Profit-Driven Healthcare Hasn't Failed Patients, But Regulation-Driven Healthcare Has

Government intervention and regulation in the market, determines how profits are made in US healthcare, turning the profit-motive against patients.

BY CENTER FOR MODERN HEALTH | MAY 9, 2026 | HEALTHCARE

By Colleen Smith, MD. and Reinier Schuur, PhD.

The pursuit of profit by healthcare corporations is often blamed for why Americans are facing rising healthcare costs and other barriers to accessing care. Healthcare corporations are accused of "putting profits over patients" — a common refrain that points to a so-called 'market failure' in healthcare that requires intervention from the government to protect patients.

But our blame of the profit motive as such is fundamentally misplaced. Yes, the profit motive, in our current system, all too often conflicts with patients' interests. But this is not because of any so-called 'market failure'. The profit motive conflicts with patients' interests precisely because market regulations or interventions limit and distort the ways in which profits can be made in the American healthcare system. To put it another way, the profit motive conflicts with patients' interests because patients no longer hold the major purchasing power; the government does.

To be clear, big healthcare corporations have some ability to shape the healthcare market with their market share. For example, health insurers do negotiate prices and join with middlemen to capture more of the profits. But this ability is categorically different from the ability of government agencies and regulators to set the basic terms of how the healthcare market operates.

It is the government, for example, that defines what constitutes health insurance and what doesn't, what it should and shouldn't cover, and how it can and cannot be sold. Or take something as critical as what constitutes 'standard of care'. Ultimately, it is the Centers for Medicare and Medicaid Services (CMS) that decides. CMS guidelines are what health insurers, public or private, cite to justify whether care is given or denied. This is the reason changes to the pediatric vaccine schedule are so controversial — if CMS accepts a schedule in which most pediatric vaccines are deemed optional, private insurers may easily opt out of paying for them.

Such 'term setting' through regulations constitutes the background of our healthcare market. And because it is in the background, these regulations often go unnoticed and unchallenged. But it is such interventions, not the private actions of healthcare corporations (and certainly not patients) that determine both whether and how profits are made in healthcare.

The government, for example, prohibits individuals from getting compensation, monetary or otherwise, for organ donations. Whatever you might think of the ethics of such compensation, the law prohibits willing donors from voluntarily profiting from this risky transaction.

Yet the government doesn't see the profit motive in healthcare as inherently bad in other cases. On the contrary, recognizing the power of the profit motive, the government is all too happy to use it as a tool to achieve certain policy ends.

Consider Certificate of Need (CON) laws and Prior Authorizations (PA). Both of these government-sanctioned policies were instituted to save money, avoid duplicative waste, and ensure equitable access and quality patient care. As attempts to prudently and fairly steward healthcare services, CON and PAs have since backfired spectacularly.

Under CON laws, corporate healthcare entities (which have expanded in the wake of ObamaCare) place representatives on state CON boards. Thus, incumbent corporations exert a veto over the establishment of new healthcare services and facilities, including increases in hospital bed capacity. Using CON laws, corporate entities monopolize healthcare profits at the expense of potential competition and patients. Without CON laws, competition would force a drastic realignment of the profit motive to reward more affordable prices and patient-centered choices rather than incumbency.

Similarly, PAs have been increasingly pushed after ObamaCare removed other methods (risk adjustment, selective coverage, etc.) for insurers to save money. But they have given insurers a way to deny coverage for the expensive services that patients need the most help affording. When 90% of PA denials go unchallenged (yet 80% of appeals succeed), insurers know they can abuse this intervention to keep monies that should have been paid out for patient care. An intervention intended to prevent unnecessary care and ensure patients' safety has become a tool for insurers to profit at patients' expense.

Do the pursuits of profit in these examples fail to serve or even harm patients? Absolutely. Is this evidence of a market failure that requires government intervention? Absolutely not. On the contrary, it is the government's constant interventions that set the profit motive against patients and deprive them of their power to shape healthcare profit through their own purchases. Yet the knee-jerk reaction is always to blame corporations and to call for even more interventions.

What really shows, however, that the profit motive is being distorted by government intervention are examples where individuals have more freedom to align the pursuit of profit with their own values.

For example, Direct Primary Care (DPC). Doctors offer a bundled primary care service for a subscription price with no direct reimbursement from insurers. In many cases, doctors transitioned to DPC after years of fighting insurers and struggling to deliver quality care. Without insurers and regulatory distortions in the way, doctors and patients shape care. Furthermore, when some aspect of the DPC service doesn't align with a patient's values, the patient is free to spend their money elsewhere.

Consider Cost Plus Drugs. Like DPC, Cost Plus Drugs cuts out the pharmacy benefit manager (PBM) and insurance middlemen by purchasing drugs directly from pharmaceutical manufacturers and advertising the cost of those drugs directly to consumers with a flat percentage added for profit. By avoiding the highly regulated health insurance industry and PBMs, many patients save money with Cost Plus Drugs because they, not the government, set the terms of their engagement.

By cutting out health insurers and PBMs, both DPC and Cost Plus Drugs bypass the many distortive effects of background government regulations on the profit motive. These models thrive because consumers and producers are free to choose the terms of trade. In the process, DPCs and Cost Plus Drugs make a profit, but only as long as they offer a service that patients value, only as long as patients profit too.

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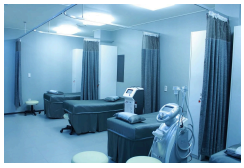

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