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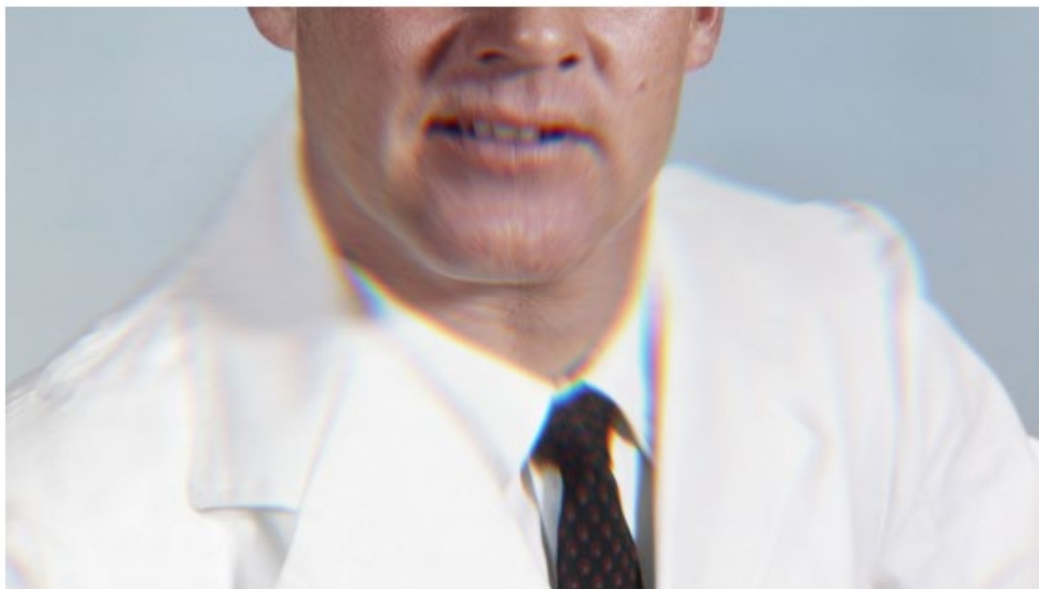
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IDEAS

The Professionals Who Are Really Not Helping



Lawyers and doctors are supposed to work in the public interest—but seldom face punishment when they subvert it.

By Brooke Harrington



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The United States is facing both a deadly pandemic and a political crisis, and in each case, some highly trained professionals have been actively undermining the public interest. A handful of physicians, academics, and other trained experts have helped enable President Donald Trump's deadly mishandling of the COVID-19 pandemic and stoked needless fears about vaccines. Attorneys with impressive credentials have assisted Trump in his efforts to overturn the 2020 election, which culminated in an attempted coup. Many of the professionals in question were once respected authorities in their fields; today, they are at the forefront of pushing conspiracy theories that have immobilized a 245-year-old democracy and its ability to

perform basic functions, such as holding elections and protecting citizens from preventable mass death.

At a pro-Trump rally last week, just before an angry mob attacked the U.S. Capitol, the law professor John Eastman—who holds both a JD and a Ph.D.—used his professional credibility to affirm attendees’ conspiracy theories about electoral fraud. Trump, taking the podium shortly after Eastman, told the crowd to trust those claims because they came from “one of the top constitutional lawyers in our country.” Eastman was just one of the lawyers helping the president pretend he had won an election that he had obviously lost.

For much of last year, Trump relied on pandemic-management advice from Scott Atlas, a neuroradiologist and former professor at the Stanford University Medical Center. Despite lacking any prior experience with infectious diseases, having promoted fringe ideas, and having cast doubt on basic safety measures such as mask wearing, Atlas came to direct the national public-health response because he told the president what he wanted to hear. Atlas isn’t the only medical professional to hold back the fight against the virus. News outlets across the country have published stories about local doctors who refuse to wear masks. Recently, news broke that in pandemic-stricken Southern California, 20 percent of physicians and nurses have declined to be vaccinated against the coronavirus, rejecting strong scientific evidence of the vaccine’s safety.

Many people have observed a growing hostility toward experts in the U.S., but a less noted and more troubling trend has been the complicity of credentialed professionals in discrediting themselves. As a sociologist who studies professionals and professional misconduct, I shouldn’t be surprised that doctors and lawyers are capable of such recklessness. According to my own research, experts’ dereliction of responsibility has worsened economic inequality, political injustice, and other social ills worldwide. Even so, the level of damage that certain professionals are inflicting upon our country at this moment is startling, even to me.

