

Volume 2 | Number 2 (Fall/Winter 2016)  
www.jheaonline.org  
ISSN 2474-2309  
doi:10.224621/jhea.3.71612



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**EDITORIAL**

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## EDITORIAL

# Between Social Justice and Market Justice: Ethics of Health Care Leadership

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**Keywords:** *Market justice, social justice, guardian principle, social justice bottom-line, distributive justice, pharmaceutical company.*

Let me begin with two stories. We all remember that few months ago, October 2016, Mylan, one of the largest pharmaceutical companies in the world, raised the list price on a pack of two injectors of EpiPens. It was \$94 in 2007 and now \$600. EpiPen is an injection device that contains epinephrine, a chemical that reverses severe symptoms of an allergic reaction to insect stings or bites, foods, or drugs (e.g., anaphylactic shocks). Because there are about 15 million people who have food allergies in the U.S., and allergic reactions account for about 200,000 emergency room visits per year.<sup>1</sup> Because Mylan practically owns the market with its FDA approval, they could raise the price whenever they wanted. However, the price increase was a devastating shock to low-income people suffering from the allergies. “Luckily,” however, EpiPen is a device, not epinephrine itself, the fact of which has caused the birth of a movement or organization called “Four Thieves Vinegar.” The so-called “medical hacking collective group” under the mission to “make medicine free for everyone,” the group teaches people how to make a Do-It-Yourself version of EpiPen for \$30.<sup>2</sup> We now see, on YouTube, patients injecting themselves with syringes filled with liquid epinephrine in their dimly lit living rooms. In the age of YouTube, it has become our culture that citizens share each other’s grim fate.

However, as we know it, EpiPens is just *déjà vu* of the Daraprim episode. Last year, 2015, a startup pharmaceutical company, Turing Pharmaceuticals, run by a former hedge fund manager, Martin Shkreli, acquired Daraprim, the 62-year-old drug which was a standard treatment for a life-threatening parasitic infection, and then immediately increased the price from \$13.50 per tablet to \$750, that is, 5,000% spike.<sup>3</sup> Daraprim has been an effective, standard cure for toxoplasmosis, a “disease that results from infection with the *Toxoplasma gondii* parasite, one of the world’s most common parasites. . . . Toxoplasmosis may cause flu-like symptoms in some people, but most people affected never develop signs and symptoms. For infants born to infected mothers and for people with weakened immune systems, toxoplasmosis can cause extremely serious complications.”<sup>4</sup> In other words, Daraprim has been the drug for mostly infants, pregnant mothers, HIV/AIDS-infected people, and the elderly.

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<sup>1</sup> Selena Larson, “Outrageous EpiPen Prices Lead Some People to Make Their Own,” *CNN*, accessed December 10, 2016, <http://money.cnn.com/2016/09/24/technology/diy-epipen-affordable-alternatives/>.

<sup>2</sup> “Our Mission,” Four Thieves Vinegar, accessed December 10, 2016, <https://fourthievesvinegar.org/our-mission>.

<sup>3</sup> Andrew Pollack, “Drug Goes from \$13.50 a Tablet to \$750, Overnight,” *New York Times*, September 29, 2015, accessed Dec. 10, 2016, [http://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html?\\_r=0](http://www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html?_r=0).

<sup>4</sup> “Toxoplasmosis,” Mayo Clinics, accessed Dec. 10, 2016, <http://www.mayoclinic.org/diseases-conditions/toxoplasmosis/basics/definition/con-20025859>.

