What Went Wrong with Health Care? - Commercialization, Managerialism, Corruption

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- Wally R Smith MD, Virginia Commonwealth University
  - Health Care Renewal blog (http://hcrenewal.blogspot.com), Foundation for Integrity and Responsibility in Medicine (FIRM)

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The Traditional Measures of Health Care Dysfunction

- Costs
  - Keeps rising, and faster than in other developed countries
- Quality
  - Not improving, certainly not in proportion to cost
- Access
  - Improvement not clear post-ACA

What Is Going Wrong? – the Conventional Wisdom

- Expensive technology
  - “New treatments and technologies are more expensive than ever”
- Changing demographics
  - “The population is getting older and sicker”
- Excess demand –
  - “Too many people are seeking care they don’t need”
- Provider-driven demand
  - “Health care providers are all too willing to provide care that people don’t need”

Potter W. Deadly Spin, p.64

Do We Need a New Approach?

- Despite reforms based on the conventional wisdom, problems with cost, quality, access keep getting worse
- Although expensive technology, changing demographics, patient demand, and provider-driven demand are present in all developed countries, things are getting worse faster in the US
- Cost, quality, access may not be the only indicators of health care dysfunction

Meanwhile, Physicians Increasingly Unhappy

- Since the 1980's, health care professionals have been increasingly dissatisfied
- Proportion of physicians who felt they make the wrong career choice:
  - 1973 - 15%, 1995 - 40% (1)
- Massachusetts physicians in 2001 – 62% dissatisfied with practice environment (2)
- Kaiser survey in 2002 – 45% of physicians would not recommend medicine as a career (3)
- US Physicians in 2012 (4)
  - 45% burned out (>50% - emergency, general internal medicine, neurology, family medicine)

1. Zuger A. NEJM 2004; 350: 69. 2. Mass Medical Soc 2001 . 3. Kaiser Fam Foundation 2002 4. Shanafelt TD. Arch IM 2012;

A Cautionary Tale: The Dysfunction of American Health Care (2003)

- Crude qualitative study, based on interviews with small group of physicians (later expanded)
- Main finding: physicians had a fundamental concern about threats to their core values
  - "The mission was hijacked, taken over by people to further their personal agenda." - Pennsylvania physician
  - "My boss is a crook." [Question – you mean you don't like or agree with him?] "No, he's a crook, but I don't have enough evidence to go to the district attorney." – NJ physician [interview not in the article]

Poses RM. Euro J Int Med 2003; 14: 123

Proposed Causes of the Threats to Core Values (2003)

- Domination of large, bureaucratic organizations which do not honor these values
- Conflicts between competing interests and demands
- Perverse incentives
- Ill-informed, incompetent, self-interested or ***corrupt*** leadership
- Attacks on the scientific basis of medicine

Concerns of PNHP Members

- In daily practice, declining autonomy and administrative work overtaking clinical work = domination of large bureaucratic organizations
- Increasing privatization of Medicare (obscuring the meaning of "Medicare for all") = [commercialization]
- People with corporate ties ascending to high-level government leadership positions, especially in the Trump administration = conflicts of interest, corruption

Hypothesized Causes of Dysfunction: Organizational Process and Structure

- Health care is increasingly dominated by **large organizations**
- The **organizations' leadership** may be:
  - Autocratic, "imperial"
  - Insulated
  - Uninformed about health care context, indifferent to health care values
  - Incompetent
  - Self-interested
  - Conflicted
  - Corrupt and/or criminal
- The organization's **governance** structures enable such leadership
- The organization may use tactics including:
  - Deception, delusion, disinformation
  - Intimidation, coercion, perverse incentives, conflicts of interest

Organizational Structure and Process	Organizational Tactics	Medical Decision-Making, Health Care Process	Outcomes

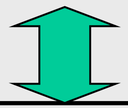
Poor Governance:

Unrepresentative

Unaccountable

Opaque

Not Subject to Ethical Standards



Poor Leadership:

Autocratic

Isolated

Uninformed, Indifferent

Incompetent

Self-Interested

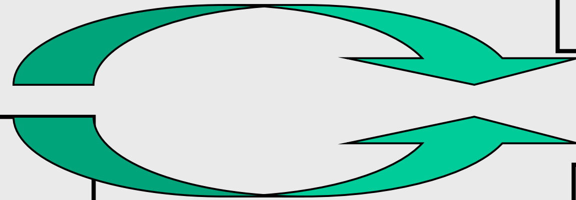
Conflicted

Corrupt

Deception

Delusion

Disinformation



Intimidation

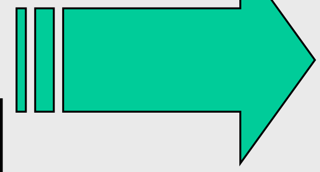
Coercion

Perverse Incentives

Conflicts of Interest

Threats to Evidence-Based Practice

Threats to Core Values, Ethical Practice



Increased Cost

Decreased Access

Poor Quality

Demoralized Professionals

Suffering

Disability

Disease

Death

Conceptual Model

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What Happened?

