PRIVATISATION OF HEALTH CARE--CONSEQUENCES?

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Many health systems are considering the roles of government and the private sector

- In many countries, governments have transferred some of their essential health services or facilities to private ownership or control.
- Other countries are considering similar transfers.
- But privatisation can have serious consequences for access to essential health services.
- Fortunately, governments can use health laws to ensure that a new owner or operator will provide equal access to necessary health care services.
Different people define the term “privatisation” in different ways

• There is no universally accepted definition.
• I use the term “privatisation” to mean the transfer of ownership (or control) of a health care facility from the public sector to a private organization.
• The new owner (or operator) could be either a private, for-profit corporation (a business) or a private, non-profit organization (an NGO).
• A transfer from an NGO to a for-profit business is not privatisation (because it was already private).
Privatisation includes a transfer of ownership or a transfer of control

• Sometimes a government body (such as a municipal government) transfers ownership of a public hospital (by selling all the hospital assets).

• But privatisation can also include a transfer of control without a transfer of ownership (such as in a management contract or lease for a hospital).

• In a management contract or lease between a government body and a private entity, the government still owns the hospital assets.
What are the possible consequences of privatisation?

• Privatisation might increase efficiency.
• But, the private owner might reduce the number of nurses and other health workers (and thereby reduce the quality of care).
• Privatisation might reduce access to needed health care services. [In the limited time available today, I will focus on the effect of privatisation on access to care.]
Outline of this presentation

I. What do the data show about the consequences of privatisation for access to care?
II. Can these consequences affect European countries with universal health insurance systems?
III. How can a government use health laws to ensure that a new owner or operator will provide equal access to care?
IV. Conclusions
I. What do the data show about the consequences of privatisation for access to care?
Several researchers in the U.S. have studied hospital privatisation

- For example, in 1997, Needleman, et al analyzed the trends in hospital conversions (including changes from public to for-profit status).
- But, those researchers recognized that they did not know the actual consequences of privatisation.
- As they explained, “[w]e cannot yet answer the most fundamental question … are communities better or worse off when their hospitals change ownership?” Needleman, et al (1997) at 195.
Subsequent research demonstrated the consequences of privatisation

- After 1997, research has demonstrated some of the effects of privatisation in health care.
- Some researchers found that privatisation reduces the level of uncompensated care (care for patients who cannot afford to pay).
- Other researchers found that privatised hospitals were more likely to close (stop providing) unprofitable services that were needed by the community.
Effects after conversion may depend on status (non-profit or for-profit)

• According to Desai, et al (2000), when public hospitals converted to non-profit status, they usually continued providing the same level of charity care.

• **BUT:** “Public hospitals that converted to for-profit status showed a significant decline in the level of uncompensated care ….” Desai, et al, at 170.
Others raised similar concerns about conversion to “for-profit” status

Other research showed a greater likelihood of closing needed services

- Shen Yu-chu (2003) found no evidence hospitals provided less care to the poor after converting to for-profit status.
- But, Shen found conversion made it more likely a hospital would close its trauma center (regardless of whether the hospital became private, for-profit or private, non-profit).
- If a public hospital is sold or transferred to a religiously-affiliated organization, the hospital might stop performing the full range of reproductive health services.
- Also, for-profit hospitals might develop new facilities in rich neighborhoods and try to close facilities in poor areas.
A recent study confirmed the risk of privatisation for access to care

• In a 2013 article, Stefano Villa and Nancy Kane analyzed the effects of privatising public hospitals in 3 U.S. states.

• The hospitals reduced low-profit services, and “access to community-based services in these hospitals declined.” Villa and Kane (2013) at S32.

• Therefore, they concluded that “in some cases, access to care for the surrounding community could be at risk.” Id.
II. Can these consequences affect European countries with universal health insurance systems?
Does universal insurance protect European countries from these risks?

