

MINNESOTA PHYSICIAN – PATIENT ALLIANCE

November 11, 2025 Program

Eliminating the Corporate Practice of Medicine (CPOM):

A Path to an Affordable Retail Medical Marketplace?

As we discuss health care policy and the failure of our system, we should realize that we are focused on *personal* health care services, not necessarily public health. Each is very important, and there is overlap, but they are two different systems.

On the personal health care side, America's system is essentially the *medical* care system that emerged one hundred years ago. This is the system that was promised to all and then deliberately destroyed by changes in public policy. This system is in shambles. The erosion began fifty years ago, but was magnified and accelerated by minimizing state regulation and strengthening federal regulations beginning thirty years ago.

The key feature of the medical care system that we were supposedly extending to more people is the doctor-patient relationship (and all that that implies). The reason our personal health care system is failing is because the system is deliberately destroying the doctor-patient relationship, which must be reversed immediately.

To accomplish this **the most important and immediate need is to prohibit the corporate practice of medicine** because the corporate practice *exploits patients* and it *eviscerates the medical profession*.

The legal rationale for prohibiting the corporate practice is that it creates for the doctor an irreconcilable conflict of interest; the prohibition of third party control of medical decision making will end this conflict of interest.

When a doctor-patient relationship is established the doctor owes immense duties to the patient which, in summary, require the doctor to act in the best interest of the patient. The patient's interests are elevated above the doctor's self-interests, most interests of the state, and certainly above third parties. On the other hand, if the doctor is employed by a business entity (other than a physician-owned and controlled entity), by law the employee-doctor owes an absolute duty to that entity, and a business has the purpose and legal duty to its owners to maximize their financial return. These duties are intrinsically conflicted and, therefore, the structure is corrupt.

So what? And would abolishing this not create other significant problems?

I do envision this solution leading to other problems which we will need to address . . . avoidance of that predictable set of issues fifty years ago is possibly the reason we took the risk to adopt our now failing approach.

But as to 'so what,' the answer seems clear to me: As the organization and financing of medical care has evolved from the doctor-patient relationship, to the patients' (or providers') involvement of third party financiers, to our current arrangement in which the patient and the provider are removed from the financing relationship, we are finding just how devastating this conflict of interest can be.

In today's system, physicians are often employed by entities other than medical professional groups so their approach to a patient's care can be controlled by mandate, but even if doctors are in some sense "independent," the pervasive financing model established under federal law leaves most doctors with no economic independence. To get paid for taking care of patients (who have been told they

have purchased a comprehensive array of health care services) they have to capitulate to the payors' systems, treatment criteria, treatment protocols, and prices. That payment is quite often conditioned upon full compliance with whatever the claims managers demand (which, in turn, may be based on some computer algorithm) . . . not the doctor's judgment as to the patient's needs and best interests.

Indeed, many medical groups are finding that even playing by the rules will fail – they jump through every hoop, but then payment is still refused. And the deck is stacked against the busy doctor and the sick patient who, in the midst of everything else, have to litigate the claims denial and bear the burden of proving that the challenged patient care was necessary and appropriate. This is unconscionable and cruel.

Our failed financing strategy is not the only culprit in corrupting our system. The consolidation of supportive resources – typically community hospitals – has gutted the mission of medical support and patient service in many situations. Large hospitals have acquired or taken control of smaller hospitals, a trend that has been welcomed and encouraged because it was intended to provide support to the more remote communities. But, things have changed and there now seems to be pressure to expect high profitability and efficiency from the out-lying institutions or support of needed services is withdrawn. There is a shift from mission to margin.

And, the doctors serving in these outlying locations may no longer be independent and thus no longer able to provide an alternative.

A similar force is the occasional ownership of one of these hospitals, or even medical groups, by essentially disinterested, opportunistic investors and they have a singular focus on running the deal only to make money.

There is an adage: “No margin, No mission,” which to some extent is valid, but this ignores the purpose of the system and the predictable consequences of bad policy. Health care drives a lot of our economy, but we must not let that reality destroy the mission of healing.

To use plain language, as did the Minnesota Supreme Court when it adopted the corporate practice of medicine prohibition in 1933, “There is no place for a middleman in the doctor-patient relationship.”

The solution is to amend the federal ERISA law to prohibit the corporate practice of medicine in ERISA health plans, and to allow the states to adopt complementary regulations on a state-by-state basis.

Predictably, such an action will lead to a need for measures to avoid other types of abuses, and we will then have to deal with that. But meeting that challenge is better than the mess we have today: a system in which care is unaffordable, insurance is unaffordable, and in any event, care is not available.

This remedial action will return the focus of our medical profession to taking care of patients, an endeavor to which we all, including the medical profession, should be committed.

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CARE SYSTEM WELL.”