Commensal Microbiotica - Biological Frontier and Legal Challenge

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In American English, “guts” mean, you know, guts and fortitude. In French, “cran” means guts and courage. In Japan, “hara” literally means the abdomen and its contents. The Japanese also know that hara stands for the qualities of strength and fortitude. In the ancient Maltese tongue, “hara” has an associated meaning. In each of those wise and earthy cultures, the abdomen and its contents are recognized as controlling the personality and accomplishments of each person. The reason for this is now recognized as the interaction of the human body with an immense cohort of many varieties of bacteria that found on every surface of the human form, including the inner lining of the gastrointestinal tract. If you are lucky, your abdominal contents create a full bodied, well formed life of fulfillment and achievement. If not so lucky, your life can go down the crapper.

A solid perspective

We are chock full of microorganisms with which we share mutual advantages. This is our micro-biota: humans and their bacteria (and maybe our own and even bacterial viri - who knows?) that together constitute an ecological whole. Every single individual on earth has a unique mixture and proportionate representation of these profligate microorganisms, but we exist together. It is kind of like a rock-band, change the guy on the drums and the whole sound changes. Change one vibrato on the rapper’s recording and the album doesn’t go platinum.

The far- and fore-sighted Curt Sager postulated the concomitant evolution of humans and their feces in "The Origin of Feces," [Journal of Irreproducible Results," p. 20, 1986], with feces having an effect on the larger organism, promoting the growth and development of the intraluminal horde along with the shape and dynamics of the host. Humans are merely misshapen doughnoughts, a hollowed tube traversing the meat from mouth to anus, one end to another. (However, if one had their cranium inserted into their rectal vault, they would be a human Klein bottle.) We appreciate that microorganisms cover all surfaces of this human torus. The skin, the tear ducts, the ear canals, the nose, the vagina and (in extreme cases of gonorrhea) all the way up the whoopsie. Probiotics are active live growths of one or more bacterial cultures that are intended to colonize and modify the intestinal flora of a recipient, the inside, and which may also have an effect on the skin and the outside-inside (like the whoopsie).
The effects of all of these microbes are staggering. For one very scientific example, Nicholson and others published new findings in Science (Nicholson, et al, “Host-Gut Microbiota Metabolic Interactions, Science 8 June 2012: 1262-1267). (It is impossible to get more scientific than to get your theory published in Science for an American, or in Nature if you are British.) Your intestinal micro-biota by itself can do wondrous things. Abdominal bacteria might prevent malnutrition even if your food supply is otherwise inadequate. The world is agog with the effulgence of information about your colonic microscopic world. It is just this sort of high powered scientific finding that forward thinking medical academicians and clinical practitioners can rely upon to change the world as we know it. The multitudinous reports in newspapers, magazines and tabloids; confirmation on reality TV programming; and endorsement of probiotics by superannuated and even younger and hotter celebrity spokespeople confirm the findings published in highly reputable scientific and medical journals by scientists and physicians with impeccable credentials. The right kind of bacteria has been said to be treatment for complaints as diverse as regional ileitis, crone’s disease, ulcerative colitis, typhilitis, duodenal ulcer, stomach ulcer, atherosclerotic heart disease, Alzheimer’s disease and halitosis (personal communication). But in a way, we are merely rediscovering truths known from much earlier forgotten research and experience.

World War II was one of the most difficult and stressful times in all of history. The American President Franklin Roosevelt relied upon spas and secretaries to rejuvenate his strength. The English Prime Minister Winston (“Win with Winnie”) Churchill endorsed long hot baths, big cigars and copious quantities of Pol Roger champagne. Russia’s top man Josef Stalin (that was how the family spelled his name, but we don’t know how many years of schooling his mother had) relieved his tensions with vodka and frequent purges (not to be confused with high-colonics). For six long years during that conflict, Adolph “Wolfie” Hitler, nee Schickelgruber, relied upon the pro-biotic “Mutaflor” prescribed by his physician, Dr. Theodor Morell. Morell harvested Mutaflor from hardy Bulgarian peasant stock. Given the relatively unsophisticated technology of his time, Morell must have been very courageous to extract Mutaflor from the bottom of the hardy Bulgarian peasant out-houses in which the raw material was to be found. It was clear Wolfie felt Dr. Morell’s treatments sustained his vital energies, rejuvenated his important juices and boosted his enthusiasm and vigor to meet his tribulations. Indeed, Mutaflor must have fueled Hitler’s Herculean task of self-justifying his actions by enhancing his intestinal
fortitude. Given Hitler’s many supporters at the time, Mutaflor may have been more widely disseminated throughout the Teutonic populace than is otherwise appreciated. Certainly, it seems to modern eyes that Hitler’s minions flourished on a steady diet of Paul Joseph Goebbels’ (the Third Reich’s Chancellor of misinformation) fecal exudates.

