

Nygaard Notes

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High Drug Prices Explained (Again)

Back in 2019, before the pandemic, the American Hospital Association (a conservative trade group that is vehemently opposed to Medicare for All) published a paper entitled “Drug Price Proposals.” Here’s the opening paragraph:

“The U.S. health care system is facing a prescription drug spending crisis fueled by staggering increases in the price of drugs. While the need and potential for the development of innovative drug therapies is large, the dramatic increases in the price of both new and existing drugs threatens to make them inaccessible to patients and the providers who care for them.”

This is not a new problem. Back in the year 2001 I published a piece called “High Drug Prices Explained.” In it, I noted that the U.S. government grants to corporations who develop new drugs a multi-year monopoly, called a patent.

The Swiss Federal Institute of Intellectual Property tells us that “A patent is an intellectual property (IP) right for a technical invention. It allows you to prevent others from using your invention for commercial purposes for up to 20 years. You decide who is allowed to produce, sell or import your invention in those countries in which you own a valid patent.”

In a 2018 working paper called “Is Intellectual Property the Root of All Evil? Patents, Copyrights, and Inequality,” economist Dean Baker points out that “There is an enormous gap between the monopoly price and potential free market price for a wide range of items. This is perhaps most clear in the case of prescription drugs...”

Then he succinctly explains the cost of health-related patents to individual consumers:

“In many areas, patent or copyright monopolies account for a large portion or majority of the price [that consumers pay for prescription drugs]. The case of medical equipment is similar to prescription drugs. In

most cases, the cost of manufacturing the equipment itself would not be very high, but equipment like MRI and dialysis machines are expensive because of the patents held by the manufacturers... The same is true of the cost of many non-prescription drugs and medical supplies.”

The exclusivity granted by designating pharmaceuticals as intellectual property also has an enormous effect on society as a whole, as Baker explained in 2019 (before the pandemic) on the website of The Socialist Economist:

“First, it is necessary to realize that having drugs available at free market prices, without patent monopolies or other forms of exclusivity, would have an enormous impact on the U.S. economy and the health care system. On the first point, we will spend more than \$460 billion on prescription drugs in 2019 [It actually came to \$511 billion]. Without patent protection, these drugs would almost certainly sell for less than \$80 billion, implying a savings of more than \$380 billion... If we project out the savings over the course of a decade, they would come to more than \$5 trillion.”

Writing more than a year after that, in June 2020, on the website of the Center for Economic and Policy Research, Baker spelled out a simple vision of a system in which the “incentive” for developing new drugs is public health rather than profit. “If we envision a world where government-granted monopolies [on pharmaceuticals] did not exist,” says Baker, problems of high prices and the ensuing lack of access to coronavirus vaccines “would not exist. Without patent monopolies, and related government protections, drugs would be cheap.”

As we continue to engage with a global pandemic that is afflicting people around the world, the capitalist ideology of Intellectual Property Rights tragically shapes the “America First” response of the Trump administration. And the result is known as Operation Warp Speed, to which we now turn. ◆

Greetings,

The news these days is full of hopeful developments in the race to get the COVID-19 crisis under control by means of a massive campaign of vaccination. In the U.S. the focus is on Operation Warp Speed, the federal government's "public private partnership" that has been funneling money to all sorts of private companies who have been competing with one another to be among the first to develop a safe and effective vaccine.

Mostly left out of the daily news cycle is the growth of a global movement to free the vaccine from the shackles placed upon it by capitalist market forces.

The good thing about a crisis is that it can motivate people to ask "How did we get here?" In order to answer that question, we need to have a pretty good idea of where we ARE. And that's not so obvious, despite the fact that there's more news about vaccines than any human being could possibly absorb in five lifetimes.

This week's Nygaard Notes is basically Part One of my answer to the question of where we are in our quest to come to terms with COVID-19. Next week, in Part Two, I present a hopeful path towards a world in which vaccines—and other lifesaving drugs—belong not to private corporations, but to all of humanity. "People Before Profits" is not just a slogan. It's shorthand for a vision of a world in which cooperation rather than competition is the key to success.

So it's Operation Warp Speed versus Free the Vaccine, and the struggle goes to the heart of a deep disagreement about the fundamental values that define U.S. culture in the 21st Century. Are we evolving toward a Social and Cooperative society where we all work for the common good? Or are we stuck with an Individualistic and Competitive society where it's everyone for themselves? This is the basis of the "polarization" that we always hear about and yes, there is a battle underway for the Soul of the Nation.