- Defeat of Professional Ethical Standards
- Neoliberalism
  - Commercialization
  - Managerialism
  - Corruption

Professional Ethical Standards Through the 1970s

- Through the 1970s, the ethical code of the AMA said:
  - "in the practice of medicine a physician should ***limit the source of his professional income to medical services actually rendered by him, or under his supervision***, to his patients"
  - "***the practice of medicine should not be commercialized, nor treated as a commodity in trade***"

The Demise of Professional Ethical Standards

- Health care economists regarded “professional norms as *monopolistic constraints* on contractual possibility.”(1)
- “The 1975 Supreme Court ruling that the professions were not protected from anti-trust law *undermined the traditional restraint that medical professional societies had always placed on the commercial behavior of physicians*….”(2)
- “In 1980, after medical organizations lost some costly antitrust trials, in which they were accused of such offenses as limiting doctor fees or denying staff privileges, the AMA changed its ethical guidelines, declaring medicine to be both a business and a profession. This lowered the AMA's barriers to the commercialization of medical practice….”(3)

1. Bloche MG. J Health Politics Policy La2 2001; 26:1099. 2. Relman AS. JAMA 2007; 298: 2668. 3. Relman A. NY Rev Books, July 2, 2009

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Historical Background

- From professional ethics and the missions of not-for-profit organizations to laissez faire (gilded age, robber baron?) capitalism

Arrow (1963) Health Care Not a Free Market

- Arrow "argued that medical care cannot conform to market laws because *patients are not ordinary consumers and doctors are not ordinary vendors*. He said that *sick or injured patients must rely on physicians in ways fundamentally different from the price-driven relation between buyers and sellers in an ordinary market*. This argument implied that, contrary to the assumptions of antitrust law, *market competition among physicians cannot be expected to lower medical prices*. And since physicians influence decisions to use medical services far more than patients do, the volume and types of services provided to patients—and hence total health costs—need to be controlled by forces other than the market, such as *professional standards and government regulation*."

Relman A. NY Rev Books, July 2, 2009

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Why Health Care is not a Free Market

- Ambiguity and uncertainty – about diagnosis, prognosis, results of treatment
- Information asymmetry – patients know less than health care professionals, management, etc
- Price opacity
- Failure of cold cognition – due to illness or emotional response to context

Nonetheless, the Rise of Neoliberalism

- "The Market" is a better processor of information than the state;
- "politics operates as if it were a market";
- ***"corporations can do no wrong";***
- "competition always prevails";
- ***the state should be "degovernmentalized" through "privatization of education, health, science*** and even portions of the military";
- a good way to initiate privatization is to redefine property rights;
- ***"the nation-state should be subject to discipline and limitation*** through international initiatives";
- ***"the Market . . . can always provide solutions*** to problems seemingly caused by markets in the first place";
- "there is no such thing as a 'public good'";
- "freedom" means economic freedom within the Market.

Krimsky S. A neoliberal economics of science. American Scientist 2011

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Commercialization

- Non-profit health care organizations tied to for-profit businesses
- Rise of for-profit health insurance, hospitals, provider organizations

Example: Ludmerer's Historical Background of How Academic Medicine Leaders Forgot Its Mission

- Academic health centers (AHCs) became dependent on huge cash inflows from Medicare and commercial insurance
- Cost rises lead to cost containment
- In response, medical schools and AHCs "were content to go where the money was...."
- So, "financial success, the measure of the marketplace, has become the dominant standard of measurement of 'value' for most academic medical centers."

Ludmerer KM. Time to Heal. New York: Oxford University Press, 1999

Academic Medicine's Leaders Forgot Its Mission II

- Furthermore, "hospital administrators increasingly had M.B.A degrees.... assumed business titles..., demanded and received corporate levels of compensation, and retained hordes of management consultants."
- Thus, "medical school and hospital officials ***approached academic medical centers much as if those institutions were making cars or breakfast cereals. They applied the same management strategies to medical centers that were widely being used in other 'industries***.'"