Dr. Morell was certainly a visionary, but his contributions to modern medical knowledge were suppressed by a short sighted and biased medical hierarchy, perhaps influenced by some of his tiny character flaws. Those who doctors who deprecated Dr. Morell’s theories long held sway, and clouded objective scientific assessment of Dr. Morell’s contribution to medical science with their jealousy and prejudice. That is, until now.

A buggy whip was the best accelerant for the vehicles of times gone by; and once upon a time flint and steel was the most reliable means of generating a spark to ignite tinder to start a fire to help cook your dinner. You can still obtain excellent buggy whips; and you can still buy superb flint and steel sets. Moreover, simple equivalents to Dr. Morell’s Mutaflor can still be obtained, under different names. Thankfully, today, the torch has been passed, and we can aim much higher. The new bio-medical-technological frontier is a rational approach to Pro-Micro-Biotic (hereafter irregularly abbreviated as PMB) therapy. PMB is totally natural and it is possible to obtain it free of man-made chemicals like antibiotics or preservatives.

First decide upon the goal. Let’s say you want to be a famous bicycle racer, and do it without pesky shots of artificially harvested non-Vegan hormones or without those unnatural non-organic non-pesticide-free chemicals. Once you have determined a goal, go to the next step. Find one or more individuals who have an abundance of the qualities you might seek from a PMB infusion. That is, simply harvest PMB from the desired PMB donor. To be safe and scientific, reliance upon a single sampling of PMB may not adequately modify your own flora and it may be wise to employ multiple doses from a single donor or to combine PMB from several individuals. Three is a scientifically significant number, and therefore consider relying upon three donor doses, three donors or at least some combination or multiple of three.

**Legal implications and ruminations**

Some individual donors may assert that the harvesting of their PMB is intrusive. However, even if an individual’s PMB has been discarded, it may not be protected (see *Moore v. Regents of the University of California* 51 Cal. 3d 120, 793 P 2d 479 [1990]). Of course, PMB is
not something that anyone really wants to hold on to anyway, but there are some selfish people out there. Certain celebrities, rock stars, reality stars and really beautiful and good looking people may be subjected to a high demand for their PMB. To be generous and objective, let us admit that the demand for some highly desirable PMB may exceed the availability, even though the mentioned categories of PMB donors are totally full of it anyway. Because of pressures from the law of supply and demand, certain unscrupulous figures may take short cuts. Certified and registered PMB would be necessary to prevent fraudulent sales of PMB. This implies a mechanism to ensure a safe and secure distribution method for obtaining PMB from the donor, and supplying it to the end user. Consequently, it might be argued that the PMB harvested from such an individual would not be discarded *per se*, but would merely be extruded prior to packaging. For such a source of PMB it may not be possible to apply the principle of free capture *ab initio* (*Pierson v. Post*, 3 Cai. R 175, 2 Am. Dec. 264 NY [1805]). Consequently, obtaining highly desirable therapeutic PMB material will take money. Therefore, in our free enterprise system, use of therapeutic PMB will need to be funded by the federal government, or private enterprise will need to step in. Since cosmetic PMB improves the psycho-social adjustment of persons, so-called “cosmetic use” should be included as “medically necessary”.

