

The story so far...

Following our “Send the Eagle Home” campaign 2021, the written feedback from Federal MPs indicates they have erroneously assumed that the current laws of the Private Health Insurance Act 2007 can prevent US Style Managed Healthcare in Australia.

It is important that you understand that this is not true and that the laws really do need strengthening.

Managed care protocols interfere with clinical decision making and jeopardise patient safety.

We will be running a grass roots non-partisan Federal Election campaign and looking for a commitment from any political party to strengthen laws which will stomp out any chance of US Style Managed healthcare in Australia - before the current momentum that has developed becomes unstoppable.

Health insurance is complex, but I am simplifying our concerns here.

1. A law is only a law if it has been tested in court. The Private Health Insurers are wealthy companies which can financially overwhelm any litigant.
2. The laws have multiple loopholes which allow health insurers to work around the edges of the current laws. For example:

2.1 Third party contracting

NIB Health insurance has partnered with the giant US Managed Care company Cigna Health Corporation to form a company called Honeysuckle Health which acts as a third-party contractor to bundle medical services.

These contracts pay a higher medical fee if a doctor follows the health insurer’s treatment protocols. However, these contracts are opaque and ‘commercial in confidence’ between doctor and insurer only.

These contracts oblige the practitioner to:

- discharge a set quota of patients from hospital early
- adhere to the contracted clinical treatment protocol of the insurer
- make unspecified patient clinical data available to the insurer which raises concerns for confidentiality

At present there is no health regulator to independently examine or oversee these confidential contracts or to advocate for the patient’s or consumers medical interests.

The current Private Health Insurance Act provides no remedy when these contracts are Third party confidential agreements between the insurer and a contracted doctor.

These *precedents* clearly set up a scenario where all health insurers could gain increasing control over clinical decision making, treatment protocols and prosthetic device choices.

The ACCC commissioners recently ruled on these contracts but admitted they have no jurisdiction on medical regulatory issues, only on aspects of competition law. Again, there is no health regulator to oversee this contentious, hidden, and growing area of the health system which is becoming the Wild West.

2.2 Vertical integration of private hospitals and managed care network services

Medibank Private is in the process of developing Day Surgeries around Australia. They are commissioning 3rd party developers and intermediaries to carry out this activity. Once again, we see a precedent to become healthcare network 'providers' as well as health insurers. This is a potential conflict of financial interest from a patient's perspective where a health funder becomes a health provider.

If combined with the 3rd party contracting precedent above, it allows a Private Health Insurer to channel medical care into their own network with closed treatment protocols and a contract encumbered medical specialist. This resembles to US Managed Care system and is developing in pockets and under the radar in Australia.

2.3 "Insurance denied" scenarios

Several years ago, BUPA set the precedent of denying health insurance coverage to patients who don't attend a BUPA contract center. Initially it was claimed as a quality-of-care initiative to exclude small opportunistic providers.

Unfortunately, it grew and has now become a widespread contract cudgel to coerce established and reputable hospitals and limit patient choice to the BUPA network. Does this sound familiar? Yes, the same thing happens in the United States if a patient leaves their health plan network.

The Minister of Health and the Health Department are mostly unaware of the specifics because there is no central regulator to overview and report on the myriad of significant developments. Statements that "the Private Health Act makes US Managed Healthcare illegal" are not valid when these changes are under the radar and piecemeal. There are too many loopholes and workarounds available to health insurers.

The health insurers are looking at US Style managed care as their pathway to continued record profitability and to boost their share price. They use euphemisms like 'Network Care' or 'Clinical Partner program' but the portend is the same in the long term.

Not surprisingly, the record profitability of the Australian Private Health Insurers has attracted the interest of the US health insurers who are giving instructions on how to transition our system into theirs. Cigna Health Corp is just the first to make a move into Australia with their joint venture with NIB Health Insurance. Behind the scenes others are already in discussion. My local Federal Member once told me:

"Peter, don't hit me with your dot point problems – I want your dot point solutions!"

Two possible solutions present:

1. The appointment of an independent private health insurance regulator

- to report to the Health Minister
- to act as a policeman on the beat
- to overview the private health sector activities
- to provide an independent forum for arbitration between providers, hospitals, and health insurers

Australia has a competition regulator (ACCC) and a prudential regulator (APRA). A Regulator for the Private Health Insurance industry is becoming increasingly necessary due to the complexity of health product offerings which very few individuals understand.

2. A strengthening of the current Private Health Insurance Act 2007

- to provide scrutiny for opaque 3rd party health contracts
- to promote transparency for consumers in the closed contracting arrangements between health providers and health insurers where informed choice of care may be compromised

To date our warnings are falling on deaf ears and distracted minds.

Please consider these issues when you are formulating your health policy positions for Election 2022.

Yours Sincerely,



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