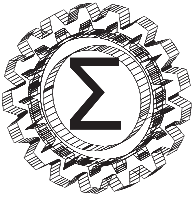

SYNESIS

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Addressing health care after the Affordable Care Act

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Abstract

Upon taking office, President Obama sought to address the myriad problems of the American health care system: an increasing percentage of GDP spent on health care, an inefficient market, and equity concerns. The issues raised have led to increased discussion of whether access to health care is a right, and what should be done about it. While health care may be a right in the sense that one cannot survive without it, it may be better described as a good, and public policy should address distribution of that good in the best possible way(s). While markets provide a viable distribution system, a variety of distortions in the US system, including heavy governmental involvement, create market failures that impede fitting health care into a traditional economic model. The new Health Care law goes beyond this concession, employing a mandate for all individuals to purchase health coverage, as well as imposing taxes upon employers who do not provide coverage for their employees, pharmaceutical and medical device companies, and tanning services, among other things. One significant problem with the new law is that companies may actually save more by choosing not to provide health coverage for their employees and incurring the specified fine. This essay posits that a different approach may be needed that provides more incentives for individuals to make smart health care choices, the decreases of defensive medicine practice allows cross-border purchase of insurance, and provides greater access to information.

Key words: health care reform, health insurance, Patient Protection and Affordable Care Act, market failure

There's an old joke about a physician in her place of worship:

Every week she goes, but no matter how she tries, people disturb her during her prayers. "Doctor, my knee hurts — can you help me out?" asked the farmer. "My child has a rash on his back — what should I do?" asked the mother. After the service one day, the physician shares the problem with one of her friends who is a lawyer. "It really drives me crazy. Every week I come to worship, and I'm sitting there trying to pray, but people come up to me and ask for medical advice. It's very disturbing, and it gets in the way of my worship. What should I do?"

The lawyer replies, "I have the perfect solution for you." "You need to make a mental note of everyone who asked for free advice during services. When you go to work on Monday, write down the list, give it to your assistant, and ask him to send them a bill." The physician agrees that this is a fantastic idea, and is determined to start the next week. Monday morning arrives and the physician presents her assistant with a list of everyone who asked for free medical advice. Her assistant takes it, and hands her an envelope in return. When the doctor asks her assistant what's in the envelope, he replies, "That's the bill from the lawyer."

I tell this story because I see many parallels between it and our current health care system in America. When I look at health care in America, I see lawyers (i.e., the US Congress) telling doctors around the country what to do, how to do it, and how to pay for it. I believe that when President Obama entered office in 2009, he correctly recognized the problems in health care. He talked about its absolute costs, the high and growing percentage of GDP that we spend on health care, and the health care inflation rate. All of those numbers have changed since 2009, and mostly not for the better. At present, we spend about $2.5 trillion on health care per year, which represents about

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17.6% of the GDP. As these numbers show, our current path is clearly unsustainable (1).

President Obama also recognized the market failures that have led to a situation in which 46 million people do not have health insurance at some point each year. Clearly, the health care sector was not operating as an efficient "market," although there remains significant disagreement over whether these market failures were taking place because of too much, or too little, government participation in the health sector. Obama also noted real concerns about equity; some people were unable to get the health care that they needed or wanted.

This raises the interesting question of whether an individual has a right to health care access. I believe that in many ways, health care is like food, or any of the other items on the lower end of Maslow's needs hierarchy (2). One cannot survive without it. In this light, I do not view health care as an inalienable right that is explicitly laid out in the Declaration of Independence. At the same time, however, I would argue that health — like food — is important to both integrity and flourishing of both individuals and the polis. Furthermore, I also recognize that health care provision does not and perhaps should not fit the traditional economic model, given the market failures (including the market power held by large insurers) — and the fact that some of the ethical and social issues may not have quantifiable answers.

This is an important point to emphasize. We talk about the legal and practical issues, but at the same time the moral and ethical aspects of health care provision have great sway. Thus, I hold that one of the most important issues is the need to assess distribution of health care goods and services.

There have been many compromises, shifts, and changes along the Health Care Bill's journey to passage. I do not think it would be completely fair to describe the bill that passed as fully representative of the Democratic ideals in the abstract. But we must recognize the realities of politics — bills are based on principles, and are altered along the way. Senator Dick Durbin (D-IL) put it well recently on a talk show when he said there was no perfect legislation that has been produced "…since Moses came down with two Tablets." (3) However, while there are always imperfections introduced during the translation from abstract principles to final product, I believe that the bill is a good approximation of what the Democrats were trying to accomplish.

To be sure, the Bill is exceptionally long as well — nearly 2,700 pages (4). There are very few people who have read the document in entirely or detail. I admit that I have not either. I have, however, read the excellent summaries prepared by the Congressional Budget Office (CBO) (5) and Congressional Research Service (CRS) (6). If I had to sum it up, the bill created a mandate for everyone to purchase health insurance while also placing a number of regulations on insurance companies to address issues that were the focus of ongoing complaints. As a result, two major alterations to insurance provision now dictate that most salient of these insurance companies must issue coverage to people with pre-existing conditions, and insurance companies now allow parents to keep children on their family coverage until age twenty-six.

