

Painless Parker's Legacy: Ethics, Commerce, and Advertising in the Professions

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Abstract

This presentation will review the life and contributions of Dr. Edgar Parker, the infamous and controversial pioneer who specialized in a precarious straddling of the ethics of the commercial marketplace and the ethics of care. Something of a Rorschach test, he was alternatively referred to as a charlatan, the first people's dentist, a renegade, a crusader, a quack, the Henry Ford of dentistry, and "a menace to the dignity of the profession." He eventually owned and managed thirty dental offices, several in San Francisco, as well as the Parker Dental Circus. Because many young, twenty-first century practitioners have little problem with slick advertising, it seems appropriate to revisit Painless Parker's career and contribution to the current state of affairs.

Thank you for that wonderful introduction. You know, you all have talked about your qualifications, what you're not, and what you are—I'm not a historian, actually, and I'm not really an ethicist or a philosopher, and I'm not a dentist. So that puts me in kind of tough shape. I do have a lot of amalgam fillings in my mouth, though, and students and faculty have accused me of being a little goofy from time to time. Goofiness probably qualifies one for a presentation about Painless Parker as much as any other quality.

I hope this material will be interesting to you. It's been very interesting to me, and I want to thank, publicly, Dr. Arden Christen because his books were nearly my sole source of information. Ninety-five percent of my research for this presentation—or at least the Painless Parker component of it—came from Dr.

Christen's books, and they're wonderful. The story of Painless Parker is compelling, but it's more than that; it's also a story of the early United States around the turn of the 20th century. It's good reading, well worth the time, and I recommend Arden's books to all of you.

So here's Painless: I'm sure you've seen this photograph (Fig. 1) of him wearing his famous necklace with 357 teeth that he extracted in a single day. I want to start my presentation by reviewing Parker's life; and we will only have time for a sliver of it. The fellow was an incredibly interesting guy with an incredibly interesting life, and I'll use that statement as a segue into two things. One, I want to present to you a model of commercial and ethical dentistry; and then secondly, I want to discuss the history and current state of advertising in the professions.



Fig. 1—Painless Parker in 1952 (age 80), wearing a necklace made from 357 teeth that he extracted in a single day.

Let's begin by examining how dentistry and commerce have been combined, merged, and thrown together over the past century, as this is an important yet confusing matter for dental students and professionals alike. Painless Parker's career serves as an apt metaphor for the entire conundrum. Here's a quote from Parker himself:

"I like being a dentist and a salesman at the same time."

Commerce and Care

We'll start with the model (Fig. 2) that I will use to organize the essential elements of this presentation.

The model is derived from ideas that I first encountered in an essay by David Nash in the *Journal of Dental Education* in 1994. I've evolved it a little bit from Nash's original article, of course. The model is about the inevitable tension between the world of commerce and the world of care. We live in a commercial market economy—a capitalist competitive market economy here in the United States—and there are a lot of good things about that market economy. At the same time, doctors also live in something I call the "World of Care," or the "Ethics of Care."

First, the left hand side of the chart: There, profit's the goal, money is primary. We know profit's the goal because in business school they made us memorize the idea that the primary ethical obligation of the officers of a publicly held company is to what? Enhance shareholder value. The way you do that is to make a profit. As a result, officers in a corporation cannot make decisions that go against profit because there's a fiduciary relationship between stockholders or shareholders and the company officers. The officers have an *ethical* obligation to make a profit. They must make decisions that will support that obligation. Money is primary to the enterprise. The customer is seen as a means to that end. That's what customers are for. They exist in order for the company to make a profit, and relationships—here's the key idea in this chart: relationships are *competitive* in the commercial, competitive marketplace. Companies obviously compete with each other, and they try to beat each other out of market share. For example, if a drug company makes a discovery, it doesn't share that discovery with competitors. Instead, they lock it in with a patent or a copyright, so that they get as much benefit added to the bottom line from that dis-

Commerce	Care
Profit is goal (proprietary) Money is primary Customer as "means" Competitive between companies between buyer and seller Endorsements, anecdotes <i>Caveat Emptor</i> Widgets, things	Care is goal. (fiduciary) Money is derivative Patient as "end" Cooperative between doctors between doctor and patient Science, empiricism Buyer can't fairly compete (Trust) Life or death, health

Fig. 2—The Ethics of the Commercial Marketplace vs. the Ethics of the Doctor's World (Care).

covery. They don't share it with the public, either, even though this would be nice. This kind of situation came up recently when bird flu was a threat. One of our biomed companies produced a vaccine and was unwilling, at first, to share it, for obvious reasons, even though the public would have benefited.