Ludmerer KM. Time to Heal. New York: Oxford University Press, 1999

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Academic Medical Centers As "Cash Cows"

- At Virginia Commonwealth University:
  - Approximately 1/8 of students are in health sciences
  - Approximately 2/3 of university president's salary comes from health sciences and "private" sources

VCU News, Feb 20, 2009

Academic Medical Centers: “Show Me the Money”

- The medical school mission is to teach medicine, and in doing so, provide excellent patient care and perform excellent research, but…
- Lee Goldman (interview in April, 2007, SGIM Forum) divided faculty into:
  - “**Taxpayers**” who generate more than they cost
  - “**Hired workers**” who get paid to do a job
  - “**Loss leaders**” who get short-term investments in the expectations they will become taxpayers
  - “**Welfare recipients**” - faculty with more tenuous status.
- ***“Bottom line, you should strive to be a 'taxpayer.‘”***
- The primary criterion of success in academic medicine is now how much money faculty bring in, from clinical practice or external funds from any source, not quality of teaching or academic work

Goldman L et al. SGIM Forum, April, 2007.

Bayh-Dole Act of 1980

- "Allowed universities to own inventions resulting from federally sponsored research and to exclusively license these inventions"
- "Requires the institution to establish patent protection and to encourage development of their inventions."
- So, "institutional policies structured to optimize institutional benefits and income…"
- Universities, medical schools, and academic medical centers start to act like biotechnology companies.

Boettinger S. Nature Biotech 2006; 24: 320

AAMC Redefines the Academic Mission

- Research universities must respond to "societal demands that they become ***engines of economic development***…."
- "Academic medicine… finds itself struggling to create a precarious equipoise between the ***world and values of commerce*** and those of traditional public service…."
- "In our capitalistic economy the pathway by which research invention becomes beneficial application is often totally dependent on ***venture capital, the availability of which commonly demands the active participation of academic inventors in the commercial venture***; put simply, no participation, no money. ***It is this demand … that has driven the dramatic increase in medical faculty entrepreneurship***."

Korn D. JAMA 2000; 284: 2234.

AAMC – AAU Advisory Committee on Conflicts of Interest

- *Commercialization of inventions and discoveries through technology transfer brings the benefits of university research to the public good.* The past thirty years have brought about *a major cultural shift* in research universities with respect to academic activities. Where once the development of products for the market place was discouraged, investigators are now *encouraged to share their expertise with industry through consulting, speaking, or other arrangements, to collaborate with industry in product development, and to form their own companies..*

AAMC-AAU Advisory Committee. Protecting Patients, Preserving Integrity, Advancing Health. 2009

AAMC – AAU Committee II

- “[Conflicts of interest] are not unusual; they do not imply wrong-doing or inappropriate activities. Rather, research universities *encourage interactions and the establishment of relationships between faculty and business and industry*. The experience and knowledge gained through outside consulting and service on advisory committees is valued for its *synergistic return to both research and student training*. *Commercialization of faculty inventions and discoveries* through technology transfer brings the benefits of university research to the public good. Faculty often play an important role in *successful commercialization efforts* as scientific consultants and in continuing research development projects.

AAMC – AAU Committee III

- "[There is] increasing collaboration between industry and research universities, the expectation that the universities can and should be involved in the *economic development of their region and state*, and the increasing *interest of the faculty in participation in entrepreneurial endeavors*…."
- "Conflicts of interest often arise at the intersection of two fundamental missions: to push the boundaries of knowledge and to *transfer that knowledge to the private sector for the benefit of the public*. With pro-active technology transfer comes increasingly close relationships between industry and university

Summary per Dr Arnold Relman

- "***Endangered are the ethical foundations of medicine***, including the commitment of physicians to put the needs of patients ahead of personal gain, to deal with patients honestly, competently, and compassionately, and to avoid conflicts of interest that could undermine public trust in the altruism of medicine."
- Threats arise from the "growing commercialization of the US health care system."
- We have come a long (and the wrong) way from an era (1980) when the AMA said, "***the practice of medicine should not be commercialized, nor treated as a commodity in trade.***"

Relman AS. JAMA 2007; 298: 2668.

Commercialization

- Non-profit health care organizations tied to for-profit businesses
- Rise of for-profit health insurance, hospitals, provider organizations

The Clinton-era Deceptive Health Care Reform Debate

- The debate was ideological, although this was not obvious at the time
  - “Socialists” (e.g., PNHP) vs extreme laissez faire capitalists/ neoliberals (e.g., Alain Enthoven, backed by big for profit insurance companies)

Big Government: Nationalized Health Insurance per PNHP

- “We envisage a program that would be federally mandated and ultimately funded by the federal government….”
- “Our plan borrows many features from the the Canadian national health program.”

