HEALTHCARE PRICE TRANSPARENCY

The Critical First Step to Fixing America’s Healthcare System

By David Silverstein

The American healthcare system is sicker than most realize, and it grows worse with every passing day. The system is at risk of crumbling under the weight of its own great complexity and the often-insincere efforts to improve it. To set the system on the right path, the first thing we must do is address a simple concept: price transparency. Today, the lack of useful price information and the byzantine nature of healthcare pricing and billing leaves most Americans feeling helpless when it comes to navigating our healthcare system and making smart financial decisions. While many Americans have experienced symptoms of the illness that belies America’s healthcare system, few believe there is a cure; but there is—and it begins with real price transparency.

Why Price Transparency?
Throughout the past seven years, I have been studying the American healthcare system in search of solutions to America’s healthcare problems. I have had the privilege of speaking with hundreds of patients, physicians, hospital administrators, state and federal legislators, academics, and journalists about America’s severely broken healthcare system. Almost everyone I speak with gets around to asking the same question in one form or another: With all that’s wrong with our healthcare system, why are you so focused on price transparency?

I have clear answers to that question:

- **PRICE TRANSPARENCY** is the foundation of an economically functional healthcare system.
- It is a non-partisan concept that enjoys universal support from the citizenry.
- Without price transparency, we cannot truly solve any of the other problems plaguing our system, because a stable and functional economic foundation is prerequisite to other improvements.

Price transparency is also a simple and obvious concept that you don’t have to be a healthcare expert or economist to understand. We need simple ideas that will move the needle instead of the complex changes we’ve tried in the past. Once we achieve real price transparency, it will set off a cascading effect that will ripple through the system. Many problems that plague our system (though not all) will work themselves out as market forces take over. Beginning with price transparency is not simply one option among many. It is the only true choice if we are to right the ship.

Many of us hear bits of information about how bad our healthcare system is, whether from a media report or a friend’s personal horror story (medical bills are a leading cause of debt in America). We know the system is flawed, and we know healthcare is expensive; but we also cling to the belief that beyond the cost, ours is the best healthcare system in the world. It took some time to persuade me to believe our system is truly inferior. Today, I am fully convinced. The data is just too overwhelming to deny. Similarly, the scale of the economic problem is growing...
fast. The Federal Government projects that healthcare spending will accelerate over the next 8 years, reaching 20 percent of GDP by 2026, with no end to the increase in sight. The Kaiser Foundation recently found that senior citizens are spending well over 40 percent of their Social Security checks on healthcare expenses not covered by Medicare and sees that quickly climbing to 50 percent. The economic consequences of inaction are unfathomable.

There are many things to be fixed before we can truly take pride in the performance of the American healthcare system. For example, we must shift the compensation system so that it values prevention as much, or more than, treatment. We need to ensure access to quality care for all Americans. And we need to bring down the overall cost. Yet, while many people feel passionately about fixing one part of the system or another (the Affordable Care Act was all about access, for example), I do my best to stay objective and analytical.

I’ve been working with hospitals and insurance carriers for 18 years. I’ve pursued understanding aggressively—some would say militantly—and I can still only say that I have a little better understanding than most. The truth is that no one really understands how everything works.

As I studied the many issues that plague the American healthcare system, I repeatedly arrived at the same conclusion: Price and quality transparency are the two linchpins of a functional healthcare system. Without them, nothing else can truly be fixed, and the healthcare industry lobbies and associations know it. That’s why they are happy to see us focus on so many other issues—the more complex the better. Confusion and obfuscation are key to maintaining the highly profitable status quo.

As I studied things further, I concluded that the first target must be price transparency. That’s because once we achieve transparency, medical providers will have an incentive to compete on quality and service. Right now, we do not actually have a competitive system, and without competition, prices will keep rising and quality will not improve at the pace that it should.

The lack of competition is evidenced by many things, including the lack of an effective means of price discovery—a basic economic cornerstone of markets. Essential behaviors are not observed in American healthcare, such as price convergence (also known as the Law of One Price) and price signals that moderate supply and demand.

