

## **A conversation with Dr. Barak Richman, May 22, 2015**

### **Participants**

- Dr. Barak Richman – Edgar P. and Elizabeth C. Bartlett Professor of Law and Professor of Business Administration, Duke University School of Law
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**Note:** These notes were compiled by the Open Philanthropy Project and give an overview of the major points made by Professor Barak Richman.

### **Summary**

The Open Philanthropy Project spoke with Professor Barak Richman of Duke University as part of its shallow investigation into antitrust in medicine. Conversation topics included antitrust policy in medicine, the consolidation of major healthcare providers, approaches to healthcare reform such as promoting competition among providers, and opportunities for philanthropy in this space.

### **Current health care delivery system in the US**

The standard method of accessing health care in the US is to visit a doctor's office. This delivery model is costly both in terms of money, because it is individualized and because the structure is expensive to maintain, and in terms of the time that patients spend leaving work, traveling to medical appointments, and waiting in line. This is an inefficient system that often lacks coordination of care because physicians in a referral network are not always able to communicate with each other, which leads to wasteful practices like redundant testing.

Alternative health care delivery methods such as phone consultations (telemedicine) and non-physician practitioners are illegal in many states, and licensure restrictions favor physicians over other care providers.

### **Consolidation**

Consolidation of major health care providers reinforces the current health care delivery system and makes reform difficult by both eliminating competition and preventing doctors from creating alternative delivery models. It allows healthcare systems to bargain collectively and charge monopoly prices. An article on the impact of hospital consolidation by Robert Town and Martin Gaynor claims that hospital consolidation typically causes prices to increase by up to 40%.

Some people argue that consolidating healthcare systems is a way of coordinating care. Kaiser Permanente, Geisinger, and Intermountain are frequently-cited examples of organizations that has been able to do this successfully. Overall, however, it is not clear that consolidation has improved health care outside a limited number of cases.

### **Approaches to healthcare reform**

#### **Antitrust policy**

Antitrust policy is not always effective in preventing mergers between major healthcare providers. There was a time when enforcement of antitrust laws could have been an effective way to reform the healthcare system, and while this could still make a difference, other strategies will need to be used in order to enact significant changes. This is in part because legal issues such as licensing laws that prevent nurse practitioners from competing with physicians and laws banning the use of telemedicine are beyond the reach of antitrust policy.

### **Introducing competition**

Professor Richman believes that the best way to improve the healthcare system is to introduce more competition and alternative healthcare delivery methods. He believes that the main problem with mergers is not primarily that they give companies monopoly power, but that they prevent the development of innovative alternative models of care delivery.

Competition can be introduced through a delivery model that incentivizes high-impact low-cost care and is selective about high-cost care. High-impact low-cost care involves “bottom-up” healthcare coordination, possibly through an accountable care organization (ACO). This could involve non-physician providers like nurse practitioners and social workers playing a larger role in directing people toward the care, information, and social support they need, such as by connecting patients to others who are experiencing similar medical problems, and encouraging preventive care measures like regular exercise. Being selective about high-cost care includes considering domestic and international medical tourism to places like the Cayman Islands, the Cleveland Clinic, the Mayo Clinic, and the Duke University Hospital. In addition to creating competition, this “high-touch” model provides a well-coordinated care delivery network that meets patients’ needs. Models like this are slowly being developed.

### **Innovative solutions**

Large employers that pay for their employees’ health care are motivated to find creative ways to reduce the cost of care, and have come up with some innovative solutions. Atul Gawande’s article “Overkill” describes a program that Walmart has implemented to provide more cost-effective health care for its employees. Walmart pays a fixed price for spine, heart, and transplant procedures to be available at no cost to its employees at six medical centers. Lowes has a similar arrangement with the Cleveland Clinic, where it sends its employees for heart procedures. These arrangements can be more cost effective than paying per procedure at local hospitals.

Some other companies are developing private exchanges wherein they give employees a certain amount of money to purchase their own health insurance plans. This incentivizes employees to purchase the most cost-effective plans.

New health insurance products are also being developed. Oscar Health Insurance is a new health insurance provider that uses effective information, quality metrics, and sophisticated transparency in pricing to enable consumers to make informed health insurance decisions and consume care more efficiently.

### **Opportunities for philanthropy**

Philanthropists can get involved in health care reform by:

- Funding projects that are currently in need of angel investors.
- Taking political action. The state legislature in Pennsylvania is currently considering a licensure bill that would give nurse practitioners more authority to practice independently of physicians. This is currently a political battle between nurses' and doctors' political interest groups, and it would be beneficial to have a health care reform advocate representing consumers.
- Promoting healthcare innovation. The Pacific Business Group on Health (PBGH) in California is a coalition of private employers and public agencies that tests innovative health care methods in specific markets and scales up successful methods. There are not many coalitions like this in other states.

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