

Path to transparency isn't so clear

Marni Jameson Carey | Oct 30, 2018

Five years ago, Jim Butler took his car to a garage in Dayton, Ohio, for service. Before the mechanic started working on his car, he gave Butler a written estimate of what everything would cost: parts, labor, disposal fees, all of it. While waiting for his car to get fixed, Butler asked himself, "Why can't healthcare prices be made this clear up front?"

So Butler, a U.S. state representative (R-Oakwood) and lawyer, drafted The Ohio Price Transparency Law, a bill that would require health providers, except in the case of emergency, to give patients up-front, good-faith estimates of what their care would cost before they got treatment.

What a concept.

The estimate would have to include all fees: physician, hospital, facility, anesthesia, labs, imaging, everything. The quote would let consumers know not only the total price, but also what portion insurance would cover and their out-of-pocket obligation.

Everyone loved the idea—well, almost everyone. In fact, the price transparency bill was so refreshing, the Ohio legislature passed it unanimously. That's right. Because transparency is one aspect of healthcare that both parties agree on, as well as virtually all Americans, lawmakers in both houses on both sides of the aisle were all in favor.

They passed the bill in 2015, and the law was to go into effect on Jan. 1, 2017.

But it didn't. Those most threatened by the fact that consumers might learn the cost of their over-priced treatments and shop around blocked it. Heaven forbid that competition might enter the market.

The Ohio Hospital Association and seven other state health organizations went to court to oppose the law. Ohio Gov. John Kasich sided with the hospitals and helped stall the law further by not writing the regulations it needed to take effect. Today the law remains mired indefinitely in Ohio's court system.

While Ohio's situation is stark, it is not unique. Similar laws are also being blocked or diluted to the point of meaninglessness in other states. All over the country, hospital associations, medical associations and insurers are working double time to keep healthcare pricing impenetrable.

In September, the Wall Street Journal reported on the secret deals between hospitals and insurers, which, the journal reported, were the norm. "Dominant hospital systems use an array of secret contract terms to protect their turf and block efforts to curb health-care costs," the article read. "... Other terms allow hospitals to mask prices from consumers In some cases, contract clauses prevent patients from seeing a hospital's prices by allowing a hospital operator to block the information from online shopping tools that insurers offer."

Meanwhile, at the federal level, a bipartisan bill sponsored by Ed Perlmutter, (D-Colo) and Mike Gallagher (R-Wisc) would require hospitals to post their prices. House bill 4808, the Transparent Health Care Pricing Act of 2018, "requires entities that offer or furnish healthcare related products or services to the public to disclose the price for those products and services at the point of purchase and on the Internet," according to the government website.

This sounds promising, but when I called one of the lawmaker's offices to ask about the bill's chances, the healthcare aid said the bill had a long way to go. "We're still socializing the idea," he said, as if we were discussing a puppy and not a needed reform in the law.

Butler, the Ohio state representative, said he fears that the bill is just more window dressing, an effort to make it appear as if lawmakers are taking steps to improve a broken system.

“Even if it were to pass,” Butler said, “it would not help transparency. Any strategy of posting prices online or somewhere else will never work so long as we have a third-party-payer system.”

Patients almost never search for healthcare prices online partly because, to get an accurate estimate, they would need CPT codes, the numbers billing departments use to bill payers. These codes are not easy to come by, and even harder to understand. Any one procedure, say a knee replacement, can fall under five or six different codes.

What’s more, a hospital can list the price for a procedure, but not include all the related charges, like the facility fee, physician professional charges, specialist charges, lab charges and more.

A perfect money-making model

The more you look into our healthcare system and its lack of transparency, the more you appreciate how ingenious it is. If you want to create a business that rains money, that allows you to consistently charge people five to ten times more than is reasonable and get away with it, here’s your model:

1. Take the matter out of the consumer’s hand.
2. Give the task of negotiating costs and choosing who delivers it to third parties.
3. Have the third parties convince consumers that they can spend consumers’ money better than the consumers can, and for that presumed benefit these middlemen can help themselves to a large portion of the consumers’ money.
4. Make the pricing structure unnecessarily complicated. Have many cost components (i.e., doctors, networks, facility fees, labs, medications). Create codes.
5. Charge absurd retail prices (Chargemaster) to make consumers believe they really are getting a deal.
6. Keep prices hidden, so consumers cannot know costs, and must purchase products and services on blind faith.
7. Only provide the price after the non-refundable services are rendered, then demand payment.
8. Send those who don’t pay to collections, then threaten to put a lien on their house.
9. Obstruct any bill or law that threatens the system.
10. If you’re really clever, call yourself a nonprofit, so you can avoid paying any taxes.

Sadly, as long as special interests continue to line lawmakers’ pockets, this perfect plan will continue.

The best hope for disruption will be for consumers to get informed and then get angry. Complete price transparency is the first step. For patients to be empowered, they need the information. The second step is to break apart the networks that hem patients in and funnel them into the costliest settings.

Meanwhile, doctors can help by saying no to employment contracts that take pricing out of their hands, by working to opt out of insurance and creating a direct payment practice where feasible and by posting their cash prices the way a car center does.

Until then, special interests will continue shutting down laws that would upset their money train, and keeping patients in the dark, right where hospitals and insurance companies want them.

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