

Oral Testimony - HCIFS Committee of the Maine Legislature - Takeaways from HCIFS hearing on 4-28-2022
By Philip Caper, M.D.

What we have all witnessed today is the dynamics of a failed market at work. Our flawed and ill-advised market-based for-profit and competition driven system, codified in the ACA, is behaving, not as it was intended to do, but as it was designed to do.

This is not a failure of Anthem or of Maine Health. Everybody is just doing their job, as they see it. What you're seeing is market-failure at work, and conflict created by a misalignment of incentives and of missions among the players.

Competitive markets do not, have not and will not ever work in health care, for reasons I detail in my submitted written testimony.

What was missing in this hearing, so far, is any in-depth discussion of the effects of this profit-seeking competitive behavior on "consumers" - AKA "patients". It's all about the money!

Who is at fault is this mess? When you put the fox in charge of the chicken coop, and the chickens begin to disappear, you don't blame the fox for being a fox. You have to ask "who put the fox in charge?"

This is a failure of public policy. No other wealthy country in the world has relied on a market-based, competitive system to control healthcare costs and protect the quality of care, and assure access medical care.

I hope today's hearing has demonstrated some of the reasons why that is the case, and has helped you to understand why the problems this hearing was intended to address are crying out for systemic and transformational changes.

Tinkering with the ACA will never produce the kind of changes that are needed.

Anything less is just kicking the can down the road - and guarantees that we will be back next year, the year after that and a decade from now -talking about the same problems.

This committee - and the legislature - has to think outside the box. That box is the belief that our for-profit, competitive and market-based system of health care is the right policy. What's needed is transformational change.

It's time to realize that the grand American experiment in market-based, profit-seeking and competitive health care has failed.

What we need is to return to a system based upon patient welfare - not money - sound health planning and cooperation among non-profit sources of financing, and health care delivery entities (including doctors) and patients.

Dirigo!

Maine can lead the way in showing how it can be done. That is absolutely do-able. 80-90 percent of the problems you heard described today would go away if this were done. The problem is not one of financial resources - we're now spending too much as is, and could fund universal coverage out of the waste in what we're now spending.

This problem is almost entirely a political one, and the legislature is the key to solving it. After all, our state and federal legislatures put the fox in charge of the chicken coop in the first place. Now, the state and federal legislatures are going to have to take responsibility for the mess, and fix the situation, as hard as that is going to be.

Activation of PL 391, that became law thanks to the action of this Committee is one path that can be taken to start the process of getting this done.

Once universal health care in Maine is a reality, I believe that the only remaining question the beneficiaries of this change (all of the people of Maine) would ask is “Why did it take so long?”

Written Testimony

Testimony before the Health Care, Insurance and Financial Services Committee of the Maine Legislature by Philip Caper, M.D.

Thursday, April 28, 2022

Good morning chairs Sanborne and Tepler, and members of the Committee. I am Doctor Philip Caper, and live in Brooklin, Maine. I am an internist, and have been an outspoken advocate of reforming our broken health care system, and replacing it with a publicly funded, universal system as is the norm in all other wealthy democracies throughout the world. I believe a so-called single payer system is the fairest, most efficient and effective way to achieve that goal.

I was not born a single payer advocate. But I have repeatedly returned to single payer as the best solution to the many problems of our health care system throughout my over 50 year long career as a college and medical student, resident and fellow in medical training. During my career, I have served as a student and teacher at some of the country’s most prestigious universities, a clinician and researcher at some of our country’s best medical centers, a public healthcare policy-maker at the highest levels of the US government.

I have also been an entrepreneur and was the founder, chairman and CEO of a health care software and data company that was recognized by the Wall Street Journal in their 1992 centennial edition as one on the 100 most innovative companies in the world.

I have lived in Maine for twenty years, and I am also a founding Board member of Maine AllCare, a non-profit group that advocates for a non-profit universal system of health care financing for the state of Maine.

Last year, after ten years of service on the MAC Board, I was termed out, and am speaking today as an individual Mainer.

The healthcare system in Maine, and throughout the US, are by far the most expensive of any in the world. Yet, health care costs continue to rise, almost a third of Mainers and other Americans remain either un-insured or under-insured. Medical costs are a leading cause of bankruptcy in America - a situation that is not tolerated and for the most part is non-existent in other wealthy countries. Despite this, the results of our system are mediocre at best by most measurements. The US is the only wealthy country in the world where the life-expectancy is actually decreasing.

You've heard all of this before. Yet our health care system continues to deteriorate. What you may not know is that the healthcare system in the United States (including Maine) is the the only one in the world that relies as heavily on a for-profit, market and employment-based system of private insurance for financing, implemented by national or international for-profit investor owned publicly or private equity financed companies. That is the most internationally distinguishing characteristic of our health care system. Such companies have one over-riding mission - to create wealth for their owners. It is time to declare that experiment a failure.

In fact, the profit-seeking ethic of these companies has become so wide-spread throughout the health care system that it has infected even nominally non-profit- companies such as Maine Medical Center and Maine General Hospital in Augusta. Several years ago, Maine General Hospital (nominally a non-profit hospital) shut down their diabetes clinic because — it was not profitable.

