

R_x for Health Care Policy Makers:
First, Do No Harm

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Though I am not a physician, I have often heard that an important admonition to MDs is, “First, do no harm.” Seem eminently sensible. However, when it comes to government policy regarding the health care sector, we ignore this basic lesson. Our policies, in many ways, have harmed the industry’s ability to efficiently provide services. And we continue to turn to “treatments” without addressing the harms already caused. Many of these were done in the name of helping the system, but they have backfired and the best thing to do now is to get rid of them. Here’s a partial list of major problems caused by health care policy.¹

(1) Restrictive licensing. Many health care treatments are fairly routine and simple and by no means require an MD to deal with. Despite this, it has long been government policy in most states to allow only licensed MDs to treat even the simplest medical conditions. Happily, a number of states have begun to allow nurse practitioners and physician assistants greater autonomy and authority, enabling treatment of routine ailments at lower cost. An equally happy outcome is that health outcomes for people are evidently just as good in the systems that license less restrictively. The alleged intent of limiting the licensing to MDs is to preserve the quality of care. But the real effect has been to raise health care costs without improving quality. Thus, rather than adding more regulation to the health care system, this one needs to be reduced.

(2) Hospital Licensing and Certificates of Need. Many states require a license called a “certificate of need” before a new hospital can open or establish a major, new service. These are obtained from state or local regulatory authorities. The entity seeking to enter the market must justify that the market “needs” the new service. It seems to me that the best justification is that investors are willing to put money on the line that customers will show up and pay for the service. While claiming to allow only needed medical services, certificate of need laws are simply restrictions on competition, the effect of which is to raise prices to consumers. Get rid of them.

(3) Insurance mandates and regulations. Most states have heavy regulation on health insurance providers. Again, this is done in the name of helping insurance buyers, but the effects often are to raise prices and stifle competition. Various state-mandated coverages that insurance must include are not uncommon. For example, some states require insurance to cover contraceptives, chiropractor services, and infertility treatments. These coverages have value, but they raise the cost of insurance which is passed along to workers in the form of lower wages. The question is whether these coverages are worth the lost wages to workers. I suspect the answer is “no” for many, especially for those with lower earnings who would rather have the cash. Many workers are not given choices, but are forced to pay higher premiums for coverage they may not value.

Legislation termed “any-willing-provider” laws, which require insurance plans to cover services from any health care provider, makes it difficult to get providers to compete to obtain the insurer’s customers. As always, the lack of competition means higher prices for medical services and higher insurance premiums. Federal legislation allows exemption of self-insured health care plans from state rules. Since most of these plans are offered by large firms, the burden of the state laws falls on workers in small firms and on those seeking to purchase individual policies. Rather than bear the high cost of health care policies, many of these folks do not insure. So again, we have the situation of health care policy causing problems rather than solving anything.

(4) Tax treatment of health insurance. This is a big one. As you probably know, employer-provided health insurance is not subject to federal or state income tax. For many, many people this matters a lot. If you are in the federal 27% tax bracket and the 6% state tax bracket, that means 33% of your marginal cash income is taxed away, but not if its spent on your behalf by your employer to acquire health insurance. This creates a tremendous incentive to get health insurance through your employer. And also an incentive to have your health plan cover nearly everything. After all, \$1,000 of income used to buy employer-provided health care gets you \$1,000 of health care, but only \$667 of goods if spent most other ways.

This creates two problems that we often bemoan. One is that health insurance is tied to your job, making big problems when people are laid off or change jobs. The second is that covering nearly everything with insurance gives parties little incentive to conserve on health care expenditures. This means more costly health care. But both of these problems are created by the government policy we have in place! How about trying to undo this harm before turning to something else.

One step toward this would be to extend the tax preference of employer health plans to individual health insurance purchasers. This would encourage the development of the market for individual health care policies and enable people to buy and retain coverage through a job change. But this still leaves in place the tax-induced incentive to buy excessive coverage. So here’s a more radical proposal to deal with that. Since health care expenses are about 11% of total compensation, *cut income taxes by 11%* and no longer exempt health insurance costs from taxation. This eliminates the tax incentive to over insure and means higher deductibles will occur along with the incentive to conserve on health care costs.

Addressing the above four issues would go a long way to dealing with many problems in our health care system. Surely, other problems remain, but this would make a big dent in dealing with our health care industry difficulties. The beauty of it is that, for the most part, we don’t need to devise anything new but just undo the ill-conceived policies of the past. This is a much more sensible approach than more government programs cobbled together to put on top of the counter-productive policies we have now.

¹For a good overview of some issues raised here and other, see Cogan, Hubbard, and Kessler, *Healthy, Wealthy, and Wise: Five Steps to a Better Health Care System*, AEI Press, 2005.