**The Current System is Upside Down**

The crux of the problem is that we are currently trapped in a *business-to-business (B2B)* system of competition in which payers (insurance carriers) and providers (hospitals, physicians, labs, etc.) negotiate prices, supposedly on our behalf. Yet, we are privy to very little information regarding the prices they’ve negotiated. The rates agreed to between payer and provider are considered to be “proprietary,” and when we ask about them, we are constantly told by providers to, “Talk to your insurance company.” Even for those of us on high-deductible plans in which we are footing the bulk of the bills, we cannot access the same price information as our insurance companies. Both the hospitals and insurance carriers stand behind, “confidentiality agreements.” It is an absurd notion that when there are three parties to every transaction, only two are privy to the details beforehand.

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1 "Hospital" used interchangeably with the word, “provider” and represents all providers, including hospitals, physician practices, individual physicians, labs, radiology centers, etc.
Considerable legal analysis has been conducted, concluding that there are no legal impediments to requiring complete transparency on all sides of the triangle.

Transparency will “flip the pyramid” and produce a business-to-consumer (B2C) system of competition, which is precisely what we need and deserve. While nearly 100 percent of the people I talk to agree that we need simple, clear price transparency, the healthcare industry does not. Interestingly, nearly all healthcare professionals, including insurance and hospital executives, also agree that we need simple and clear price transparency. They are just not comfortable proclaiming their support publicly. It’s not unusual for associations and lobbies to represent the collective corporate interest of their members while being at odds with the individual beliefs of their members’ executives and staff.

Why Not Be Transparent?
There are many excuses given for why we cannot have simple and clear healthcare price transparency. None hold up to scrutiny. What’s most fascinating is that no one really argues that price transparency would be a bad thing; they merely argue about why it can’t be done.

It’s worth going through the many reasons that industry groups use to fend off efforts at transparency, so we can remove these issues from the discussion and focus on how to get it done.

Over the past 40 years, the number of physicians in the U.S. has grown 150%, about keeping pace with population growth. Over the same period, the number of healthcare administrators has increased more than 3200%.
Reasons (Myths) Often Cited for Why Price Transparency Can’t or Won’t Work in Healthcare

1. Healthcare is too complicated and price lists are too big.

A common belief is that “buying healthcare is not like buying a television.” While that’s true, it merely distracts from the point. Ask the question differently, and the nonsensical nature of such an argument becomes clear. Ask, instead: If Amazon.com can sell literally hundreds of millions of items and list the price of every one of them, why can’t we have the prices of every product and service sold by a hospital? The attempt at an answer is often, “because we don’t know which services you’ll need until there’s a diagnosis or until the procedure is complete.” This, again, distracts from the real matter at hand. (Distraction and redirection are the intent.) When asking for a price list, we are not asking for a commitment to, or an even an estimate of, our costs. And we don’t need to know which services we’ll use. With prices lists in hand, we can compare two (or three, or more) hospitals. When estimates are in order (say, for major procedures), estimates should not be any more complicated than an estimate of the cost to rebuild a car engine. Estimates are built on price lists. All we need is a price list that tells us the cost of each thing we might buy. That’s it.

A typical hospital price list may include 20,000 line items. A typical supermarket carries 50,000 uniquely barcoded items. We buy groceries by the piece, pound, bunch, can, box, or six pack. We pay with cash, credit cards, debit cards, and government issued debit cards. We use coupons and loyalty cards. Yet none of it overwhelms us. I don’t believe we need to allow hospitals, insurance carriers, or governments to tell us whether we can handle something that is complicated.

Further, simplicity only arrives when consumers demand it. Governments never mandate simplicity—they only make things more complicated. And the healthcare industry benefits from complexity as it leaves them in control. When other forms of business make transactions too complicated, consumers reject them. Only through empowered consumers and market forces will our system become simpler to navigate.

Evidence of a Dysfunctional Market

The U.S. spends more than any other nation on healthcare per-capita yet lags far behind in healthcare outcomes. At the same time, estimates from the CDC and experts at Johns Hopkins estimate that between 150,000 and 250,000 deaths a year are attributable to medical errors, making healthcare the third highest cause of death in the United States behind cancer and heart disease.
Healthcare is so complicated that no one really understands the cost.

There is considerable truth in this. That’s why this is among the biggest reasons often cited by hospitals and their lobbying groups for why price transparency won’t work. The reality, though, is that it’s irrelevant. Understanding cost is not a factor in disclosing price. After all, the price DOES exist in an agreement between the healthcare provider and the insurance carrier. And it must exist, or the billing offices couldn’t produce bills. So, whether the price is reflective of cost or not doesn’t matter. And thus, prices always exist and are available to provide to us, if only the parties wanted to do so. We’re not planning to give them a choice.

