evidence, and Does Professional Self-Regulation Work?

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Abstract

Dr. Mehmet Oz is widely known not just as a successful media personality donning the title "America's Doctor®," but, we suggest, also as a physician visibly out of step with his profession. A recent, unsuccessful attempt to censure Dr. Oz raises the issue of whether the medical profession can effectively self-regulate at all. It also raises concern that the medical profession's self-regulation might be selectively activated, perhaps only when the subject of professional censure has achieved a level of public visibility. We argue here that the medical profession must look at itself with a healthy dose of self-doubt about whether it has sufficient knowledge of or handle on the less visible Dr. "Ozes" quietly operating under the profession's presumptive endorsement.

Introduction

Dr. Mehmet Oz's surgical credentials including expertise in minimally invasive, heart transplant, and heart valve surgery are impeccable [1]. But when Dr. Oz walks onto the stage of *The Dr. Oz Show*, he's not just a well-trained heart surgeon, he becomes "America's Doctor®." *The Dr. Oz Show* averages nearly four million daily viewers and has won two Emmys [2]. His guest list has included First Lady Michelle Obama [2]. Recently, Donald Trump brought a few medical records and discussed his physical fitness to be president [3]. Dr. Oz has the ear of the public, encouraging Americans to lose weight, eat more fruits and vegetables, sleep, and get their flu vaccinations; he credits his show for three million pounds a year of weight loss in the US [4].

To those "exercising power and influence over matters of policy, opinion, or taste" [5]—that is, the medical and political establishment—Dr. Oz is a dangerous rogue unfit for the office of America's doctor. He has told mothers that there were dangerous levels of arsenic in their child's apple juice (there weren't) [6, 7] and suggested that green coffee is a "miracle" cure for obesity [8]. Federal regulators discovered altered data in hyped

coffee bean evidence [8]. The Food and Drug Administration tested for arsenic in apple juice and found the "vast majority of apple juice tested to contain low levels of arsenic" and given these levels was "confident in the overall safety of apple juice consumed in this country" [7]. Dr. Oz also featured two guests on his show who claimed that genetically modified foods were cancer causing [9] (despite repeated safety reports that found no adverse effects [10]).

For his misrepresentation of weight loss interventions, Dr. Oz got an establishment scolding in a 2014 congressional hearing. "I don't get why you have to say this stuff because you know it's not true," Senator Claire McCaskill told him. "So why, when you have this amazing megaphone and this amazing ability to communicate, why would you cheapen your show by saying things like that?" [11]. Dr. Oz promised he had learned and hired a scientific fact checker to verify the scientific rigor of his claims [12]. Ten physicians wrote to the medical school dean at Columbia claiming that he was endangering public health, had demonstrated contempt for medical and scientific evidence, and was ineligible to sit on the faculty of a prestigious medical institution [13]. Medical and scientific professionals applauded, claiming Dr. Oz "undermines the trust that is essential to physician-patient relationships" [14]. No academic action was taken by the university, citing its commitment "to the principle of academic freedom and to upholding faculty members' freedom of expression for statements they make in public discussion" [15]. Dr. Oz retains both his faculty position and his board certification. Here we explore some of the ironies and challenges posed by the attempted sanctioning of Dr. Oz and their implications for professional self-regulation as well as the boundaries of legitimate medical claims in the twenty-first century.

Dr. Oz and the Problems of Self-Regulation

The profession of medicine in its modern conceptualization includes self-regulation. By upholding quality of care and dealing proactively with those who are dangerously out of step with their colleagues, self-regulation in turn gives medicine a degree of protection and autonomy from government procedural rule [16]. Self-regulation is a hallmark of implied and explicit norms that bind physicians as a group to one another and to society. The capacity to maintain some standard of quality and to respond when boundaries of what is considered legitimate practice are crossed, is sanctioned by society and implied in the privileges society bestows on the medical profession [16, 17, 18].

The Dr. Oz case raises two related but different issues about the ideal of self-regulation in the medical profession that mirror our contemporary moment. The first relates to Dr. Oz himself. Should a physician be allowed to say anything—however inaccurate and potentially harmful—so long as that individual commands market share? In a professional sector whose history and growth is marked by the sustained and rightful denouncement of quacks and quackery [19], an inability to define and fence the epistemic boundaries of scientific medicine from apparent quackery on such a visible scale becomes something

akin to a full-scale identity crisis for medicine. This impotence could be a function of either an unwillingness to undertake or inefficacy in self-regulation on the part of the profession or a perceived or actual possibility that even if physicians strongly sanctioned Dr. Oz, that sanctioning would not ring true for his audience. This situation raises important ethical questions. What standards of certainty should we hold so resolutely that when violated we say "enough!" and thus move to sanction? Dr. Oz certainly appears to be someone peddling unproven and ineffective remedies for personal gain. It would seem like his is a paradigmatic test case for professional self-regulation in medicine. Yet, he remains immensely popular, prompting us to wonder, if we can't effectively sanction Dr. Oz, whom can we sanction?