Just as important, and maybe more important in this discussion, is the competitive relationship between *buyer and seller* that most people don't think about. When you go down the street this afternoon to buy a shirt or a pair of shoes, you are engaged in a competitive relationship with that seller. Right? What's the competition about? Each party is trying to make his or her best deal. You're trying to get as much of those shoes as you can and pay as little money as you have to. On the other hand, sellers are trying to sell you as little as they have to, and trying to get as much money as they can. It's a friendly competition, it has friendly components, everybody is nice and polite, and the competition is no secret. It's not a shock to anyone here—everybody knows about the competitive buyer/seller relationship and is used to it.

This implies that *caveat emptor* is in force. The buyer must look after his or her own interests. You cannot expect the seller to look after your interests when you're a buyer. No shock to anybody, right? That's how the game is played. So, the buyer must do research, must investigate, and must figure out if this is the right product for him or for her, or if this is the right place to get it, and so forth. And, on the commercial side, mostly we deal with things. *Things*, not our bodies or our health.

Over on the care side, the basic goal is different: rather than profit as the goal; *care* is the goal. There's a fiduciary relationship between doctor and patient, and the overarching goal is care of that patient. If that fiduciary element is not in place the whole model falls apart. On the right hand side, "The Ethics of Care," the doctor's office, money *derives* from that caring relationship, at least conceptually. So far in dentistry in the United States, the derivative nature of profit for dentists is working. You do a good job for your patients, you take care of them well, and you're going to make a nice living. I don't know if that's going to last forever; nobody knows. But, so far-so good. The patient, in this model, is seen as an end, not as a means to making money. The patient is an end, in and of him- or herself. Care of patients is the point of the enterprise. Now, here's the big difference: Rather than a competitive relationship between buyer and seller, on the doctor's side we have a *cooperative* relationship, both between doctors, and between doctor and patient.

I've heard wonderful examples from faculty members about how things work in dentistry in San Francisco,

when they were practicing as dentists, and they called on colleagues for help. Their colleague helped them with open arms. They called upstairs to their endodontist, and that endodontist ran downstairs and helped them finish out a difficult root canal procedure. I've heard lots of stories like that. One general dentist told me that he bought a new piece of endodontic equipment and his endodontist volunteered to come in on weekends to teach the general dentist how to use it. That's highly cooperative. The reason for the cooperation is what? Well, back to the goal: The reason doctors cooperate is that the overarching goal is *care of the patient*. Patients get better care if doctors cooperate with each other.

But the bigger force is this: Relationships are cooperative between doctor and patient. This is the big difference between the two sides. In the buyer/seller arrangement, there's a competitive relationship between buyer and seller, and the buyer must watch out. On the doctor/patient side, the relationship is cooperative, and the central reason for this cooperation is that it's not a fair fight. I've been working at a dental school for 20 years now, and I still can't read an X-ray. If you tell me that I need a root canal and I don't have any symptoms, I have no way to evaluate that statement. I could tap on my tooth, I guess, but I don't really know why you do that and don't understand what it means. So, what I have to do in this situation is decide if I trust you or not. If I don't trust you, I've got to go to another dentist, one of your colleagues, another member of the same profession, and decide if I trust him or her.

This basic trust is essential to this relationship. It's crucial. And it doesn't exist on the commercial side. Added to that is the fact that in the doctor's world we're talking about very significant things: the loss of a tooth, or the loss of a lingual nerve, or even the loss of a life. There's much more at stake.

My model is not perfect, and there are flaws in my argument, obviously, but the basic point here is that these two sides are incompatible. Dentists, nonetheless, must live in both worlds at the same time. They must figure out how to navigate and balance one foot in each of the worlds of commerce and of care. If you don't take care of the commercial world, you go out of business. Your landlord wants the rent. She doesn't want to hear that you took care of a lot of poor patients this month and didn't charge them much. That's not going to work. Dental supply houses want their money. They won't give you implants for free.

One of the challenges of being a doctor—and a dentist in particular—is that you've got to manage this tricky balance. I think that this balancing act causes enormous difficulty and confusion in dentistry; and I want to get young dental students off on the right foot, no pun intended.