Himmelstein DU. N Engl J Med 1989; 320: 102

Laissez Faire Capitalism (Neoliberalism): Clinton Health Care Reform Based on Managed Competition a la Alain Enthoven

- "Everyone not covered by Medicare, … or some other public program [would] be enabled to buy affordable coverage, either through their employers or through a 'public sponsor.' To attack the excess, we propose a strategy of managed competition in which collective agents, called sponsors, such as large employers … contract with competing health plans and manage a process of informed cost-conscious consumer choice that rewards providers who deliver high-quality care economically."
  - Alain Enthoven

Enthoven A. N Engl J Med 1989: 320: 29, 94

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But Enthoven Really Wanted to Break Up the Physician Guild

- Enthoven thought of physicians as members of guilds which were based on principles that were "not the natural expression of a free market in health care“
- Called for *managers* to use "tools they have found to counteract market failure.“
- *He suggested using a coordinated strategy to "break up the guild,"*

Entoven AC. Theory and Practice of Managed Competition in Health Care Finance. Amsterdam: North Holland, 1988.

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Managed Competition Advocates Pretended to be Physician Advocates

- To physician audiences, Enthoven and Jackson Hole leaders appeared in favor of physician retention of their professional authority under managed competition:
  - "[Physicians] are by far the best qualified to make the difficult judgments about need and cost effectiveness."
  - " I believe that accepting that responsibility is the only way in which the medical profession can maintain its autonomy in the United States."
- The few physician and PhD members of Jackson Hole were used as spokespeople, especially to professional audiences

Enthoven A. NEJM 1978; 298: 709

Enthoven's Managed Competition Advocated by Big Corporations

- By 1993, when the Jackson Hole Group had become Hillary Rodham Clinton's brain trust for health care reform
  - the majority were industry executives (e.g., of Prudential, Aetna, Metropolitan Life, Cigna, Glaxo, Merck, General Electric, EDS, etc.)
  - financed mainly by 15-20 corporate sponsors, including Aetna, Cigna, Metropolitan Life, Prudential, Golden Rule Insurance, and GE

The Health Care Reform Debate: War-Mongers vs. Communists

- Enthoven and Howard Waitzkin (PNHP leader, and author of "A Marxist View of Health Care") duked it out in print
- Waitzkin hung the Vietnam mantle on Enthoven, and blamed him for the "rapid deployment of Minuteman and Polaris nuclear missiles…. Many have argued that such weapons increased, rather than decreased the risk of nuclear war."(1)
  - Enthoven had been a protégé of Robert MacNamara in the Defense Department in the Vietnam era
  - He worked on the "body count" as a metric of military success (2)
- Enthoven called Waitzkin a communist: "Waitzkin's Marxist vision of a socialist America that would produce a socialist health care system is totally impractical and totally undesirable."(3)

Were they were both right? – Is Canada Marxist?

1.Waitzkin H. Am J Pub Health 1994; 84: 493. 2. Dreyfus R et al. Mother Jones May/ June 1993 3. Enthoven A. Am J Pub Health 1994; 84: 490.

Enthoven and Neoliberalism Won

- After Clinton health reform failed, managed care, run increasingly by for-profit health insurance companies took over
- But, without any of the government restraints that might have come from the Clinton health reform plan

Now For-Profit Health Insurance Companies Promote the Conventional Wisdom

- The conventional list of causes of health care dysfunction:
  - Expensive technology
  - Changing demographics
  - Excess demand
  - Provider-driven demand
- Actually was pushed heavily by commercial health insurance company public relations executives starting in the late 1990s to promote "consumer-driven health care."

Potter W. Deadly Spin, p.64, 110

Implications of the Prior Debates

- Our ongoing health care reform debate has been fundamentally dishonest
- Its fundamentally ideological nature was obscured, although it was really a battle between proponents of [sort of] big government versus big corporations [and oligarchs]
- So when big corporations won, their deceptive public relations campaigns to obscure the causes of health care dysfunction went undetected
- And the debate obscured the interests and values of
  - Health professionals as having a calling
  - Non-profit and community organizations as having missions
  - Patients and the public

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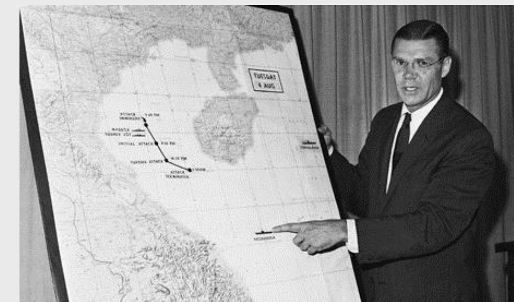
Health Care Dysfunction: McNamara Won