Due to the controversy, Shkreli resigned from the CEO position and later was arrested on civil and criminal securities fraud for what he had done prior year. Now, almost a year and a half later, how much is Daraprim? It is \$375 per pill.<sup>5</sup> Why is Daraprim still expensive? Early 2016, Turing responded that they could not lower the price than that because the company had lost the last year's profit because of distribution costs, salaries, reinvestment in research, etc. However, it turned out that only a month after the price hike of Daraprim, "the company approved \$685,000 in raises for three highly compensated executives" and the executives enjoyed "a lavish party, including \$23,000 to charter yacht service for a night, \$6,500 in fireworks, and \$250,000 on entertainment, listed on the receipt as a 'celebrity performance.'"<sup>6</sup>

Now, the question is why our society continuously pardons what seems the outrageous business practices of health industry in general and pharmaceutical companies in particular, despite the public's harsh criticism, the media's massive attacks, and federal scrutiny. It seems that Turing's former CEO, Martin Shkreli, offers some answers which we may find, say, licit. When Shkreli was asked by a news correspondent, "Why was it necessary to raise the price of Daraprim so drastically?" he answered, "Well, it depends on how you define drastically. Because the drug was unprofitable at the former price, so any company selling it would be losing money. And at this price it's a reasonable profit. Not excessive at all."<sup>7</sup> Also, he responded in another interview, "I think health care prices are inelastic . . . I could have raised it higher and made more profits for our shareholders. Which is my primary *duty*. Again, no one wants to say it. No one's proud of it. But this is a capitalist society, capitalist system and capitalist rules. My investors expect me to maximize profits. Not to minimize them or go half or go 70% but to go to 100% of the profit curve that we're all taught in M.B.A. class."<sup>8</sup> In other words, we live in a capitalist society where free market economic system rules. The price of good is determined by a delicate balance between supply and demand. A competent CEO is the one who knows how to maximize profits for shareholders of the company he or she is serving. Thus, it is the CEO's duty to raise prices if he or she can, for profit maximization. And this is what everyone knows and what M.B.A. professors train their students to do in the future. Accordingly, Shkreli's act is justified ethically in terms of the capitalist "market distributive justice" (henceforth, market justice).

Health care resources, like all other commodities, are limited. Market justice is one way of distributing *fairly* the limited medical goods and services which is the fundamental principle of capitalist market economy. However, it is not just one of many ways of fair distribution. Market justice is the system of justice born out of revolution against the shackles of oligarchs and monarchs. In other words, *laissez-faire* is our hard-earned conclusion on fair distribution. Thus, it was the best of all possible choices, as we can see that all other known attempts to seek fair distribution in modern history failed. For example, the socialist-communist economic system in 20<sup>th</sup> century was nothing but a disguised form of feudal economy. Not to mention that the economic system of the contemporary communist China is a free market system. If so, what did Mylan and Turing did wrong? They just played by the book of market justice.

Nevertheless, market justice is a fragile ethical notion. We praise the 1936 comedy film, *Modern Times*, written and directed by Charlie Chaplin, as the excellent portrayal of humanity's whereabouts in the newly borne *laissez-faire* economic system then. The Little Tramp character in the film struggles to survive in the modern, industrialized world where few capitalists enslave the massive number of laborers. But, are ordinary Joes and Janes in the 21<sup>st</sup> century America better off than Little Tramp? Medicine is one of the most basic social goods necessary for human survival. In the U.S., medical bills are the biggest cause of bankruptcies. Every year 643,000 Americans go bankrupt because of the financial burden to pay the medical bills.<sup>9</sup> Tens of thousands of working Americans do not go to see doctors unless they feel they are in dire medical condition, simply because they cannot afford medical care; they are neither old or poor enough to benefit from Medicaid or Medicare, nor rich enough to afford good medical insurance.

The 20<sup>th</sup> century Protestant theologian, Reinhold Niebuhr observes institutional social justice and says, "Power corrupts and absolute power corrupts absolutely." This is the result of the corporate pursuit of profits on the basis of market justice. Then, what is a remedy for that? Niebuhr says, "Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary." For him, democracy is the system of checks and balances. In our context, the ethical checks and balance lies in the corporate leaders' will and capacity for balancing market justice against social justice. In fact, Shkreli in the interview alludes that market justice cannot be the only concern for health industry leaders by emphasizing that "Again, no one wants to say it. No

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<sup>5</sup> "Here's Why Daraprim Still Costs \$750 a Pill," *Market Watch*, Feb 4, 2016, accessed Dec. 10, 2016, <http://www.marketwatch.com/story/heres-why-daraprim-still-costs-750-a-pill-2016-02-03>.

