Collective Bargaining for Doctors – Wrong Remedy for Managed Care Ills

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In response to calls sweeping the country for physicians to "fight back" against managed care, Representative Tom Campbell (R-CA)and the American Medical Association (AMA) have just pushed a bill (H.R. 1304) through the U.S. House of Representatives to grant antitrust exemptions to independent, self-employed physicians. This would allow these physicians to bargain collectively with health insurers, much as labor unions do with employers. The bill now goes to the Senate – but consumers should hope it does not pass. Why?

Allowing physicians to bargain collectively with health insurers is not the right remedy for curing the ills of managed health care. The rhetoric of Rep. Campbell, the AMA, and other proponents that such bargaining will "level the playing field" and help doctors protect patients from managed care abuses cloaks a basic fact. While most physicians are dedicated professionals who care deeply about protecting their patients, consumers need to see this bill for what it truly is – an attempt to increase doctors' incomes and power. If proponents support the bill because it will help consumers, why did the Federation of Physicians and Dentists call for a boycott of all Merck pharmaceutical products to "punish" Merck after a subsidiary opposed the Campbell bill? Encouraging doctors to let politics influence medical decisions is hardly evidence of acting in patients' best interests.

In fact, consumers could suffer financial pain on several fronts – primarily health service and insurance costs – if this law passes. Apparently, Representative Campbell and many members of the House don't know - or choose to ignore - the facts, but you should know them.

First, this bill will let physicians collectively agree on prices for their services and present a united front in negotiations with health insurers. Normally, joint price-fixing by independent competitors to avoid competition is illegal under antitrust laws. If grocery stores, lawyers, or computer manufacturers collaborated to boost their profits by ceasing to compete and raising their prices, it wouldn't be tolerated. And unfortunately, numerous past antitrust cases show that the AMA and physicians are not immune to such misbehavior. Putting physicians "above" the antitrust laws won't solve problems with managed care, and it could actually create new ones related to prices for and availability of health care services.

Second, if price increases result from collective bargaining by doctors, it will be workers – not health insurers or employers – who ultimately pay for those increases. A recent study estimates that passage of H.R. 1304 could increase private health insurance premiums by at least $22 billion. That $22 billion would come directly out of workers' pockets, as research shows that workers pay for every dollar in increased health insurance premiums with nearly a dollar in lower wages. Furthermore, the estimated insurance premium increases of $22 billion or more could increase the number of Americans without health insurance by at least 2 million.

Advocates of collective bargaining by physicians say that any price increases will come out of insurers' profits, that doctors must be able to bargain collectively because they are at an unfair disadvantage against huge managed care plans. The facts, however, don't support these statements.

To start, the common belief that managed care insurance plans earn huge profits is simply wrong. The median profit margin for HMOs was 2-3 percent in the early to mid-1990s, below 1 percent in 1995, and negative in 1996 and 1997. While some plans are profitable, Oxford Health and Keystone Health Plan, among others, have had large financial losses. Actual or expected losses have caused Kaiser Permanente to pull out of Northeast managed care markets and many plans to pull out of Medicare HMO markets.

The belief that physicians are at a disadvantage against huge, market-controlling managed care plans also appears to be wrong. For almost every major urban area in the United States, no HMO has more than 20 percent of the market. Many have less than 10 percent. Furthermore, as managed care has been rising in recent years, physician income also has been rising – not falling, as would be expected in a truly disadvantageous situation. Doctors' incomes, adjusted for inflation, increased by 21% from 1985-96, while the average worker's income fell by 2%.

Common sense and facts tell us that letting physicians bargain collectively with insurers will not fix the "broken" parts of health care but simply lead to more breaks within the system. Yet similar bills have been introduced in the New York State Senate (S7541) and Assembly (A9484) are being considered in a number of states, and Governor George W. Bush signed a bill for the state of Texas. As people learn more about the issues involved, however, such bills are likely to fail, as happened in California (Senate Bill 2007).

So what's the right remedy for the admitted problems of managed health care? Let's recognize that if managed care companies exercise market power, deceive consumers or fail to provide access to appropriate or reasonable quality care, enforcing current antitrust and consumer protection laws or enacting appropriate patients' bill of rights legislation – not giving doctors antitrust exemptions – are the best tools to "fix what's broken."

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