That's the basis for the rest of this discussion. Painless obviously approached the challenge in his own unique way.

Painless Parker

Now, here's a photo of Parker in his early days. (Fig. 3) He started hustling as a very young man. Later on, this stovepipe hat got three bullet holes in it—dangerous bullet holes; he didn't put them into the hat himself and he didn't hunt with Dick Cheney.

He was born Edgar Parker and he spent his early days near St. Martin on the Bay of Fundy in Canada. Later on, he did some dentistry in this area, up to Frederickton, and then across the Maine border a few times, and over to Nova Scotia. He went to college for a while in Nova Scotia, and then took off and essentially wandered the rest of his life. He practiced all over the United States, eventually in Los Angeles, winding up his practice in San Francisco.

When Parker said, "peddling," he meant "peddling." That word had a special meaning in 1890. In those days, "peddlers" got a wagon and some horses, loaded some things that people in the country might need, and then traveled out into the rural areas to sell people the things that they couldn't get for themselves locally. That was called "peddling." He did that as a child to earn money, and he enjoyed it. His parents were mortified when he came home looking strange with pockets full of money, and they were mortified that their son was a peddler. It was a big status problem for them and an embarrassment.

His parents made this observation: "He has an engine inside of him that's too big for his frame, and he is shaking himself to pieces." I don't know if any of you have children like this, where you wonder who the parents are, but this is a pretty good metaphor for Painless Parker. The guy was on fire. The early developmental markers were there.

He went to seminary—I think at the request of his parents—and was promptly thrown out. He then went to Acadia College where he eventually faked mental illness so he could get out of there. He acted really crazy; he even drooled, and his tongue came out, and he ranted and was delirious until they finally sent him home.

This photo shows how he looked in his early hustling days, when he was moving around Maine and New Brunswick, where he originally learned how to sell dentistry on a stage. (Fig. 4) He had a certain look that he cultivated, and I'll describe that look later.

Before dentistry, he signed on as a sailor. His father and his father's whole family were sailors and shipbuilders, so it was easy for him to obtain a good



Fig. 3—Edgar Parker in dental school at the age of 19 (1891).

job on a sailboat. He made several trips to Barbados and South America, and got dragged behind a horse, tearing up his face. He even spent some jail time in South America. As you might imagine, this was a frightening experience. He got dengue fever and was assaulted once in Buenos Aires, quite severely, and broke three vertebrae. Later in his life, a physician



Fig. 4—A wandering dentist with a smoldering, river-boat gambler look (about 1895).

attempted to treat the vertebrae by jumping up and down on his back in sea boots until Edgar passed out from the agony. He was unable to walk for quite a while, and was in terrible pain for most of the rest of his life.

On one occasion in New York, he fell through the ice on a lake, couldn't find his way out, and was lucky to survive when someone rescued him. So, the guy lived a tough life, full of adventure and risk. Here's a quote that provides a feel for the quality of his life during his twenties:

"In Sitka," which is in Alaska where he spent some time in those young days, *"I resigned myself to a bachelor winter. The time might have gone peacefully enough, had not the heart of one of the members of the Flora Dora Chorus seem to melt one night when she saw me. I, as usual, was clothed like a Mississippi riverboat gambler, leaning against the bar when she came in. Her name was Agnes, a former carnival wrestler, several inches taller than myself, powerfully muscled, handsome, and fast on her feet. Our acquaintance began when I happened to remark what splendid occlusion she had, as she bared her teeth in a smile at me that evening. I never intended to pursue the acquaintance further, because her steady escort was the bartender of the place, a man of terrifying size and ferocity named Sam. Her heart was on her sleeve, but she was dangerous as a water buffalo when aroused."*

She did actually wrestle him to the floor that night.

Parker's mother was a believer in Mary Baker Eddy and Christian Science; and because she did not believe in allopathic medicine, forbade him to go to medical school. He had a good opinion of doctors and was impressed with the doctors in the hospitals he'd visited in South America and Barbados. He saw them strutting around in white coats looking sage and wise and powerful and that impression never left him.