Of course this is America. We probably don’t want the government to mess with our PMB. Also, PMB donors have a right to be reimbursed for their efforts in producing high quality PMB. It is just like sperm. If you want a blue eyed blond baby, you get sperm from a blue eyed blond sperm donor. Of course it is not quite that simple, but the simple principle is illustrative. You get what you pay for. Since each individual’s PMB is unique to that person, and is the result of lifetime cultivation, an individual can be said to have created a unique product and a person’s entire colonic content should be patentable.

The courts have already decided that certain genes can be patented and that which results from the product of the patent may not be propagated without permission from the patent holder (*see Bowman v. Monsanto*, 569 U. S. ___ [2013], 133 S. Ct. 420 [2012]). Further, even if it were possible to identify each of the microorganisms in a donor’s PMB, and duplicate the proportionate representation of every microbe, the Supremes may well decide that a properly patented intestinal fortifier may not be duplicated.

In these economically troubling times, celebrities and other stars have a right to donate their PMB and receive a fair market-price based upon supply and demand which can be deducted
as a tax credit. Of course, a celebrity has the right to sell their PMB for what the market will bear. (This would theoretically apply to common people, but that would be laughable.) Therefore, attempting to harvest feces extruded from a donor who planned to pursue the capture of that donor’s personal product for commercial exploitation or charitable donation might be considered poop poaching, and should be punishable by law.

**Solutions**

Recent history shows that our American form of government is superbly suited to deal with this precise issue. The federal government must step into this issue immediately. The feds must define the laws, rules and policies applying to fecal commercial exploitation, just as much as they intervene in breakfast cereals. Poo jokes might be declared scatological and therefore outlawed. Among the many exertions required, the legislative branch must authorize and executive must create a user friendly register of certified PMB donors. Intuitively, the participation of the FDA is counter-intuitive. However, a cabinet level post might be appointed to deal with the problem of PMB. Indeed, perhaps each of the existing cabinet members is already qualified to deal with this issue. Certainly, all politicians shovel bovine PMB on a daily basis.

A national PMB stockpile should be created and indexed, similar to the method of the Library of Congress. Such a national repository must be appropriately natural, safe, organic, and pesticide and preservative free. A distribution network working on the principle of credit or debit card fair market value PMB with overnight delivery can be set up. The US Post Office should be required to offer 7 day a week delivery for PMB distribution in order to guarantee the freshest feces possible for immediate use.

By law, private medical insurance plans should be required to pay for PMB treatments. Medicare and Medicaid should pay for PMB for those unable to privately afford PMB. Congress must immediately fund enough additional analysts in the United States General Accounting Office to prove that the PMB program will lift this nation out of the economic doldrums. Congress must also supply funding to a PMB division within the National Institute of Health in order to prove that PMB is an alternative therapy that cannot be disproved to work. The President must sign each of these bills at once, and should perhaps apply for a new Cabinet Level
Position to show that this nation, under the all-seeing eye that has always looked after the United States, can have more PMB than any other country, especially those socialist ones.

The urgency is palpable. Daily, important sources of PMB are disappearing forever. If the program had been begun early enough, Albert Einstein’s PMB could have been given to students failing high-school algebra; PMB from St Francis of Assisi could have been given to unreformed and dangerous criminals; and the entire graduating class of West Point could have been treated with PMB from Genghis Khan. Before more irreplaceable PMB is lost the nation must act. Daily, talented performers overdose. Their PMB is lost forever. Prompt action would result in the preservation of feces from each celebrity.

On the contrary, if we don’t act, we can expect a farsighted unfriendly power to get ahead of the United States in this next technological challenge. Imagine PMB from the Beijing Rock-a-Billy Hall of Fame Annual Atonal Acoustic Guitar Competition injected into the water supply of our major cities. Chaos, too horrible to contemplate, would result.

This is not just a race to the barren rocks of the moon. This is a race to the sane and rational use of PMB, and to the viability of the good old US of A. This is also a preventative crusade against weaponized PMB. In the 21st Century, the US must lead the way in PMB technology. If we don’t act immediately, valuable sources of unique PMB will go extinct, just like the Dodo or the 99 cent happy meal. If we don’t act immediately, the forces of evil might way-lay PMB and turn it against us. If we don’t act immediately, the legal implications may drown us in a cesspit of unregulated PMB. Therefore, we must act.