- "McNamara has been a tireless improver and rationalizer of industry…."
- "a corporate manager with a well-established reputation for cost-cutting and efficiency"
- "McNamara was more of an accountant than a global strategist, more of a technical manager than a man of vision"
  - A manager who took over from professionals using over-simplified models
- "McNamara seems to want to obfuscate the public record about Vietnam with evasive rhetoric and the artful dodge"
  - And propaganda



Brinkley D. The stain of Vietnam. Foreign Affairs, 1993

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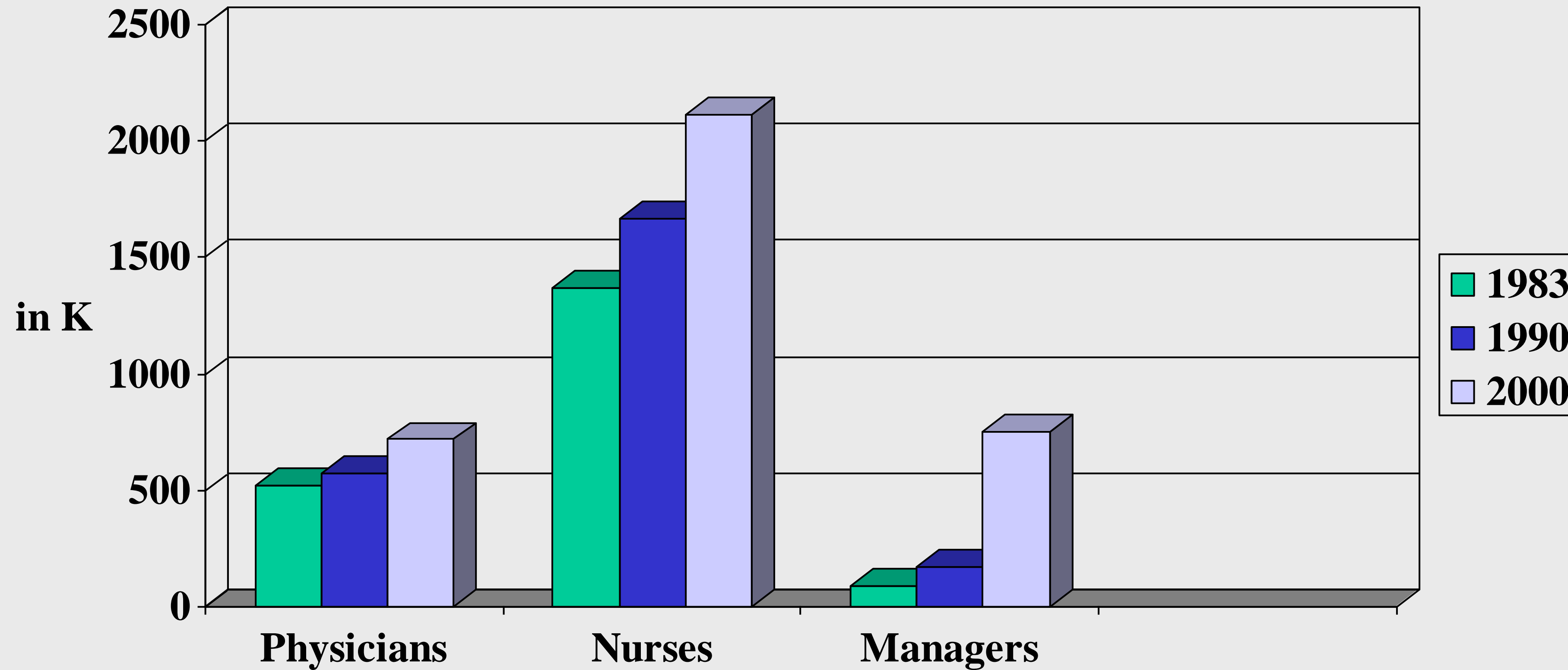
A Plague of Managers



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“Managerialism”

- Professional managers should run all organizations (including health care organization) using the market as the “sole regulatory principle”
- The results: “Policies and practices have become highly standardised, emphasising market-style incentives, devolved budgets and outsourcing, replacement of centralised budgeting with departmentalised user-pays systems, casualisation of labour, and an increasingly hierarchical approach to every aspect of institutional and social organisation.”
- In the health sector: “In the health sector, it has precipitated a shift in power from clinicians to managers and a change in emphasis from a commitment to patient care to a primary concern with budgetary efficiency.

Komesaroff PA. Med J Aust 2015; 202: 519- 521.

The Cult of the Messianic CEO

- The “savant-like figure can intuitively read market conditions, spot brilliant strategic opportunities, create clarity of purpose in pursuit of that opportunity, and steer by an innate sense of True North, without a compass.”
- “These charismatic figures are supposed to be capable of intuitively cutting through complexity and producing visionary decisions….”