- Most quantitative data about the effects of hospital privatisation comes from the U.S. (which still has millions of uninsured residents).
- Many private hospitals in the U.S. do not want to treat patients who have no health insurance.
- What if a country has national health insurance (or social insurance) for all of its residents?
- Would private hospitals in that country provide access to all patients (because all are insured)?
Universal health insurance does not protect countries against all risks of privatisation

• Countries with universal insurance are not immune from the risks of privatisation.
• Even if every resident has insurance, public hospitals that become private enterprises could limit access to care by:
  – Refusing to make contracts with public payers;
  – Increasing costs for non-covered services; and
  – Reducing low-profit services in the community.
Experts recognize the risks of hospital privatisation in European countries

• In his 2006 study of privatisation in 8 European countries, Hans Maarse recognized the need for future research about the effect on access to care.

• Similarly, Tit Albreht analyzed privatisation processes in Europe, and noted the risk to access and equity.

• Albreht also recognized the risk that privatisation could lead to “development of a parallel health care system available to those with a better ability to pay and directed mainly to offering and providing services (instead of a comprehensive disease management).” (Albreht, p. 449).
Private hospitals might raise prices or stop providing unprofitable services

“If there are ways for hospitals to increase prices to patients, however, this is something that should be of concern for policymakers because it may create greater access and affordability problems in the hospital service area. Another way to potentially increase revenue is to drop unprofitable but valuable services and to provide more services to paying patients ….” (Villa and Kane, S32).
Moreover, some people might not be covered by health insurance systems

- In some countries, irregular migrants from non-EU countries might be excluded from health insurance systems.
- In response to the financial crisis, some countries have imposed restrictions.
- Other restrictions might be imposed in the future.
III. How can a government use health laws to ensure that a new owner or operator will provide equal access to care?
Governments should adopt laws about privatisation to protect access to care

• Require the use of a fair procedure to consider proposed transactions (with public input)
• Require the use of a reliable method to assure that the acquisition price is adequate
• Require that specific obligations be imposed on the new owner (as a condition of approval)
• Require a mechanism to assure that the new owner’s obligations are met on an on-going basis
Require the use of fair procedures to consider proposed privatisation

Laws and regulations should require the use of a formal process to consider proposed privatisation, including:

- Notice to people who live in the area;
- A public hearing with input from the people;
- Disclosure of all conflicts of interest;
- Approval by officials who have no conflict;
- Review of the proposed owner or operator
Procedures should require review of the proposed new owner or operator

• Does the proposed new owner/operator of the hospital have sufficient financial resources?

• Does the proposed new owner/operator have a good record for complying with the law?

• Does this acquisition give the new owner/operator a monopoly of hospital services in the area?
Require the use of a reliable method to assure that the price is adequate

- Laws and regulations should require officials to assure that the price for the hospital is adequate.
- The new owner of the hospital must pay at least *fair market value* to purchase the hospital.
- Therefore, an appraisal of the value should be made by independent experts.
- In addition, competing bids could be obtained from other potential buyers of the hospital.
Laws should require imposing specific obligations on the new owner/operator

• Laws and regulations should require that specific obligations be imposed on the new owner or operator (as a condition of approval).

• Government officials should impose *written* conditions on approval of any proposed privatisation.
Examples of conditions that should be imposed on approval of privatisation

• The new owner must provide a specific amount or level of care to people who cannot afford to pay.
• The new owner may not close the hospital in the future without permission of the government.
• The new owner must establish a mechanism to hear and consider the wishes of the community.
• The new owner must provide data to government health agencies regularly and upon request.
Laws should require a mechanism to assure that the obligations are met

- Laws and regulations should require **continuing** government supervision **after** any privatisation.
- This is particularly important with regard to the obligation to provide care to people who cannot afford to pay.
- Effective supervision by the government requires:
  - regulatory authority;
  - practical ability; and
  - specific conditions in writing.
There are several mechanisms to assure that those obligations are met

- Government could keep a partial ownership interest in the hospital (by using a joint venture or “partial privatisation”).
- Government could keep veto power over some major decisions by the privatised hospital.
- Government could impose conditions by contract.
- Government could keep the right to reverse the transaction, if the new owner fails to meet its obligations in the future (the “rubber band”).
IV. Conclusions

- Privatisation poses a risk for access to health care.
- This risk even applies to countries that have universal systems of health insurance coverage.
- If a government decides to use privatisation, it should also use health laws to ensure that the new owner or operator will provide equal access to necessary health care services.
- In cases of privatisation, there is an important role for health lawyers in helping to protect the public.
References


References (continued)


References (continued)