His mother had taken medicine off the table as a career, so he went to the New York College of Dentistry and promptly got himself expelled. While he was there, to make ends meet, he opened up his own dental practice. Administrators discovered his practice and threw him out of the school. So, he came back home, thought about what to do, and eventually applied to a different dental school. When graduation week arrived at Temple his name wasn't on the list of those scheduled to graduate. So, he made the trip out to the dean's home, and confronted him in his garden and argued his case. The dean eventually gave in and told him, "All right, I'll take a chance on you, as long as you agree to never disgrace the college."

There were so many quotes from Parker that I could have put into this presentation... I had to choose just a few. Here's another one:

"If it's possible to preach the gospel with the accompaniment of cornet and drum, why would it be unethical to hold a public dental demonstration?"

And really, the answer to that question is back on my original chart about the ethics of care and the ethics of commerce. There is a difference. But a lot of people don't understand that difference. They say, "If they can do it downtown in the financial district, why can't I do it in my dental practice?"

Here's another Parker quote:

"When you stand up in a wagon or appear on a street corner and give a dental hygiene demonstration, some people will think you're crazy. However, when you separate them from their cash, then who's crazy?"

One of the key points that Arden makes in his book—and it comes across loud and clear—is that Painless Parker was really just like the rest of us. He had an angel on one shoulder and a devil on the other. You know, there were two parts of the guy, and he desperately, for a long time, wanted to be what they called an "ethical" dentist, or a "professional man." He tried, for a period of time, to do that, and he just couldn't pull it off! It didn't work for him for a variety of reasons.

His wife was constantly trying to get him to "go straight," but he was always drawn back to the carnival atmosphere. He loved circuses; he actually bought a dying circus at one point and ran it himself for a while. He put a lot of effort into polishing this dental act that he had, which would take place on a stage. He hired people to play musical instruments loudly on cue. He would invite anyone who had a toothache up on the stage to have the tooth extracted. He guaranteed that the "procedure" would be painless. When he was ready to extract the tooth, he gave a signal, and the band would strike up suddenly and very loudly. The sound startled everyone, including the poor, unsuspecting patient—which is a hypnotic distraction technique—and then Parker would put his knee on the patient's chest, push in with his knee, and when the patient opened his or her mouth to gasp for air Parker would yank the tooth out, hold it in the air, and walk around triumphantly. (Fig. 5)

He also used something that he called "hydrocaine." He and a pharmacist created an anesthetic using cocaine, and they named it "hydrocaine." If the "patient" experienced pain, Painless would refund the dollar extraction fee along with an additional five dollar compensation. That was the guarantee. And that's how he talked people into getting up on the stage, partly. I think sometimes he had shills come up first. Nobody knows how much of his act was real and how much of

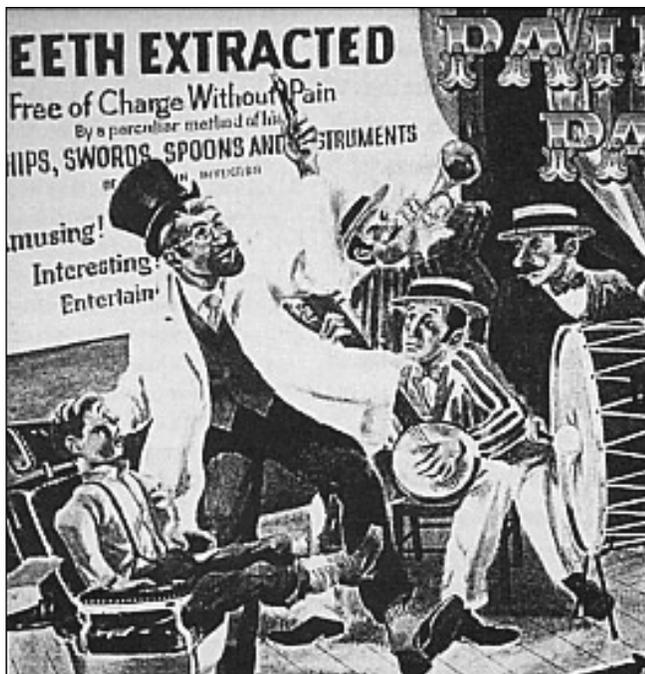


Fig. 5—Public dental demonstration (from the cover of *Atlantic Advocate*, 1971).

it was phony, of course, but the performance was very good, indeed.

Wherever he went in those days, he would put a rocking chair on a soapbox, get a spittoon, and was



Fig. 6—Painless on his soap box dental chair with spittoon.