Recent events represent profound betrayals of the social contract between professionals and the general public. For centuries, societies have given a small group of experts special privileges, such as authority and autonomy, in return for their pledge to use those skills for the advancement of the common good. Enforcing this commitment is the purpose of professional associations and state licensing boards; they establish standards for quality and ethics, as well as for sanctions on misconduct. Professions have been entrusted with self-governance on the understanding—usually made explicit in their codes of conduct—that practitioners would use their powers exclusively in the public interest.

This arrangement always had its flaws: For example, some professions seemed to use their powers primarily to fend off competitors and facilitate other forms of rent-seeking. But that was accepted in the name of protecting the public from quacks and kooks. If self-regulating cartels, such as medical boards and bar associations, were ever going to make good on their promise to protect the public, now would be the time.

Yet in recent years professional societies have grown ever less willing to use their sanction power. My research shows that many contemporary professionals have become adept at “creative compliance”—skirting the edges of formal regulations or finding gray areas to exploit. The result is a climate in which professionals’ betrayals of long-standing commitments to the public interest are more and more likely to go unchecked.

Over time, permissiveness breeds open defiance by practitioners. For example, when one of Trump’s attorneys, Cleta Mitchell, was caught on tape participating in the president’s attempt to break federal law by bullying Georgia officials into altering the state’s election results, she denied having violated any professional standards, claiming that any criticism of her actions was the result of a “massive pressure campaign” orchestrated by “leftist groups.” Although she subsequently resigned her position at a Washington, D.C., law firm—a move that *The Washington Post’s* Jennifer Rubin described as “the first noteworthy instance in which a lawyer has faced consequences for egregious conduct in service to President Trump”—the attorney retains her license to practice. The other lawyers who facilitated recent efforts to overturn the election at Trump’s behest retain their jobs and their credentials. Even the recent news that the New York State Bar Association is launching an investigation of the presidential attorney Rudy Giuliani offers little reason for optimism: Although the association can cancel his membership, that “won’t affect Giuliani’s ability to practice law,” the group has said.



Rudy Giuliani and Cleta Mitchell (Pablo Martinez Monsivais / AP / Jonathan Ernst / Reuters)

In some cases, egregious misconduct has cost rogue professionals their jobs. A Wisconsin pharmacist, described by police as an “admitted conspiracy theorist,” intentionally destroyed more than 500 doses of a coronavirus vaccine because he falsely believed they would alter patients’ DNA. He was fired. At least one doctor has lost his license for not wearing a mask. But few or no vaccine-skeptic doctors or nurses appear to be facing any professional sanction. Their choice to risk infection not only endangers their patients, but also undermines the trust on which our health-care system depends. This leaves the public bearing all the downside risk of entrusting these professionals with authority over matters of life and death.

The failure to hold professionals accountable for fulfilling their duty to society has encouraged the propagation of crackpot legal theories and junk science. Indeed, professionals have a particular power to spread disinformation on social media, because their stature provides credibility to ideas that might otherwise have difficulty gaining traction. Months before Eastman was peddling electoral conspiracy theories last week in Washington, he was spreading the false idea that Kamala Harris—born in Oakland, California—was not a “natural born citizen” of the U.S., making her ineligible to hold the office of vice president. His academic and legal credentials gave superficial credibility to his claims, which generated a surge of memes and Twitter posts and were further amplified in a Trump press conference.

Where are the professional organizations in all of this? Where is their sanction power? In addition to the damage they inflict on society, these rogue professionals threaten the legitimacy and the authority of their fields—the basis of all the privileges the professions enjoy.

Professional groups have at least some latitude to counter these threats. To their credit, attorneys for the city of Detroit have asked a federal judge to prohibit those assisting Trump’s frivolous election challenge from practicing law in eastern Michigan, and to refer them to the state bar for sanctions. In health care, the Association of American Medical Colleges has called for physicians to act as frontline defenders of scientific truth against disinformation campaigns. But that’s a lot to ask of a group already experiencing trauma and burnout from trying to keep people alive.

To protect themselves, and to uphold their bargain with society, the professions need to use their sanction power, and not just to publicly shame those who engage in misconduct—a move that has been weaponized by many rogue professionals as a badge of honor. Pocketbook consequences have proved more effective. As we saw during Trump’s electoral challenges in court, his attorneys stopped spouting conspiracy theories about voter fraud as soon as they got in front of a judge: That’s because judges can impose heavy fines on those who make deceitful claims. The use

of license revocations to sanction rogue physicians has declined in the U.S., and the disbarment of attorneys is rare. But perhaps these measures shouldn't be rare when our lives and our democracy are at stake.

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