May this short, two-part series help you to understand just a little bit better where we are, and where we might go from here.

Stay healthy!

Nygaard

“Quote” of the Week: “For the Benefit of the Rest of the World”

This week's "Quote" of the Week is drawn from a November 16th statement from the anti-poverty organization Oxfam. That was the day that the National Institutes of Health announced that early data showed that Moderna's COVID-19 vaccine is nearly 95 percent effective. In the statement, Anna Marriott, Oxfam's Health Policy Manager, said this:

Moderna's discovery could be a real game-changer in the fight against COVID-19.

However, on its own, Moderna can only produce enough vaccine for less than seven percent of the global population by the end of 2021, almost all of whom will be in rich countries. The vaccine will remain the private property of the corporation, despite being largely publicly funded. While Moderna has pledged not to enforce intellectual property rights on its vaccine, it needs to go that critical step further by pooling and sharing its technology with the WHO's COVID-19 Technology Access Pool, for the benefit of the rest of the world.

Read the statement here:

www.oxfam.org/en/press-releases/moderna-can-be-genuine-game-changer-if-it-shares-covid-19-vaccine

Operation Warp Speed: The Cruelty of The Market

Writing in *Science Magazine* back on May 12, just days before the launch of the “public private partnership” known as Operation Warp Speed (OWS), reporter Jon Cohen referred to the program as “the White House’s America-first push for a coronavirus vaccine.” Cohen reported that “Conventional wisdom is that a vaccine for COVID-19 is at least one year away, but the organizers of a U.S. government push called Operation Warp Speed have little use for conventional wisdom. The project, vaguely described to date but likely to be formally announced by the White House in the coming days [it was formally announced on May 15th], will pick a diverse set of vaccine candidates and pour essentially limitless resources into unprecedented comparative studies in animals, fast-tracked human trials, and manufacturing. *Eschewing international cooperation*—and any vaccine candidates from China—it hopes to have 300 million doses by January 2021 of a proven product, *reserved for Americans*.” [Emphasis added by Nygaard]

Just to give a hint of the “essentially limitless resources” of which Cohen speaks, here is a short list of recipients of public funds, taken from the U.S. Department of Health and Human Services (HHS) official “Fact Sheet” on Operation Warp Speed (again, the emphasis is mine):

“March 30: HHS announced \$456 million in funds for Johnson & Johnson's (Janssen) candidate vaccine.”

“April 16: HHS made exit disclaimer icon up to \$483 million in support available for Moderna's candidate vaccine, which began Phase 1 trials on March 16 and received a fast-track designation from FDA.”

“May 21: HHS announced up to \$1.2 billion in support for AstraZeneca's candidate vaccine, developed in conjunction with the University of Oxford.”

“July 7: HHS announced \$450 million in funds to support the large-scale manufacturing of Regeneron's COVID-19 investigational anti-viral antibody treatment, REGN-COV2.”

“July 7: HHS announced \$1.6 billion in funds to support the large-scale manufacturing of Novavax's vaccine candidate.”

“July 22: HHS announced up to \$1.95 billion in funds to Pfizer for the large-scale manufacturing and nationwide distribution of 100 million doses of their vaccine candidate.”

“July 31: HHS announced approximately \$2 billion in funds to support the advanced development, including clinical trials and large scale manufacturing, of Sanofi and GlaxoSmithKline's (GSK) investigational adjuvanted vaccine.”

“August 5: HHS announced approximately \$1 billion in funds to support the large-scale manufacturing and delivery of Johnson & Johnson's (Janssen) investigational vaccine candidate. Under the terms of the agreement, *the U.S. Government will own the resulting 100 million doses of vaccine*, and will have the option to acquire more.”

“August 11: HHS announced up to \$1.5 billion in funds to support the large-scale manufacturing and delivery of Moderna's investigational vaccine candidate. Under the terms of the agreement, *the U.S. Government will own the resulting 100 million doses of vaccine*, and will have the option to acquire more.”

“October 28: HHS announced a \$375 million agreement with Eli Lilly and Company to purchase the first doses of the company's COVID-19 investigational antibody therapeutic bamlanivimab, also known as LY-CoV555.”