Fig. 7—Parker's Flatbush Avenue office in about 1900.

ready to practice. Later in life he yearned for the old carnival days. Even when he was an established dentist with 36 offices on the West Coast, he still occasionally set one of those chairs up and treated people off the street. (Fig. 6)

Dr. Christen's book has photos of Parker's offices in Brooklyn at about the turn of the twentieth century. In huge letters on the side of the buildings it said (Fig. 7): "I am positively IT in painless dentistry."

There are other wonderful old photos of Painless, his staff, and his mobile dental chairs in Arden's book along with rumors that other dentists at the Painless Parker offices called themselves "Painless." There also are photos of Painless on top of an elephant clad with advertisements and a dental assistant blowing a bugle from the back of a pick-up truck outfitted as a dental office. (Figs. 8, 9, 10)

Parker was one of those people who was really rich, then really poor, and then really rich again, and really poor again. He'd lose his money, and then he'd make more money. He also had seven or eight family members who depended upon him for their wellbeing. He took care of them and paid all their bills; his parents included. He was one of those "up and down" people.

Parker had five dental offices in the San Francisco Bay area. One of them, at 1802 Gary Street at Fillmore, is just five blocks or so down Fillmore Street from our dental school, the Dugoni Dental School of the University of the Pacific. One of the reasons I originally got interested in Painless is because he had that practice in our neighborhood and because, when I arrived in San Francisco twenty years ago, several older faculty members remembered Parker quite well.



Fig. 8—The staff of a “Parker Dentist” practice.



Fig. 9—Painless Parker riding an advertising elephant.



Fig. 10—Dental demonstration flatbed truck in Brooklyn, New York, circa 1904.

Painless’s given name was “Edgar.” There were lots of Parkers around in those days, and at some point, authorities told him to cease and desist with claims of “Painless” dentistry. So he went over to City Hall in San Francisco and had his first name legally changed from “Edgar” to “Painless.” From then on out, he was referred to as Painless Parker, and no one could stop him.

In San Francisco there is something called the “Court of Historical Review” that goes back in history and retries people who were famous or infamous in cases where they may not have gotten a fair shake in real life. This court retried Painless and found him not guilty of practicing veterinary dentistry without a proper license. He called it “Hippodontia” at the time, and there are photos to prove that he did it. (Fig. 11). There were also rumors that he removed a tooth from a lion. He reported that he was so scared of that escapade that couldn’t control himself, but others had the animal tightly restrained so that the procedure could be accomplished.

Painless would have referred to you in the audience as “the ethical.” That was the term he used for mainstream dentists. After years of trying to join with mainstream dentistry but being pulled toward the more commercial side of things, he gave up and decided that mainstream dentists were “phony.” His view was that formal dental ethics were in place primarily to maintain monopoly status. He had spent years riding from town to town practicing mobile dentistry, with a cart and a wagon and maybe an assistant. He would show up with his little routine. He would make an announcement in a prominent place, he’d rent a vacant lot, and he’d do dentistry—until the one local dentist in town discovered what he was doing and found a way to get rid of him. Typically this involved sending the sheriff to arrest Painless, or to demand to see that he’d paid his \$2 fee for a license in the State of Whatever-State-It-Was. Painless rarely had such a license and the state agencies did not make it easy for him to get one. He eventually decided that the dentist in each town had monopoly status and intended to do whatever was necessary to keep it.

Parker also felt that mainstream dentists kept patients in the dark, didn’t talk to them about their real needs—about hygiene and home care, and weren’t aggressive enough about getting people to the dentist’s office for routine care. He felt that they preferred to treat the wealthy and not the common person. He felt that they charged exorbitant prices, and he also observed that dentists were poorly organized and very inefficient. They worked like crazy, and didn’t make much money. He decided to fix those problems by himself.

At that time, especially in Los Angeles and San Francisco, he was a target of what he called “Organized

Justice at Last for Painless Parker

By George Murphy

After a tense and dramatic conflict in San Francisco Superior Court yesterday, Dr. Painless Parker was found innocent of violating the law when he extracted the tooth of a hippopotamus in 1942.

Judge Harry Low, presiding at the Court of Historical Review, found that Painless Parker was not derelict in easing the dental problems of the hippo, whose name was not entered in the record.

The judge also found that Parker's five-year suspension of a license to pull teeth from humans — ordered by the California Dental Society in 1929 — was "excessive."