During my over 50 year career in health care, I have watched the transition of the system from one almost completely dominated by non-profit insurance companies, such as Blue Cross/Blue Shield of Maine (before its acquisition by Anthem), and non-profit community based hospitals (such as Maine Medical Center), granted tax-exemption in exchange for community service.

The dispute between Anthem Insurance Company and Maine Health that has generated this hearing is the inevitable result of profit- seeking behavior between these two Goliath-like entities. Our for-profit health care system, based on the theology of the marketplace, importance of “consumer” choice and the supremacy of shareholder (or stakeholder) value. (A similar dispute happened a decade or so ago between the Tufts Health Plan and the Massachusetts General Hospital in Massachusetts. It was eventually resolved mostly in favor of MGH, after they ran a successful campaign of fear aimed at patients enrolled in the Tufts plan who were threatened of being unable to use MGH in the future.)

These conflicts of interest are inevitable in a healthcare system based on business ethics, market principles, and competition among health care providers and insurance companies. From the point of view of investors in the health care industry, healthcare is a great business opportunity - a belief validated by the high return on their investments since enactment of the Affordable Care Act. Absent major intervention by government, those returns will remain high into the future, and the consequences of those high returns - high costs to the purchasers of such services (all of us), high gaps in coverage and poor to mediocre results) will continue.

That is so for one over-riding reason - the “consumers” (aka “patients”) have no power!

Economists George Akerlof, Michael Spence and Joseph Stiglitz won the Nobel Prize in Economics in 2001 for their analyses of markets with asymmetric information. In their study of the market for used cars (Selling Lemons), they demonstrated that in markets where the sellers have much more information than the buyers, quality suffers and those markets eventually become corrupt.

I can think of no markets with a greater asymmetry of information than health care. It is almost impossible for a “consumer” to predict the cost, quality or appropriateness of the health care they receive.

In order to work well (or even to work at all), markets must satisfy three basic requirements. “Consumers” (aka patients) must be able to afford the product (healthcare products and services in this case), be able to make a free non-coerced choice of what and whether to buy the product and accurate information about both the quality and price of the product. In healthcare, none of these

three requirements are is fully met.

For these reasons alone, no other wealthy country in the world has tried to implement a market-based system of health care such as the one created by the Affordable Care Act, much less one carried out implemented by corporate entities focused on return-on investment, as in Maine and the rest of the US. In fact, the American healthcare system is the object of ridicule and an example of how not to run a healthcare system throughout the developed world.

It is as if one were to build a house built on an unstable foundation that is constantly shifting. As cracks appear in the walls, leaks appear in the roof, and leaks appear in the plumbing and short circuits appear in the electrical circuits, attempts to fix the problem by patching the walls, patching the leaks in the roof and patchwork fixes are attempted to repair the plumbing and electrical system problems, they inevitably re-appear - until the shifting foundation is stabilized. These patchwork fixes only succeed in kicking the can down the road.

That is a good analogy for attempts to fix our broken health care system without eliminating its for-profit market-based foundation. We must replace it with a system that is based on sound health planning and cooperation instead of competition among health care “providers” such as hospitals and doctors.

In today’s system, even the most well intended doctors, nurses and other health care workers are constantly swimming against the tide. Such workers have increasingly become cogs in a corporate machine that is always pressuring them to put institutional profits, not patients, first. It is the moral injury produced by this conflict that accounts for the widespread dis-satisfaction and eventual burn-out of health care workers. It is not just the paperwork.

The problems of our healthcare system are overwhelmingly political. They are not due to a shortage of money or even of real resources such as doctors, nurses, (and other health care workers), facilities and equipment - although there is plenty misallocation of those resources. The barriers to change are to be found in mis-placed ideology (the theology of the marketplace and of competitive marketplace incentives) and a lack of political will to get the job done.

Who are the villains in this story, and who is to blame for our inability to fix it. Every other wealthy country in the world has succeeded in having a much more well functioning healthcare system than ours, using differing paths to do so.

It’s a little like putting the fox in charge of the chicken coop, and then blaming the fox when the chickens begin disappearing. This is not a failure of the profit-seeking companies we have put in charge of the healthcare system. For-profit companies play a role in many other countries. It is not capitalism per-se that is the problem. It is capitalism-run-amok that is the problem. It is the American predilection for unfettered capitalism and unregulated markets that are the problem. It is the American knee jerk predilection for deregulation and low taxes, no matter how much good they do that is the problem.

The problem is a corrupt and ineffective public policy, encouraged by our insistence that we consider corporations to be people, and consider money to be the equivalent of speech. Most of this corruption is perfectly legal - although there is plenty of waste, fraud and abuse that is not so legal in our healthcare system). (Read “License to Steal” by Malcolm Sparrow.)

It is also result of a political system that is more responsive to political contributions than it is to the public’s preferences, to the dominance of corporate contributions in the funding of political

campaigns, and to a public that continues to vote for office-holders that don't carry out their campaign promises.

If we are ever to dig ourselves out of the deep hole we have dug by coupling market theology with free reign for profit-seeking corporations throughout the system, and could replace health care as a profitable commodity with health care as a public good as have most of the world's wealthy democracies, there will be only one more question.

“Why did it take us so long”?