

Federal Emergency Healthcare Response

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***Financial Disclosures-No Relevant Relationships
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Objectives

- Understand the evolution of the US healthcare system.
- Understand the legislative and regulatory weakness of the emergency healthcare response.
- Propose changes to improve both the healthcare system and emergency healthcare response.

The Healthcare Market

- Medicare/Medicaid pay every provider less than the market cost of the goods and services they provide.
- Non-Profits (hospital systems) cannot decline Medicare/Medicaid patients.
- EMTALA defined the cost of emergency care as \$0.
- Healthcare networks' losses are made up by charging privately-insured/cash patients above-market rates for everything (usually 3-15 X market rate).
- Inflation from cost-shifting drives employers/pts to reduce insurance coverage.
- Insurers collectively bargain against providers; providers begin selling practices to health networks or forming large groups so they could collectively bargain back.
- 19 years ago, Dept Health and Human Services (HHS) financially forced the remaining independent providers into Accountable Care Organizations (ACO's).

Accountable Care Organizations: 19 years of...

- Electronic Medical Records (EMR's) report aggregate data to the HHS/insurers.
- Providers became “cost centers”, ACO's track and incentivize provider financial performance.
- Non-compete/contact provider contract clauses.
- Non-disclosure/speak well clauses.
- ACO's control providers' Continuing Medical Education (CME) budgets.
- Medical Student loan forgiveness: indentured servitude.
- Stockholm Syndrome providers.

Private Employers

- Know little about the art and science of medicine.
- Affordable Care Act (ACA) requires their participation.
- Fed is largest consumer in the US.
- Serve, and eventually trust the Fed/insurers' definition of "good healthcare".

HHS/Insurer Influences

- ACA transformed insurers into a pre-payment schemes. Now profit is maximized *by increasing expenditures*, but always at the budgeted rate. *Curing bad health isn't as profitable as bad health maintenance.*
- HHS/insurers pay providers better if they see 10 patients for 6 minutes than if they see 1 patient for an hour.
- HHS/insurers define pay-for-performance guidelines with financial penalties for violation. Fed/insurer budgets set, and are set, by these rules. ACO's enforce through restrictive clauses.
- HHS has nebulous rules required for billing it, and failure to follow these rules creates Medicare/Medicaid fraud/abuse: unwilling non-compliance.
- ACO's selective audit fears enforced through restrictive clauses

Federal Healthcare Legislation

- FDA given power to define “safe” and “effective”, control market access.
- FDA is 45% funded by patent drug/device industry fines/fees.
- No FDA/NIH/CDC cooling-off period, revolving door between patent industry/FDA/NIH/CDC.
- Bayh-Dole Act of 1984: NIH/CDC/universities become investors in patent disease treatment.
- 1986 law absolves vaccine makers of liability, vaccines become low-risk investments.
- PREP Act allows the NIH/CDC to declare medical emergencies and rule by fiat, FDA to break its own regulations.
- Authorizes Emergency Use Authorizations (EUA) if no alternative is approved.

Result of Concentrated Power

- NIH/CDC/FDA/HHS become worthy investments of lobbyists.
- Position selections based on profitability of ideas, not scientific acumen and compassion.
- Government captured by the regulated industry.
- Growth of vaccine Industry.
- Research into patentable pathogens.
- Escape of a patentable pathogen.
- NIH/CDC declare emergency, issue self-serving rules and recommendations.
- HHS financially enforces NIH/CDC recommendations.
- Congress grants NIH/CDC pandemic funds, they buy their patent treatments.
- Cost of FDA NDA application prevents unpatentable treatments from getting EUA.
- HHS financially discourages non-patent treatments.

Legislative Failure Causes

- Why did such bad laws ever get passed?
 - LOBBYING
- Why haven't these laws been fixed?
 - WE DON'T MAKE LEGISLATORS FIX THEM!
 - Plurality voting allows vote splitting, advantages incumbents.
 - Legislators are distracted from their constituents by lobbyists.
 - Chamber leadership has too much power by chamber rules.
 - When forced to choose between constituents and lobbyists/leadership, legislators are allowed to hide behind leadership.
 - Constituents have no alternative but to persuade legislators.

Legislature Solutions

- Referendum amendments at citizen and state levels.
 - Allows the populace to act when state legislatures will not.
 - Allows the states to act when Congress will not.
 - Embarrasses legislatures for inaction.
- Mandate ranked-choice voting for all elections.
 - Eliminates vote splitting.
 - Eliminates need for primaries.
 - Reduces cost of elections, which reduces lobbyist power.
- All legislation empowering emergency executive action excepts repeal from veto.
- Change chamber rules:
 - By signed petition of 15% of the chamber or committee, bills must be given a hearing.
 - Committee chairmen can only be removed by committee/chamber vote.
 - Leadership rulings must be voted on with a motion and second.
 - Eliminate the bill-pending objection.

Lobbying Solutions

- State-financed citizen political spending accounts (PSA's).
 - Enables and equalizes the financial influence on government among individuals.
 - Use-it-or-lose-it rules encourages political participation.
- Campaigns limited to PSA constituent donations only.
 - Focuses candidate attention only on their constituents.
- Limit election year candidate-identifying media purchases to registered candidate's campaign funds.
 - Permits issue debates and freedom of speech.
 - Prevents lobbyists supporting candidates.
- Support the Convention of States!
 - SCOTUS has equated campaign cash to protected free speech.
 - SCOTUS has equated individuals and groups/corporations.
 - Congress will never propose amendments that remove their own powers of self-enrichment.

State Healthcare System Solutions

- Ban evergreen non-compete/non-contact clauses in contracts.
- Indemnify FDA-unapproved medication use.
- Ban pharmacist prescription denial on the basis of diagnosis or efficacy.
- Ban introduction of FDA/CDC/NIH recommendations/guidelines as evidence in liability cases and state/local policy.
- Ban denial of insurance participation/hospital privileges solely on the basis of board status.
- Executive emergency powers require timed legislative recall *and evaluation immune from veto*.
- Vaccine non-discrimination legislation, banning enquiry and record-keeping.
 - Binds all governmental units/businesses/individuals into a bloc to resist Federal interference.
 - Protects all governmental units/businesses from vaccine injury liability.

Fed Healthcare System Solutions

- Phase out Medicare, Medicaid, Indian Health, and all other federal programs.
 - Replaced with state-managed HSA's.
 - Federal repayment to HSA's of Medicare contributions.
 - Federal contributions to military HSA's.
 - Financial compassion by government contributions to HSA's
- Amendment prohibiting governments from providing any healthcare to its citizens, excepting military and time of war/emergency.
- Emergency declarations require *immediate* congressional review *and final evaluation immune from veto*.
- Bayh-Dole Act amended so that all patents developed through Federal funding are owned by the Fed and licensed to any citizen for \$1.
- Repeal of EMTALA, HIPAA, PREP, and vaccine manufacturer indemnification laws.

Fed Healthcare System Solutions, cont.

- FDA/NIH/CDC funding limited to Federal general fund allocations.
- FDA market control limited to production quality issues.
- FDA/regulated entity employment banned for 1 year after regulated entity/FDA employment.
- Health insurance deductible caps eliminated.
- Health insurance companies required to apply all HSA payments towards deductible.
- Mandatory arbitration for insurance coverage denials.
- All citizen contributions to HSA's fully tax deductible, HSA expenditures untaxed.
 - All employer contributions to HSA's taxed.