<sup>6</sup> "Martin Shkreli is No Longer the One to Blame for the \$750-A-Pill AIDS Medication" *Quartz*, Feb. 06, 2016, accessed Dec. 10, 2016, <http://qz.com/611347/martin-shkreli-has-fallen-from-grace-but-his-former-firm-is-still-charging-sky-high-prices/>.

<sup>7</sup> "Express Scripts Offers \$1 Alternative to \$750 Daraprim Pill," *CBS News*, December 1, 2015, accessed Dec. 10, 2016, <http://www.cbsnews.com/news/express-scripts-will-offer-1-alternative-to-750-daraprim-pill/>.

<sup>8</sup> Italic is mine. "Solving Pharma's Shkreli Problem," *Forbes*, Jan. 20, 2016, accessed Dec. 10, 2016, <http://www.forbes.com/sites/matthewherper/2016/01/20/solving-pharmas-shkreli-problem/#2f30b63349ab>

<sup>9</sup> Dan Mangan, "Medical Bills Are the Biggest Cause of US Bankruptcies," *CNBC*, June 25 2013, accessed Dec. 11, 2016, <http://www.cnbc.com/id/100840148>.

one's proud of it. But this is a capitalist society, capitalist system and capitalist rules." No business leaders concerned only about market justice is proud of themselves.

In our society, business leaders are expected to resolve the tension or conflict between "social distributive justice" (henceforth, social justice) and market justice. While market justice demands business leaders to make profits based on their critical and competitive analysis of market behavior, social justice calls for distribution of goods based on people's needs. However, social justice is not that which business leaders should ultimately aim at. Their fundamental intent should be to produce profits for the sake of their employees, shareholders, families and themselves. However, the leaders must determine how much and in what manners their companies or business projects will take into account social justice concerns while seeking profits in accordance with the rule of market justice. But business planning and execution coupled with social justice essentially presents a genuine moral dilemma because the more social justice stressed, the less market justice served, and vice versa. Thus, business leadership must know how to strike a delicate balance between the two principles of justice. Then, what will be a theoretical directive to achieve the balance, if there is any?

Business leaders should take social justice as the "guardian principle" of market justice. In business leadership, the two kinds of justice here appear as particular concerns to be employed in the implementation of business plans or policies. Mylan and Turing's deliberation of raising the prices of their respective products, EpiPens and Daraprim, is an episode that occurs within the framework of free market justice. However, how much the prices will be and what residual acts will follow after the price hike should be discussed in the manner in which *social justice bottom-line* is secured. And the company's executives should decide on what material-content should be given to the social justice bottom-line and how to improve the bottom-line progressively. Some companies, taking cues from the philosopher John Rawls,<sup>10</sup> may survey to make sure that the patients among the most vulnerable socio-economic group are protected from the price hike and that its follow-up assistant/discount plans may benefit them. Then, the social justice bottom-line would be to protect the most vulnerable. Other companies may employ different schemes and ideas to form the bottom-line. However, as contemporary economic structure become more complex, corporations may need specialist aids to carry out their commitment to social justice as the guardian principle for market justice.

Market justice runs deeply in the U.S. health care system. But incorporating social justice concerns in market justice framework is the only way to guard against corruption and tyranny which the unleashed form of market justice naturally entails. My intent in this editorial was to invite practical ethicists and health industry leaders to discussions about the notions – social justice as the guardian principle of market justice, and social justice bottom-line – vis-à-vis the industry's concrete business strategic policy-making.

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<sup>10</sup> John Rawls, *A Theory of Justice* (Boston, MA: Harvard University Press, 1971).

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