Medical coding makes it too difficult for patients to understand prices.

There are two primary systems of medical coding in use in the United States. Between the two systems, there are approximately 78,000 codes. With today’s technology, this qualifies as a small database (or even a simple Excel spreadsheet). Today’s web-based tools and mobile phone apps relegate this argument against transparency to the nonsensical trash bucket. For each provider, there is either a price list or pricing equation based on a discount or system of discounts negotiated with the insurance carrier. It is easily handled by provider billing offices and medical billing practices (outsourced billing). If it is easily handled by them, it is easily shared with us. The codes are also the same across hospitals, so we can compare prices for a given code. If we need help understanding the codes, there are online tools for that, too. However, it’s unlikely that empowered consumers will tolerate 78,000 codes. Today, the system of coding is pretty much mandated by the Federal Government for use in Medicare and Medicaid billing. Only empowered consumers and a competitive market will force simplification.

Evidence of Unsustainable Economic Trends

“Health spending is projected to grow faster than Gross Domestic Product (GDP) over the 2017-26 period; as a result, the health share of GDP is expected to rise from 17.9 percent in 2016 to 19.7 percent by 2026.”

Centers for Medicare and Medicaid Services, January 2018
4 **Seeing prices might cause people to forgo care.**

Providers actually have said this in writing! But this is America, where we have the freedom of choice. The statement may or may not be true. But it is certainly not the job (or right) of a provider to hide such information from patients to protect them from themselves.

Some hospitals even go so far as to suggest that the 1986 Emergency Medical Treatment and Active Labor Act (known as EMTALA) prohibits hospitals from providing emergency room pricing. The law says no such thing, and it would be both unconstitutional and unconscionable for federal law to prohibit a merchant from providing its prices to a customer under any circumstances. This is an obscene attempt at obfuscation. EMTALA, in reality, merely says that in an emergency, you cannot be turned away regardless of your ability to pay.

5 **Price transparency will hurt competition and cause prices to go up.**

Prices in the United States are already significantly higher than anywhere else in the world. It is a common scare tactic of healthcare lobbies to argue that prices will rise, yet there is no evidence for it, and the few anecdotal examples used to support this argument do not stand up to analytic scrutiny. It is true that price transparency will have a significant impact on hospitals and insurance carriers alike. For the hospitals, it will drive competition. For insurance carriers, it will not stifle competition, but it will fundamentally change the way insurance companies compete. No longer will we be slave to a B2B system in which the insurance companies supposedly act in our best interest, but in truth, rarely do. With price transparency, the patient will be in charge—as a customer and a patient. Insurance carriers will no longer compete on secret negotiations with providers. Instead, they will compete on service and value, as they should. But let’s not focus on what it will do to hospitals and insurance carriers. Let’s focus on what it will do for patients. Transparency will improve quality and service, and it will drive down costs.

Real competition in fluid markets does not generally come from consumers “shopping around” in the first place. Think about grocery shopping or pulling into the neighborhood gas station. How much do you generally shop around? Years ago, you may have chosen a gas station for its prices, convenience store, or perhaps for its location. Yet, when you see that milk is up ten cents per gallon from last week, or a gallon of gas is up by 12 cents per gallon, rarely do you think twice about loading up the cart or filling up the car. Why? The answer is that you trust that market
forces are at work. You assume the price of milk or gasoline has changed over the past week. It could be the effect of weather, a worker strike, or simply supply and demand. As long as you trust the market, you merely spot check things once in a while. That's the way markets really work.

In marketplaces as big as America's healthcare system, like the market for groceries and gasoline, what keeps prices competitive has less to do with consumers and more to do with competitors seeing each other's prices. The neighborhood gas station learns over time that it can charge three cents per gallon more because of its larger, cleaner convenience store or that the only thing it has to compete on is price, so it needs to be a few pennies less than others in the area. Either way, no gas station would attempt to charge twice what another gas station in the same area charges. In healthcare, not only will one hospital attempt to charge twice, four times, and sometimes even twenty times what another charges without any basis for the difference, but it might charge one patient, on the same day, having the same treatment for the same condition, delivered by the same medical staff, twenty times what it charges the next patient for identical services.