(Take particular note of that entry for July 22nd—the \$1.95 billion in public funds guaranteed to Pfizer—as we’ll be returning to that in a moment.)

The U.S. government’s exclusive rights to purchase hundreds of millions of doses of COVID vaccines is part of a disturbing pattern. The anti-poverty group Oxfam conducted an analysis in September which found that

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“wealthy nations have purchased 51 percent of the promised doses of leading COVID-19 vaccine candidates, while representing just 13 percent of the world’s population.”

Rich Countries First

This is not just “America First,” it’s “Rich Countries First,” and it doesn’t stop there. Just recently (November 24th), National Public Radio reported that, “When the Department of Health and Human Services released Pfizer’s \$1.95 billion coronavirus vaccine contract with Operation Warp Speed [on Nov 18], the agreement revealed that the Trump administration didn’t include government rights to intellectual property typically found in federal contracts.”

Ah, yes: “Intellectual Property.” That is, who gets to profit from the life-saving vaccines, the pursuit of which is at least partially funded by public funds? Dr. Stephen Thomas, who describes himself as “an infectious diseases physician-scientist,” addressed this very issue in the business magazine *Forbes* on June 16th:

“There is also the issue of who will own the intellectual property (IP) generated during the collaboration [between corporate and public entities]. IP protections are major drivers of revenue streams and recovery of research and development investments. Members of Congress are already waging war on drug and other pharmaceutical pricing and profits. More than a few members wish to also revamp provisions in U.S. Code, like the Bayh-Dole Act, to limit industry’s exclusive rights to IP developed using U.S. taxpayer dollars. The government may contend, some say rightly, that if U.S. taxpayers are paying the development bill, the U.S. must be guaranteed an immediate return on its investment—such as preferential vaccine access and/or pricing. But this concept of “America first,” is not playing well. Paul Hudson, the CEO of French vaccine juggernaut Sanofi Pasteur, was quickly corrected by the French government when he implied the U.S. may be entitled to preferential COVID-19 vaccine access due to its financial investment.”

Thomas’s piece had a great headline, too: “Vaccine 'Warp Speed' Faces Potential Black Hole Of Red Tape And Universe Of Unknowns.”

“The Winners Stand to Earn Vast Profits”

Some of the “unknowns” are gradually becoming known. On July 25th, for instance, a NY Times headline read “Corporate Insiders Pocket \$1 Billion in Rush for Coronavirus Vaccine.” It began by saying that “The race is on to develop a coronavirus vaccine, and some companies and investors are betting that the winners stand to earn vast profits from selling hundreds of millions — or even billions — of doses to a desperate public.”

Or, perhaps, from selling to the desperate public’s government. A government which, it appears, would rather not talk about it.

On November 8, National Public Radio reported, “While the country was focused on the outcome of the election Saturday [Nov 7], the Department of Health and Human Services released a trove of new Operation Warp Speed documents.” Since the entire country was focused that day on the announcement of Joe Biden’s victory in the election that had concluded four days earlier, it’s likely that nobody noticed that “The newly released contracts include the crash program’s \$1 billion agreement with Johnson & Johnson, which ↗↗↗

→→ was issued through a third-party firm and lacks some customary protections against potential future price-gouging...”

Price-gouging, you say? NPR notes that “Operation Warp Speed, the Trump administration’s expensive push to make a coronavirus vaccine widely available in record time, has been slow to reveal details of its deals with vaccine manufacturers worth billions of dollars. Those that have emerged, reveal weakened taxpayer protections.”

And the fact that these contracts have no protection against *future* price-gouging is likely what allowed Pfizer to deny—on November 8th, the day after the release of the HHS documents— that public funds have anything to do with their just-announced vaccine. Here’s the Times on November 10: “Kathrin Jansen, a senior vice president and the head of vaccine research and development at Pfizer, said, ‘We were never part of the Warp Speed,’ adding, ‘we have never taken any money from the U.S. government, or from anyone.’”

Not yet, that is. Here’s where we recall the list above, where we learned that it was on July 22 that “HHS announced up to \$1.95 billion in [OWS] funds to Pfizer for the large-scale manufacturing and nationwide distribution of 100 million doses of their vaccine candidate.”

