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. Prices have been rising faster than inflation. We spend more on healthcare than any other wealthy nation. And yet, by most measures, the quality of our healthcare ranks dead last among those nations.

American patients are underserved and frustrated. 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. While many Americans have experienced symptoms of the illness that plagues America's healthcare system, few believe there is a cure. But there is a remedy—and it begins with *real price transparency*.

> *"Justice will not be served until those who are unaffected become as angry as those who are."*
>
> **Benjamin Franklin**

How Bad Is It?

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, looking past 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 eight 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 more than 40 percent of their Social Security checks on healthcare expenses which are not covered by Medicare and furthermore estimates it will quickly climb to 50 percent. The economic consequences of inaction are unfathomable.

Why Price Transparency?

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; 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 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. Doing so will give medical providers 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.

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 as, or more than, treatment. We need to ensure access to quality care for all Americans. And we need to bring down the overall cost. We can't do any of this without full price transparency.

What is Full Price Transparency?

Full price transparency would give consumers access to prices from ALL players in the healthcare system: facilities, doctors, insurers, pharmacies. Currently, secret negotiated prices are crippling our healthcare system. There are so many separate, negotiated deals between hospitals and insurers that often physicians have little idea of pricing for an individual patient even as they prescribe treatment.

During the past seven years, 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. These interactions have reinforced the idea that without full transparency, we won't be able to reverse the current trend of skyrocketing prices and often-compromised care.
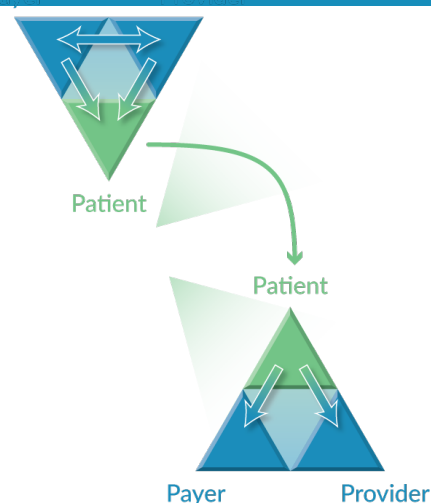
The Current System is Upside-Down

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[1] (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 their "confidentiality agreements." It is an absurd notion that when there are three parties to every transaction, only two are privy to the details beforehand.

Considerable legal analysis has been conducted on this topic, concluding that there are no legal impediments to requiring full price transparency on all sides of the triangle.

Flip the Pyramid

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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.

Full price 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.

Patient vs. Healthcare Lobby

The healthcare lobby is the largest special interest group by a wide margin. But whose interests are healthcare lobbyists protecting in their aggressive battle to keep prices secret? Not the patients'.

Think about other special interest groups. Passionate, thoughtful people stand on all sides of debates over abortion, guns, and immigration. There are also special interests that, in some cases, amplify the voices of REAL people. At other times, they represent third parties including governments, businesses, and yes, sometimes shadowy self-interests. But in all cases, there are REAL people with real things to say who deserve to be heard. However, the same cannot be said when it comes to comprehensive healthcare price transparency and building a healthcare system we can trust. No real consumer thinks it is a good idea to keep healthcare prices hidden.

That reality scares the daylights out of healthcare special interest groups, because in this case, they truly stand alone. They do not represent any actual people. This does not, however, stop them from spending hundreds of millions of dollars to fight this issue.

Reasons (Myths) Often Cited for Why Price Transparency Can't or Won't Work in Healthcare

There are many excuses given for why we cannot have simple and clear healthcare price transparency. None hold up to scrutiny.

1   Healthcare is too complicated and the 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—they 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**
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> *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.*

2 Healthcare is so complicated that no one really understands the cost.

This sounds true. The pricing is complicated. That's why this is among the biggest reasons often cited by hospitals and their lobbying groups for why price transparency won't work. But understanding cost is not a factor in disclosing price. After all, actual prices for service exist in an agreement between the healthcare provider and the insurance carrier. They 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.

3 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.

Real letter from hospital

Request for Price List:

Regarding your request for the Hospital's price lists, that is not information that our Hospital publishes to third parties because it is not required by state or federal law and, particularly for a system of our size, there are anti-competitive and other reasons limiting our ability to publish all Hospital pricing. Our "charge-master" is the module that houses all of our uniform charges, and it is not generally published to third parties for a variety of reasons, not the least of which is due to its size and complexity. For example, all services are listed in our chargemaster by AMA CPT descriptions which are not generally understandable to non-clinicians.

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 trapped in a B2B system in which the insurance companies supposedly act in our best interest, but 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 if the only thing it has to compete on is price, it can 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.

6 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. The thinking is that 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

7   We have transparency tools already, but 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.

> **The Illusion of Progress**
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> In 2014, in the interest of transparency, California passed a law prohibiting the use of language in contracts between providers and insurance carriers. Language that would prevent a hospital or insurer from disclosing price information, such as "confidential" or "proprietary," is no longer permitted. The law demonstrates that this can be done, though it doesn't require disclosure and thus has not resulted in any actual change. While some would say it's a start—and in some ways it is—the real truth is that it's these kinds of weak laws that reinforce the status quo, allowing lobbyist to sell the message that "progress is being made."

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 are 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 tool 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's 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.

8 There's no time to give people estimates in an emergency.

This one is true. But 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.

9 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*
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> **"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."**
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> The Kaiser Foundation, January 2018

10 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 determine 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 are 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.
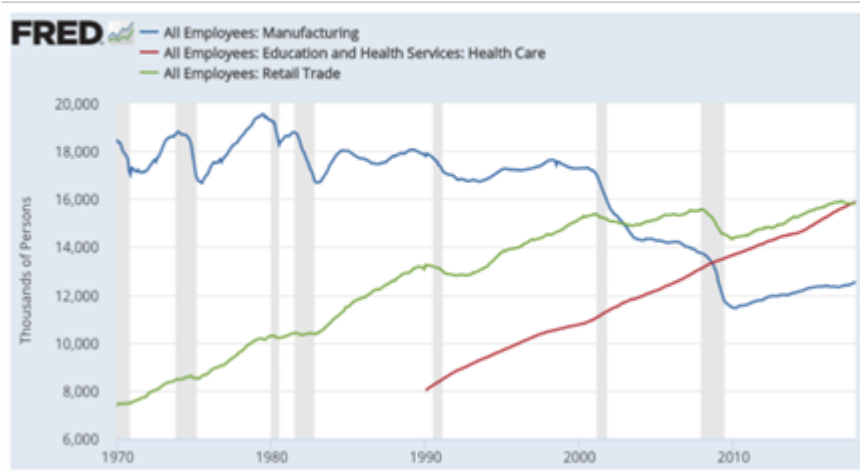
In 2017, healthcare became the United States' largest employer

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.

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