All people really care about is how much they will pay out of pocket. Nonsense. This is merely an excuse for suggesting that only some, not all, information needs to be disclosed to patients, because if their insurance company is paying the difference, people "don't care." But it's simply not true; and it's insulting. Higher prices are passed on in the form of higher premiums (to the individual and/or employer) in subsequent years. Companies that self-fund their insurance (about two-thirds today) and patients on high deductible plans are paying most of their bills in their entirety today.

Real letter from hospital

Publishing lists of hospitals' charges generally is not helpful to assisting the average consumer in making a priced based decision, which is one of the reasons that our state does not require hospitals to publish such information.

Evidence of a Dysfunctional Market

"Utilization of most health care services remained unchanged or declined, both year-over-year and over the 2012-2016 period."

"Spending growth in each year from 2012 to 2016 was almost entirely due to price increases."

The Healthcare Cost Institute, January 2018
We have transparency tools already, and people don’t use them.

Ask yourself a simple question, and you’ll have your answer: Do YOU use any online tools to help you identify the price of healthcare? No, you don’t; and there are only two possible reasons:

a. You don’t care. Well, YOU know this is not true, but that’s what the healthcare industry would like regulators and legislators to conclude. What they say is that since they give you the tools and you don’t use them, you must not care, and thus, such tools aren’t helping. It’s circular logic. The real reason you don’t use them is that they don’t work.

b. They don’t work. This is the reality. Go...right now...and try to find the price of anything at your local hospital. There are two types of transparency tools currently available today, and neither works. The first is what’s called “All Payer Claims Databases.” These databases aggregate insurance claims data to tell us what the average cost is, along with a range, for only the most common procedures. Because they are based on past claims, not current prices, they merely allow us to infer what we might pay today based on what others paid in the past. And they don’t tell us anything about the actual prices negotiated between our insurance carrier and our medical providers. The second is our insurance carrier’s website. There, we can only look up one procedure or one provider at a time, making it impossible to compare providers until we know the actual procedure we need. That means it’s impossible to compare emergency services or the cost of potential complications, or simply the cost of treatment, until we know precisely what treatment will be prescribed. Bottom line: Insurance company tools are mostly useless. There are also sites such as healthcarebluebook.org that rely on historical data and different forms of crowdsourcing. But ask yourself, is any of this transparency, or are they merely attempts at working around the lack of transparency? If we had truly transparent pricing, we wouldn’t need these proxies for transparency. And, consider this: If any of these so-called transparency tools actually worked, prices would be out in the open and thus the healthcare industry would have no further reason to object to transparency. So, why are they still resisting?

The healthcare industry loves to tell legislators, regulators, employers, and its members that they can look up and compare services on their websites. Often cited is the ability to compare the cost of a hip replacement, a knee replacement, or a vaginal birth. But as soon as you ask what it will cost if your newborn needs to spend three days in the neonatal intensive care unit, the only answer you’ll get is, “It depends.” These token examples have fooled too many for too long. Real information that’s necessary to facilitate comparisons and create competition is entirely absent.
There’s no time to give people estimates in an emergency. That’s true; and once again, it’s an answer designed to distract. The unknown nature of emergencies does not address our demand for pricing. In the past, consumer advocates would estimate the relative cost of one supermarket over another by purchasing a basket of common goods from each. They would not tell the supermarkets which goods they were buying, so they could not reduce their perceived relative cost by making only those items cheaper. Through these comparisons, people would know that one supermarket was generally less expensive than another. In this exercise, they did not need an estimate based on the groceries they would purchase that week to compare supermarkets. Today the same thing can be done by looking at a retailer’s website and comparing all prices. Healthcare prices can be compared similarly. In healthcare, prices can even be weighed by the consumer in combination with quality scores or the frequency in which a procedure is done (a strong proxy for quality). With transparent information available, all kinds of consumer-friendly tools will arise on websites to analyze data and help patients become better consumers. Without price transparency, that cannot happen. Without price transparency, we cannot compare two hospitals at all.

Hospitals must charge more to make up for underpayment by Medicare (and Medicaid).