Rao V. The Fall of the Messiah Leader.

The Divine Right of CEOs

- Origins of neoliberalism (also called "economism") included Puritanism:
  - "I say you ought to get rich, and it is your duty to get rich." – Rev Russell Cornwell, 1870
  - We have been conditioned to believe that ***wealth is an infallible sign of God's favor***.
- "The Family" (influential US cult, sponsors National Prayer Breakfast)
  - "Power lies in things as they are. *God has already chosen the powerful, his key men.*"
  - "We're all sinners, and thus *shouldn't judge those whom God places in authority.*"

Sharlet J. The Family.

Professional Managers Running Health Care Organizations

- May not know much about biomedical science, clinical medicine, public health etc
- May not know much or care about health care professionals' values
- May be taught to put short-term revenue ahead of all other considerations ("shareholder value theory")
- May have strong incentives (pay, bonuses, etc) to generate revenue rather than improve patient care
- May have exaggerated ideas of their own brilliance, and be protected from any dissent

What Happened?

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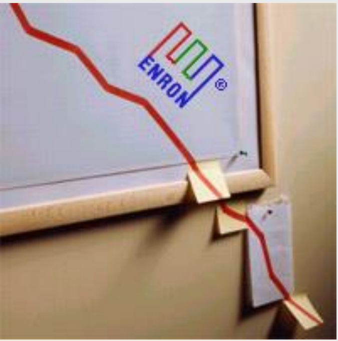
Health Care Not-for-Profits Became Like Businesses

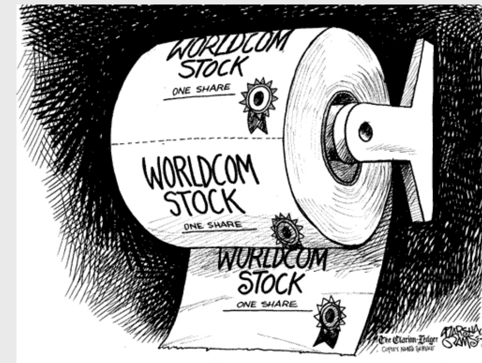
- "The filthy rich … are different. It is not just that they're rich but that there's something about being extremely rich that blurs ordinary perspective in all but the most exceptional people. Power may corrupt, but extreme wealth blinds and deafens."(1)
- "Much of the financial engineering, the fancy new derivatives and balance-sheet legerdeman, was part of a bubble that would one day burst…. Many of these hustlers, gamblers and pugilists were helping to misallocate capital on a fantastic scale…. They were telling America just what they thought of it."(2)

1. Marrin M. Times (UK), March 1, 2009. 2. Frank T. Wall Street Journal, Feb 11, 2009

Health Care Not-for-Profits Became Like Businesses (2001)

- By the turn of this century, in the time of Enron, Worldcom, Global Crossing, etc
  - which were run by "morally challenged executives," (1)
  - from a culture of "infectious greed," (2)





1. Sen. John McCain 2. Alan Greenspan, Chair, Fed Reserve

Health Care Not-for-Profits Become Like Businesses (2008)

- Later, by the time of the global financial collapse, in the time of AIG, Bear Stearns, Fannie Mae, Freddie Mac, Lehman Brothers, Merrill Lynch, etc, etc, etc

Health Care Not-for-Profits Became Like Businesses (2009 -)

- And Bernie Madoff, etc, etc,

Definition of Corruption

- ***Abuse of entrusted power for private gain***
  - Transparency International
  - Note that this is an ethical (or moral?) definition, not a legal one
  - Whether or not a specific act is legal depends on the jurisdiction

Transparency International's 2006 Global Corruption Report on Health Care

- ***Corruption - alongside poverty, inequity, civil conflict, discrimination and violence - is a major issue that has not been adequately addressed*.... It leads to the skewing of health spending priorities and the leaching of health budgets, resulting in the neglect of diseases and those communities affected by them; it also means that poor people often decide against life-saving treatment, because they cannot afford the fees charged for health services that should be free. ***Corruption in the health care sector affects people all over the world***.
- ***Corruption might mean the difference between life and death for those in need of urgent care. It is invariably the poor in society who are affected most by corruption***

TRANSPARENCY INTERNATIONAL
the global coalition against corruption

CORRUPTION RUINS LIVES.
TAKE ACTION.