Implied in the capacity to discipline one of its own is the profession's warrant for doing so. This warrant hinges on our ability to detect and then respond to quackery in the service of public trust. What constitutes quackery deserves scrutiny. Dr. Oz claims he is all about trust. "The currency that I deal in is trust … and it is trust that has been given to me … by an audience that has watched over six hundred shows" [13]. This quotation suggests that Dr. Oz, as a TV personality, seems to feel that he responds to the longings of health care consumers who feel alienated from the markets and bureaucracies we call modern health care. Unlike their experience with a hurried, burned-out primary care doctor, health care consumers get from Dr. Oz a healthy dose of undistracted eye contact, a leisurely entertaining hour, and common sense advice about all the things they don't really teach doctors about in medical school—diet, supplements, and health habits. Not all Americans experience a trusting, empathic interaction with their clinicians. Yet millions seem to feel known and heard after a screen-based virtual visit with "America's Doctor®."

And when it comes to epistemic boundaries, Dr. Oz admits he applies different standards of evidence compared to those accepted in the medical establishment. When challenged by a reporter for the *New Yorker* about his questionable evidentiary standards, he replied that all data could be differentially interpreted. "'You find the arguments that support your data,' he said, 'and it's my fact versus your fact'" [2]. It's not that he doesn't offer data. It's common for Dr. Oz to offer some plausible mechanism from test tube experiments conducted by manufacturers, combined with personal anecdotes from his own or consumers' experience, to support the products he's promoting. A study of 80 recommendations made on *The Dr. Oz Show* in early 2013 found that published evidence supported 46 percent of recommendations, contradicted 15 percent, and did not support 39 percent [20]. Yet, his visible display of inconclusive evidence merely highlights questions about the boundaries of what counts as legitimate evidence in modern medicine. Those standards are fluid and evolving. We settle for incomplete, selectively published data in journals heavily subsidized by pharmaceutical companies and for outcomes that don't give firm answers [21]. While not on par with offering anecdotes as evidence, the fact that debates persist about what constitutes sufficiently high,

unbiased, quality evidence to support decisions in the profession as a whole [22] creates a wedge that Dr. Oz seems to exploit. In this context, Dr. Oz's reliance on incomplete or distorted data looks less exceptional, less worthy of sanction, and more fashionably lax than wrong.

The Boundaries of Legitimacy

The second and perhaps more perplexing irony of the Dr. Oz case turns the spotlight of attention back on the profession itself. That Dr. Oz has been singled out as the target of professional angst to the exclusion of other questionable "professionals" also deserves our reflection. There have always been disreputable physicians on the fringe of medical practice [23], but few with the combination of both media reach and the gloss of academic credentials. At our moment in history, the boundaries of legitimacy appear to be stretched not only by the reach of the media but also by the media's capacity to drive consumption. In a world with such overreach in health claims by a whole range of conventional and alternative actors, legitimacy seems very much a contested category; the possibility of policing excess consistently and fairly seems too overwhelming to contemplate seriously. Should we bring professional self-regulation SWAT teams to bust shady practices? Should we, as the medical establishment, seeking to self-regulate, troll for ads in the *New York Times Magazine* that bait patients to clinical centers to get the next robotic whatever [24] and publicly call into question the claims of esteemed organizations or their practitioners? We have not. And it is the selectivity this case expresses about the epistemic boundaries of medicine that, upon reflection, ought to raise our eyebrows.

Dual narratives of trying and failing to sanction Dr. Oz contrasted with rare attempts to sanction other physicians and their institutions with questionable practices expose a rich heterogeneous subtext of self-regulating impotence, incommensurable values, and commercial distraction for the profession as a whole. We fail to respond to threats that we are in bed with, and we only contemplate policing the "other" when the fame and consumer attention reach a fevered pitch or some economic interest is at stake. Some have speculated that the scientists, whose backgrounds were in areas other than medicine, who wrote the Columbia letter did so only after Dr. Oz came out against genetically modified food—an industry tied to his accusers [25]. In our selective injunctions, arguably we in the medical establishment make gestalt assessments of what is legitimate, barely stopping to question if we've gotten it right. If our gut instincts resonate with sanctioning Dr. Oz, the selection bias of failing to do so in other cases should haunt us. What we try to sanction and what escapes policing notice altogether implicitly define the functional boundaries of the work and in turn what constitutes legitimate and illegitimate bedfellows in it. The medical profession's inefficacy in actually sanctioning our most rogue members, combined with our self-regulating apathy toward more common and less egregious offenders of rigorous medical standards, suggests

that professionalism based on self-regulation might be empirically suspect in the early twenty-first century.

Conclusion

The case of Dr. Oz forces us to own our own contemporary moment, rebooting doubt on how we know what we know and whose opinion counts. In this sense, Dr. Oz and all that he represents is a mirror on the medical profession in late modernity. While medical boards and licensing persist, they arguably persist as weak vestiges of a robust ideal that seems unachievable at this contemporary moment. Here, we've tried to amplify medicine's need to redirect professional consciousness to rebuild the profession's identity, such that more patients will connect with and trust their physician rather than the image of one on TV.

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