This is perhaps one of the most intentionally distracting of all arguments. First, suppose for a moment that it’s true—Medicare doesn’t pay enough to cover a provider’s actual costs. So what? All that transparency does is tell us how much more we are paying than Medicare. If it’s a true problem, it shines a bright light on the matter. It doesn’t prohibit it. All kinds of businesses cover losses from one source by charging more elsewhere. As an example, we all pay more at retailers like Walmart or Nordstrom because they have losses due to theft (shoplifting). Right now, the extent to which non-Medicare patients subsidize Medicare is hidden from us. Also, consider that while current estimates vary overall, the numbers certainly differ from provider to provider and procedure to procedure. In the aggregate, it appears that Medicare pays approximately 15 percent less than private insurers. Given that we believe our spending is on the order of 50 percent higher than it should be, the data suggests that Medicare is closer to paying the right price and isn’t really underpaying.

Evidence of Unsustainable Economic Trends

“Medicare beneficiaries’ average out-of-pocket health care spending is projected to rise as a share of average per capita Social Security income, from 41 percent in 2013 to 50 percent in 2030.”

The Kaiser Foundation, January 2018
Government should not tell businesses how to operate.

While I agree in principle, today’s system has already evolved to where it is because of extreme government intervention and regulation over the course of more than 60 years (since Medicare was enacted in 1965). Right now, the healthcare business model is incapable of positively “evolving” through efficient market forces for the very reason that existing legislation and regulation protects the status quo. Once the system has been converted to a transparent, B2C-driven system, market forces will displace much of the need for government intervention in the future. Government’s future role can be limited to establishing certain standards that protect patients and figuring out how to subsidize those who cannot afford quality care.

Of particular note is when insurance carriers claim that the terms of their contracts with hospitals is akin to a trade secret. Nothing could be further from the truth. First, courts have found that pricing information is not a trade secret. Both parties have it, not just one. Secondly, the prices negotiated between hospitals and insurance carriers are revealed all the time—in your explanation of benefits and on hospital billing statements. All that is really happening is that we can’t make use of the basic principle of price discovery before a transaction, and we can’t aggregate information to make comprehensive comparisons. A desire to make things difficult to compare does not constitute a trade secret. It merely destroys trust in the marketplace.

Evidence of U.S. Companies’ Economic Disadvantage in Global Markets

Total health expenditures per capita/GDP per capita, U.S. dollars, PPP adjusted, 2016

The U.S. value was obtained from the 2016 National Health Expenditure data.

Why We Must Start with Price Transparency

While price transparency won’t fix everything, nothing can truly be fixed without it. In other words, it is absolutely necessary, though it won’t be sufficient. Other efforts to fix the system have failed. While there is no shortage of reasons, two are obvious:

- They are not built on a foundation of transparency
- They are too complex and ambitious

This issue is simple and foundational. That’s why it is so clear that price transparency is the place to start. Today, most of the conversation focuses on access to care via insurance coverage. The dialogue and debate involve a complex mix of individuals, insurance carriers, employers, and governments, but in the end, all we are doing is shuffling the chairs on the proverbial deck of the Titanic. We’re moving around who pays for what, and this diversionary conversation creates even more confusion and price obfuscation—and profit. Expanding and ensuring access to healthcare means drastically improving efficiency and reducing cost. Ask yourself why food in America is so inexpensive. And for the most part, relative to other developed countries, housing is inexpensive too. Gasoline is less expensive in America than in other developed countries, and so are automobiles. But healthcare? It’s hovering at about 50 percent more expensive than in the countries with the very best medical outcomes.

While ultimately important, we simply will not, and cannot, arrive at the right answers regarding access to care until we fully understand the price of care (price, not cost). The resulting confusion is enabling prices to continue rising without limit. When we don’t understand price, we unwittingly accept overpaying.

David Silverstein lives in Colorado, where he runs a global management consulting firm that specializes in strategy, innovation, and operational excellence. He took up the fight for price transparency in healthcare after becoming frustrated by his own failed efforts to obtain practical and useful price information. He founded BrokenHealthcare.org to help others dispute their bills and as a means of fighting back against the system. His hope was that this fight would get the attention of the media and politicians. It has. CNBC and Dow Jones Market Watch have written about Silverstein’s efforts, and Denver’s 9News has run multiple stories featuring Silverstein. The local Colorado media has just recently started following the measure, with stories on local radio and the Grand Junction Sentinel.

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