The next day, the Times noted that Pfizer had “clarified” Jansen’s comment, admitting that the company is in fact “part of Operation Warp Speed as a supplier of a potential coronavirus vaccine.” The Times drily added that “Although it’s true that Pfizer and BioNTech had been working on a vaccine all year before the companies struck their deal with the U.S. government in July, a \$1.95 billion deal is nevertheless a significant incentive to keep going.”

Indeed. As the London Guardian reports, “The US drugmaker Pfizer and the German biotech firm BioNTech stand to bring in nearly \$13 billion in global sales from their coronavirus vaccine next year, which will be evenly split between the two companies, according to analysts at the US investment bank Morgan Stanley.” As the Guardian notes, “While other vaccine makers have pledged not to profit from their jabs during the pandemic, Pfizer has taken a different stance.”

Pfizer had revenues of \$52 billion in 2019. That’s what a “different stance” can do for ya.

I couldn’t find any mainstream U.S. media outlet that bothered to mention the obvious and crucial point here, but the British paper The Guardian stated it succinctly by quoting the global anti-poverty group Oxfam reminding us that the vaccine would be “zero per cent effective to the people who can’t access or afford it.”

Operation Warp Speed is a “market-based” solution, in which private companies compete for the profits to be gained by selling their “intellectual property” to a market of billions of desperate people around the world who are left with a simple choice: Buy Or Die.

After noting that a market-based solution does nothing for those who can’t pay the price, Oxfam spelled out a different vision, saying “That’s why every COVID-19 vaccine must be a people’s vaccine: patent-free, mass produced, distributed fairly, and made available free of charge, to every individual, rich and poor alike.”

Are they dreaming? Maybe not. In fact, there is a growing global movement—of which Oxfam is a part—that is carrying forward the demand for just such a People’s Vaccine, an inspiring and hopeful vision which I’ll discuss in the next Nygaard Notes. ◆

“Bonus Quote” of the Week: *“We Could Have Taken a Different Route”*

I quote economist Dean Baker extensively in this issue of the Notes, but since I have a blank page in my paper edition, and since I think Baker explains things so clearly, I’m including this “Bonus Quote” of the Week just because I can. This lengthy quotation is taken from an October 11th blog post that appeared under the headline, “Waiting for a Vaccine: Killing for Inequality.” After pointing out that “the Trump administration opted to pursue a route of patent monopoly research, as opposed to open-source collaborative research” in response to the pandemic, Baker wrote:

Since people seem to find the alternative to Trump’s patent monopoly approach confusing, let me outline it simply, so that people can see what is at issue. As it turned out, Trump quite explicitly turned the development of a vaccine into a race. He created “Operation Warp Speed,” to which he committed more than \$10 billion of public funds. This effort is supposed to develop both vaccines and treatments for the coronavirus.

The funding takes a variety of forms. Several companies received some upfront funding, but are relying primarily on advance purchase agreements for an effective vaccine. For example, Pfizer signed a contract that commits the government to buying 100 million doses for \$1.95 billion (\$19.50 per shot), if it has a successful vaccine.

By contrast, Moderna relied largely on upfront funding, getting \$483 million for its pre-clinical research and phase 1 and 2 trials, and then another \$472 million to cover the cost of its phase 3 trials. Incredibly, after largely picking up Moderna’s development costs, the government is also allowing Moderna to have a patent monopoly on its vaccine. This means it will effectively be paying Moderna twice. First with the direct funding and then a second time by allowing it to charge monopoly prices on its vaccine.

This nationalistic patent monopoly route was the one Trump chose to pursue. It should be mentioned there was little visible opposition from leading Democrats in Congress.

But, we could have taken a different route. We could have looked to pool research, not just nationally, but internationally. This would mean that all research findings would be posted on the web as soon as practical, and that any patents would be placed in the public domain so that everyone could take advantage of them.

We were actually seeing this sort of cooperation in the early days of the pandemic, which allowed scientists to gain an understanding of the virus more quickly than if we had followed the path of patent monopoly supported research. This path of cooperation could have continued, if Operation Warp Speed had been structured differently. Instead of paying for the research costs of a company like Moderna, and then telling them they could get a patent monopoly so that they could charge whatever they want, we could have made the condition of the funding that all its findings would be fully public and patents would be in the public domain.

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P.O. Box 6103

Minneapolis, MN 55406

E-mail: nygaard@nygaardnotes.org

Web: www.nygaardnotes.org