For every subsidy, mandate, exchange, or regulation, there is a reduction in Medicare spending, or a new tax to help pay for it. The bill introduces taxes on many things, including employers who do not provide insurance for their employees; pharmaceutical and medical device companies; and tanning (4).

It seems to me that this rather complicated system creates a number of strange incentives. Consider, for example, AT&T, which spends about $2.4 billion per year on health care for their employees (7). If they were to drop everyone from their health care coverage program and place them in the exchange, they would incur almost $600 million in penalties under the new bill, (7) for an overall net savings of $1.8 billion on their bottom line. For a variety of political and public relations reasons, AT&T will most likely not make such a decision.

However, if we consider a firm one thousand times smaller than AT&T, it is likely that they could save a similar fraction of money, but would not necessarily contend with or worry about bad publicity or negative press. There are many more companies at the $2.4 million annual earnings' level than at the $2.4 billion level. For this reason, I believe many more people will be placed into the exchanges than has been anticipated under the deliberations that led to the Health Care Bill.

As this example illustrates, the economics of the bill are suspect, but I believe that President Obama succeeded in passing the bill not because of a failure to apprehend economics, but because of an emphasis upon moral issues of so many people lacking insurance. I hold that it is important to keep that issue in mind as we talk about how

to distribute health care. I recognize that it is somewhat misleading to talk about health care as "a right". Yet, at the same time, we have agreed that health care is something that everyone should have access to (at very least in times of great danger). For example, the Emergency Medical Treatment Act (EMTALA) (8) requires hospitals or physicians to care for someone in emergency medical situations. The question then becomes what level of health care should be obligatory? Does everyone get the Cadillac plan? Is this something we — as a nation — can afford?

I maintain that Mr. Obama's use of the statistic that 46 million Americans uninsured is a bit misleading. This number includes many people who have temporarily lost coverage while between jobs. It also includes younger people who have decided not to purchase coverage because they believe it's not worth it (9). There are others who are actually eligible for government-assisted health care right now, and choose not to take advantage of it (9). So, there are many people counted in the 46 million who do not fit the picture of a person with a pre-existing condition who is working but just can't quite make it. Studies suggest that population comprises approximately one-quarter of the figure (10). This is, by all means, still too many, but represents, at least to my view, a much more manageable number, if we took a more targeted approach.

There are a number of potential components of such an approach. None would be a panacea by itself, because the system is so complex and expensive. However, there are some things that could help. For example, the Congressional Budget Office has assessed that it would take about $50 billion in 10 years to reduce medical liability lawsuits. In my opinion, it is possible that this could be reduced even more by decreasing the practice of defensive medicine. Many physicians currently order more tests than are necessary or prudent, simply because of their fear of litigation.

Another step would be to allow people to purchase insurance across state lines. Currently, some states, like New Jersey and New York, impose mandates on state insurance plans that require plans to cover certain conditions (11, 12). This escalates the costs of insurance, and makes it difficult for people in those states to afford health care. The ability to purchase coverage across state lines could increase competition in the ruling states, thereby having the potential of increasing options and driving prices down.

As well, greater access to information is an important component. Currently, we are amidst an information revolution. One can search online and find nearly any type of information. However, to find out how much a hip replacement will cost is almost impossible. Many Americans are insured through governmental Medicare or Medicaid, or are covered by private insurance, and therefore do not pay out of pocket for almost any of their health care costs. As a result, they pay considerable premiums (which they may resent) but they incur very little in actual day-to-day costs for physician visits or procedures. Because people do not see the direct costs of such services, they don't "shop around" to get the best prices. While there is considerable discussion whether — and concerns about — health care as a commodity — the fact of the matter is that medicine occurs in "the market" and I concur with the view and argue that we must address this directly (13-16).

It has been a general rule of American life over the past 50 years that technology continues to improve while prices decrease. My son's pocket calculator is proof of this; as is commonly touted, it has more computing power than the systems used by the Apollo moon shot. This pattern of technological availability, improvement, and affordability, however, doesn't seem to hold for health care. Instead, while there have clearly been many new technologies and some price reductions in health care, on the whole, health care costs have continued to rise faster than inflation. I believe one of the primary reasons for this is the lack of consumer driven-information to make smart pricing choices.

One noticeable exception to this is in LASIK surgery. LASIK surgery is less expensive (17), safer, and more effective than it was years ago (18). This can be attributed, in large part, to the lack of coverage provided by insurance companies. This forces consumers to "shop" for the best "deal". But, although there's something to be said for a value-driven health care system, this may also open a proverbial "can of worms" by instantiating a strictly competitive market ethos, which may denigrate the quality of care — if not the value of medicine (19).

In conclusion, few would disagree that there are problems with the American health care system. Unfortunately, there is no simple or rapid solution to mend these woes. I believe we must to set a path that provides safe and equitable care to as many people as possible. I do not think that the recently passed bill will do so, and I suspect that it will be progressively overturned, or collapse of its own

weight. At the same time, I am an optimist, and I posit that discussions about whether health care is a right, and how to apportion it, are necessary and vital to putting us on the path toward right and sound solutions.

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Disclaimer

The claims I make in this article are mine; my work was not subsidized or contracted by a private or commercial enterprise.

Competing interests

I declare that I have no competing interests.

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