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Transparency International's Global Corruption Report II

- But ***the scale of corruption is vast in both rich and poor countries*. *Corruption deprives people of access to health care and can lead to the wrong treatments being administered*.**
- ***Corruption in the health sector is not exclusive to any kind of health system***. It occurs in systems whether they are predominantly public or private, well funded or poorly funded, and technically simple or sophisticated. ***No other sector has the specific mix of uncertainty, asymmetric information and large numbers of dispersed actors that characterise the health sector. As a result, susceptibility to corruption is a systemic feature of health systems***

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Types of Corrupt Acts

- Payments, Kickbacks, Bribes
- Deception, Fraud
- Extortion

Payments, Kickbacks, Bribes

- Explicit (that is, usually illegal)
  - To government official in exchange for contract, grant, favorable policy
  - To physician in exchange for prescription, use of product (e.g., medical device), or referral
- Implicit (usually not illegal)
  - Payment to employee leaving for government position in anticipation of favorable treatment (revolving door)
  - Government official providing favorable treatment with expectation of later employment (revolving door)
  - Payment to health professional or in support of his/her career for favorable teaching, research ("conflict of interest")

Deception, Fraud

- Explicit
  - Misleading advertising or other deceptive practices to market good or services
  - Billing for unnecessary services or services not provided
- Implicit
  - (Manipulation/ suppression of clinical research for marketing purposes)
  - "Academic" endeavors (teaching, publication) for marketing purposes

Extortion

- "Most states define extortion as the gaining of property or money by almost any kind of force, or threat of 1) violence, 2) property damage, 3) harm to reputation, or 4) unfavorable government action."(1)
- Example?
  - Charging egregiously inflated prices for medical services, drugs, devices etc that could prevent untimely death, treat severe illness?

(1) - http://criminal.findlaw.com/criminal-charges/extortion.html

Participants in Health Care Corruption

- Political/ Governmental (Now rampant)
- Large organizations (Previously our main subject)
  - Pharma, device, biotech, hospitals/ hospital systems, managed care/ health care insurers, health care information technology vendors, consultants, lobbying/ marketing/ public relations firms, contract research organizations, medical education and communication companies, academic medical institutions, health care foundations, accrediting organizations, professional societies, patient advocacy groups, etc
- Health care professionals

More Examples of Large Organization Corruption than One Can Count

- Involved some of our largest health care organizations of all kinds
- Many organizations are multiple offenders
- Involved kick-backs, bribery, fraud, anti-trust violations, misbranding, adulteration of drugs/ devices, etc, etc
- Leaders of big organizations very well paid and influential beyond their individual organizations (e.g., as board members, advisers, etc)
- When large organizations involved, leaders rarely suffer any negative consequences
- But small scale cases (e.g., clinic guilty of Medicaid fraud) often lead to jail for perpetrators

The Old Revolving Door

- Mostly outgoing from the government, e.g., health agency leader signs on as board member of corporation after leaving government
  - Concern is that government health care leaders could go soft on industry in hopes of finding better job after leaving government

Examples of the Old Version of the Revolving Door

- Donna Shalala, Secretary of DHHS, to board of directors of UnitedHealth (2001)
- Dr Elias Zerhouni, Director of NIH, to Chief of R+D, Sanofi (2008)
- Dr Andrew von Eschenbach, Commissioner of the FDA, to Center for Health Transformation (multiple pharma clients)
- Mark McClellan, director of CMS, then commissioner of FDA (2006), to Johnson and Johnson board (2013)
- Dr Julie Geberding, Director of CDC, to President of Merck Vaccines (2009)
- Michael Leavitt, Secretary of DHHS (2009), to board of Medtronic (2011)

The New Revolving Door

- Much more prevalent since November, 2016
- Mostly coming into government: A person with a position in industry, e.g., consultant, even executive or lobbyist, goes to a federal agency charged with regulation or policy that affects his/her former employer
  - An even more obvious and direct conflict

The New Revolving Door: Examples

- Numerous "beachhead team" members from pharma, insurance, lobbying firms, health care consulting firms, health care IT firms, etc
- Ditto for numerous WH staff, executive branch sub-cabinet positions related to health care
- Dr Scott Gottlieb went from multiple industry consulting positions, board membership to FDA commissioner
- Mr Eric Hargan went from lobbying for major health care firms to acting Secretary of DHHS
- Mr Alex Azar went from President of Lilly USA to top candidate to be nominated to be Secretary of DHHS

Conflicts of Interest – A Risk Factor for Corruption

- **Corruption: Abuse of entrusted power for private gain (Transparency International)**
- "Conflicts of interest are defined as circumstances that *create a risk* that professional judgments or actions regarding a primary interest (that is, *entrusted power*) will be unduly influenced (*possibly leading to abuse*) by a secondary interest (*providing private gain*)."
- **Conflicts of interest are a risk factor for, and thus increase the probability of corruption**