Defending the honor of the pioneer credit dentist was District Attorney Joseph Freitas. Arguing against his restoration was City Attorney George Agnost.

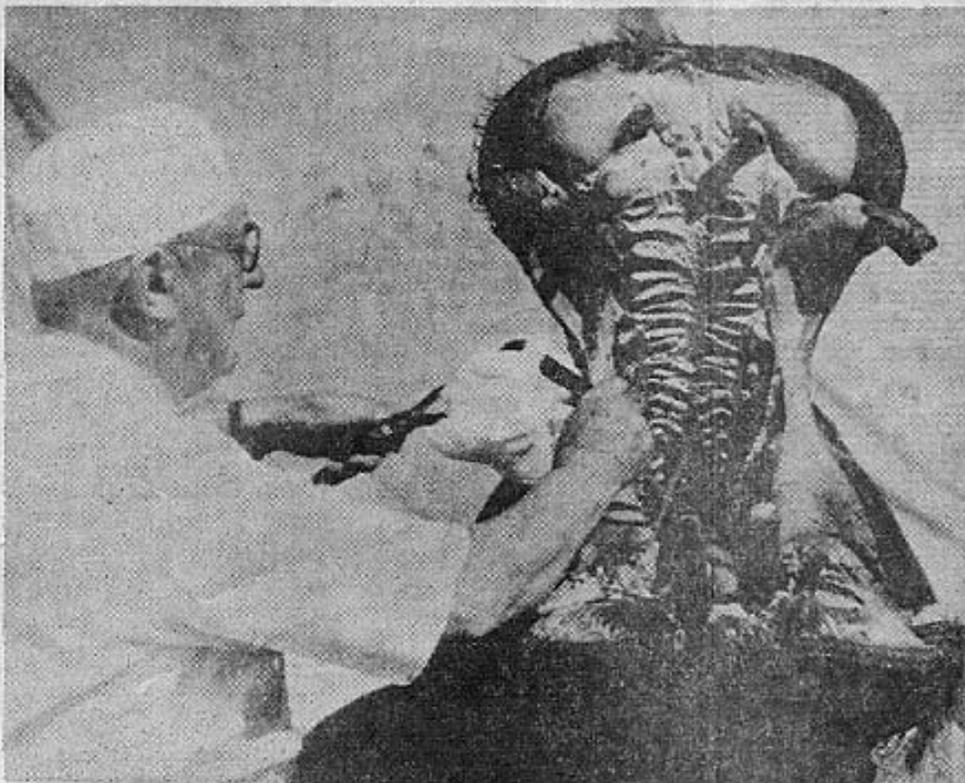
The mock court hearings are held irregularly — three or four times a year — in a light-hearted attempt to redress what advocates feel were wrongs perpetrated on San Francisco's historical figures.

After Bernard Averbuch, a founder of the mock court of review, displayed a photograph of Parker and the hippo, taken at the San Francisco Zoo, the following exchange took place between Freitas and the witness:

Q—To your knowledge, did the hippo complain about the treatment Dr. Parker gave him?

A—Absolutely not.

But on cross-examination, Agnost forced the witness to admit that "you have submitted a photo of this poor hippopotamus being subjected to inhuman torture by Painless Parker, have you not? This establishes him as the obvious perpetrator of the crime of practicing veterinary medicine without a



Part of the evidence — Painless Parker pulling the hippo's tooth at the zoo

ing "help me out, judge?"

Low ruled that the question was not relevant to the case.

Deputy Police Chief Clem De Amicks, a witness called by Freitas, testified that a search of the records showed that Parker practiced dentistry on the streets of San Francisco beginning in 1910.

"At Powell and Market streets,

show that the reason for banging the drum was to attract crowds or to cover up the sounds from his patients of the painless extractions."

Edgar R. Parker began his career as a dentist in Canada just before the turn of the century, attracting his patients on the sidewalks by use of dancing girls, contortionists and a portable dentist's chair.

"he went to Los Angeles by take."

Freitas asked: "Do you any reason to believe that that why his license was suspended 1929, because he mistook Los Angeles for San Francisco?"

Agnost objected to the tion as calling for an opinion conclusion of the witness, and sustained.

Fig. 11—San Francisco Chronicle report of Hippodontia "trial."

Dentistry." There were literally hundreds of lawsuits filed against him in San Francisco. At one point, when he opened his door in the morning, he felt as if there'd be a snowstorm of subpoenas coming in. He responded by hiring a private investigator and an attorney and kept them both on retainer full-time. The private investigator was hired to find evidence that he was being set up, which apparently was known to happen.

He won almost all of the lawsuits and settled a few others, according to Parker. But, he liked the free advertising that he got from the lawsuits—they kept him in the news. He also enjoyed the adversarial process. He

liked a good fight.

He loved publicity and understood its value to his career. Once, at the Palace Hotel in San Francisco, he was invited to join a group of the city's best, brightest, and most powerful people for a monthly roundtable discussion. These were people from commerce and law, and people from high society. At one of those meetings another dentist accused him of various unethical acts. In particular, he said "You shouldn't be doing dentistry out in the street because it's unsanitary." Now, this was something of a new idea at the time. And the visiting dentist said, "There are microbes that you're introduc-

ing into these patients' mouths that are bad for them." So, he left the meeting, humiliated, and as he was walking down the street, he walked by a costume shop, went in and bought a costume. He hired a stranger off the street to dress up like a microbe, in green, with antennae and all. The two of them came back into the meeting, and he accused the microbe of being dirty and dangerous, and attempted to banish the microbe from the room. The "microbe" wouldn't leave, so Painless wrestled the microbe to the ground—and apparently won some local hearts that day. Painless loved and understood the free advertising that any kind of attention provided.

Regarding the evolution of advertising and commercialism in dentistry, it appears that there has been a historic intent, especially since Parker's time, to restrict commercialism; and that it's been chronically unsuccessful.

If you survey the ads that dentists produce and promulgate, you can see the trends. You find ads that highlight things like "Strict sterilization" or "Digital x-rays, 90% less radiation," and "Mercury-free dentistry" or "We service the nervous."

The definitive essay about all this is by Larry Jerrold and Hengameh Karkhanehchi in the *Journal of the American College of Dentists*. This essay traces the profession's reactions to commercialism in its evolving ethics codes over the years.

The first American dental ethics code in 1866 was three pages total, and with regard to advertising, it said that it was unprofessional to resort to public advertisements, claims of low prices, claims of superiority, special techniques, and house-to-house solicitation. In 1899, about 30 years later, codes added that it was okay to announce your name, your occupation, and your place of business. That was at about the same time that Painless Parker practiced. In 1922, the code said, "Nothing prevents a practitioner from announcing his specialty on a card." In 1924, specific prohibitions about claims of superiority, fixed prices for things that must vary necessarily, deception, misleading practices, using the word "company" in your advertising, or "corporation" or "association" were added. Announcing that you had special methods was also declared to be unethical by the 1924 ADA code. Reports of cases to the public as a way of advertising was prohibited, as was the use of solicitors.

Many of these prohibitions are still in effect, of course. For example, guarantees or warranties are still prohibited. The 1927 code allowed for modest-sized ads in print; you were supposed to use type that was similar to that used by others in whatever directory you published your ad. The 1927 code also said that large display signs or peculiar lighting—anything that reminds one of the charlatan—should be deemed unethical.

At the time Parker died, the 1950 code actually said, "The use of advertising in any form to solicit patients reflects adversely on the dentists and lowers the public esteem of the profession." Even though that code was written more than a half century ago, many dentists, and perhaps the majority of older dentists currently see things that way. The 1950 code went on to say that "Announcements may only be sent to other professionals or to patients of record."

A legal challenge in Arizona eventually changed everything. A law firm named "Bates" challenged the rules prohibiting the professions from advertising. The case was adjudicated by the United States Supreme Court in 1977. Bates was a Phoenix area law firm that created a marketing plan to grow their practice. They relied heavily on paralegals and large volumes of routine work along with economies of scale. They did trusts, wills, and quickie divorces, that sort of thing. The State Bar of Arizona sued them to stop the advertising.

The Bar argued that, "If lawyers or attorneys can advertise, that's going to have an adverse effect on professionalism," and that, "Advertising is inherently misleading to potential clients and the public, and it does irreparable damage between the professional's need to earn money, and the obligation of service." Now, that logic makes perfect sense to all of us in the room here, right? Those were the state bar's arguments.