The Old Conflicts of Interest

- Physicians, especially academic and medical leaders
- Leaders of hospitals, hospital systems, academic medical centers

New Conflicts of Interest: Former DHHS Secretary Tom Price – 2016

- Investments … Raise Questions Over Conflicts of Interest - StatNews 12/3/2016
- Traded Medical Stocks While in House – WSJ 12/22/2016
- Sought Special Treatment for Industry Donors – Kaiser Health News 1/9/2017
- Got a Sweetheart Deal from a Foreign Biotech Firm – StatNews 1/15/2017
- Study Cast doubt on a Heart Pill, the Drug Company Turned to … – ProPublica 1/19/2017
- May Have Broken Law in Stock Transaction – CNN 1/17/2017
- Proposed Bill Benefiting his Puerto Rico Investments – WSJ 1/24/2017
- Bought Stock, then Authored Bill Benefiting Company – USA Today 2/2/2017
- Fired US Attorney Preet Bharara Said to Have Been Investigating… ProPublica 3/17/2017

Other New Conflicts of Interest

- Hospital systems/ academic medical centers' fundraisers at Mar a Lago
- Current CMS head Verma served as consultant on Medicaid to Indiana while running Medicaid related business, and by 2017 worked for H-P while advising 9 state government
- Members of congress with substantial holdings in health care stock voting on, writing, advocating legislation that would benefit their holdings
  - Chris Collins (R-NY) major holder of and board member for Innate Immunotherapeutics wrote parts of part of 21st Century Cures Act that would benefit his company

And Then We Have: Donald Trump - 2016

- Foreign Business Entanglements Would Create Unparalleled Conflicts – WSJ 11/2/2016
- Conflicts of Interest Take White House into Uncharted Territory - Guardian 11/12/2016
- Vast Web of Conflicts - A User's Guide – Politico 11/16/2016
- Why Corruption Matters – NYT 11/28/2016
- It Was a Corruption Election – Foreign Policy 12/6/2016
- Now Inviting Corruption – WaPo 12/15/2016
- Undermining the Fight Against Corruption – Guardian 2/12/2017
- Conflicts Could Undercut Global Efforts to Fight Corruption – NPR 2/22/2017

Trump et al – Running a Global Kleptocratic Network

- Encompassing government, private sector, organized crime
- Trump had ties of US and then Russian mafia starting

- Now(2) we have
  - US government payments to Trump et al
  - Use of the power of the presidency to promote Trump brands
  - US government regulatory and policy decisions that benefit the business interests of the Trump family and senior advisors
  - Private and foreign interests seeking to influence the Trump administration through dealings with Trump businesses

1.https://www.politico.com/magazine/story/2016/05/donald-trump-2016-mob-organized-crime-213910 2. https://globalanticorruptionblog.com/profiting-from-the-presidency-tracking-corruption-and-conflicts-in-the-trump-administration/

What Happened?

- Defeat of Professional Ethical Standards
- Neoliberalism
  - Commercialization
  - Managerialism
  - Corruption
- Any questions why health care reform is so difficult, or the problems are so intractable?

We are Really in a Mess: Take a Deep Breath… This is an Age Old Problem

- “Do not pervert justice or show partiality. Do not accept a bribe, for a bribe blinds the eyes of the wise and twists the words of the innocent.” – Deuteronomy 16:19
- “No one can serve two masters. Either you will hate the one and love the other, or you will be devoted to the one and despise the other. You cannot serve both God and money.” – Matthew 6:24
- “He who pays the piper calls the tune.” – old English proverb
- “It is difficult to get a man to understand, when his salary depends upon his not understanding.” – Upton Sinclair, 1935

What is the Solution to Health Care Dysfunction?

- At medical conferences, usually presentations end with a set of solutions
- Often the solutions involve drugs, devices, procedures or programs
- Often the presenters have personal interests, sometimes financial, in promoting same
- Tradition of offering packaged, often marketable solution may arise from commercialization of health care and influence of marketing on health care
- We don’t have a simple set of solutions for a complex age-old problem

H L Mencken

- **“there is always a well-known solution to every human problem — neat, plausible, and wrong.”**

What Do We Do Now? - Discussion

Resources on (Health Care) Corruption

- Harvard Edward J Safra Center for Ethics Project on Institutional Corruption (2010-2015)
- Transparency International
- U4
- Basel Institute on Governance
- European Healthcare [Anti-] Fraud and Corruption Network

Resources We Don't Have

- Any North American organizations dedicated to addressing health care corruption
- Any academic programs on health care corruption
  - One graduate course at BU by Taryn Vian
- Any foundations with interest in addressing health care corruption