The Supreme Court's answer to those arguments was that prohibitions against advertising in the professions were actually rules of etiquette rather than ethics. The Supreme Court said, essentially, "If you can disclose your fee to your patients *in the office* then you certainly can disclose it to them *before they come into the office*. Is the information going to change in some way? Why couldn't you tell them ahead of time? If you're going to tell them at some point, why can't you tell them before they come? And the Court pointed out hypocrisy within the profession: "You doctors reject the idea of advertising, and yet you structure your social life and your civic life in ways that help you get patients. You teach your students: 'That's how you get patients.' You become a member of the Rotary Club, and you make sure you go to the church meetings, and you go to parties where there'll be people you might see, you go to schools and help out." Much of this behavior is to help dentists attract new patients. The Justices wrote that "concealing information is ludicrous and self-deceptive." They also wrote, "Don't underestimate the public. What you need to do is educate them. Make sure that patients have a clear understanding of fees prior to the provision of services." They said that by *not* advertising, the profession is not reaching out and serving the community. This is an argument that

Painless Parker had made 80 years previously. Parker said that advertising could increase the public's use of professional services, which would be a good thing. The court also observed that it's the responsibility of "ethical" dentists to manage colleagues who overreach. It's the responsibility of the dental profession to manage our unethical colleagues. So, like it or not, the Bates ruling opened the door to advertising by the professions in the United States in 1977.

Since that time, advertising has simply become ubiquitous. It's everywhere. It's on video screens, in buses, and at gas pumps; it's on billboards; it's all over automobiles; and it's even coming to us on eggs. Our fruit is already labeled with advertisements. This drives older professionals crazy, but many 24-year old dental students don't hold that same view. They're used to encountering advertising everywhere. It's a normal part of everyday life. Older professionals have a hard time telling them about the evils of advertising unless we do it very carefully, and probably in a more modern and limited way, because advertising is here to stay.

I have examples of all kinds of medical advertisements, advertisements for joint replacement, minimally invasive hip and knee replacement surgeries, even a manufacturer's recall for a hip joint. I have an ad for a heart scan and a lung scan—if you get the heart scan, you can get the lung scan free. There are all kinds of transplant and enlargement ads out there.

The newspapers recently reported a study published in the *Journal of the American Academy of Dermatology* that found that it takes longer to get an appointment to have a suspicious mole checked than it does to schedule a Botox treatment. Something's certainly out of whack.

So what rules are we left with? The "bottom line" in advertising now is the following phrase: "False or misleading in any material respect." Dental students love to memorize things, so I make them memorize that. Any communications must not be "False or misleading in any material respect." That's the overarching guideline—the big idea. Ads that deceive or mislead are prohibited. Proclaiming professional superiority—that you have something that's superior to your colleagues—is prohibited. Making a guarantee is prohibited. "Painless dentistry" is prohibited. And solicitors are prohibited.

Sadly, all of these rules are violated, though, and routinely. I have collected dental ads that violate every one of these prohibitions. I have examples of ads that highlight "fillings with no mercury or metal," snore

prevention devices, phrases like, "offer expires," "our operators are standing by," and "fast and easy credit." There's plenty of sex in dental advertising, as well.

Some ads are objectionable because they diminish other professionals. I've got examples of that, too. These scare patients; and you're going to have patients who show up in your office and say, "Do you use digital X-Rays? Because I heard they're safer." There are ads for "mercury-free fillings." Other ads offer "98% less radiation exposure with our digital X-Rays." Another advertises "biologic dentistry." Many ads play on patient fears, and many people fear dentistry, of course.

It seems to me that advertisements for free teeth whitening are potentially deceptive. Not everyone is a good candidate for teeth whitening, right? Teeth whitening is variable and not going to work well for everybody. I could see patients coming in because of the free whitening offer only to be told, "Oh, I'm sorry, you're not a good candidate." That situation comes close to a "bait and switch" situation—or at least something that is not completely honest.

I have one ad that even says, "Did you use all your dental insurance this year?"

Advertising is an obvious symbol of the difficult situation that dentists face in every day practice. They have a primary obligation to take good care of patients who do not know much about dentistry, root canals, or *streptococcus mutans*. At the same time, dentists also have an obligation to make the rent. They have one foot in the cooperative world of care and the other in the competitive marketplace. Painless Parker's life and career provides a cautionary tale. If we don't take care to manage this tricky balance, we are all liable to suffer. An overly commercial profession simply will not work.

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