

Introduction

My name is Jeff Clark. I am a naturopathic physician (ND) in a small group practice in Tualatin, OR. I serve Oregon as a volunteer committee member of the Oregon Health Care Workforce (HCWF) Committee where I am also the 2019 Chair. I serve my profession as a volunteer board member of the Oregon Association of Naturopathic Physicians (OANP) where I currently serve as Chair of the Legislative Committee.

In 2014 I was invited to represent OANP in a stakeholder's workgroup formed by the Oregon insurance commissioner to provide inputs and discussion for a legislative concept that became HB 2468-2015. Around the stakeholder table were other provider representatives, public interest representatives, and many health insurance company representatives. It was informative for me watching up close the interests, concerns, and dynamics between insurers, different kinds of providers, and state insurance regulators.

In 2015 I testified to the health care committees in favor of HB 2468 as a representative of OANP. The bill passed, and the resulting law is now ORS 743B.505 a part of the insurance code regulating "Provider networks". A Rules Advisory Committee (RAC) was formed after the network adequacy bill passed, and I have participated in that process since.

An Economic Riddle

Can you name a financial intermediary wielding monopoly power over the financial products it sells, and monopsony power over required purchases while taking a 20% share of the cash flow as income? The answer, of course, is a commercial health insurance carrier.

Recognition of health insurer monopoly power is evident in the state's regulation of insurance. Insurers submit to an annual rate approval process with state regulators, and the state regulates insurer solvency and behaviors towards plan subscribers/consumers.

Recognition of health insurer monopsony power over provider contracts is not readily evident in state regulatory activity. This economic power of insurers is obscured by large provider entities and highly specialized medical practices possessing economic powers to counter that monopsony. Not all provider entities or types have this same market power with insurers.

Naturopathic physician practices are mostly individual and small groups with no available economic power to counter insurance monopsony power and achieve fair bargaining. Zoom+Care is the only Oregon entity in my awareness to ever be able to negotiate insurance reimbursement parity for the naturopathic physicians it employs. In their external reporting Zoom reveals they consequently suffer excessive claim denials for services when performed by NDs. Claim rejections based upon this Oregon licensed provider type clearly violate ACA section 2706 and ORS 743B.505. Two provider non-discrimination laws no one is currently enforcing.

By the same ACA laws insurance carriers are restricted to taking at most 20% of health insurance premiums for their own use. Without this mandated restriction, they historically have, and most certainly would again, take even more for their operations, executive salaries, lavish bonuses, and depending on their entity formation -- profits.

Naturopathic Physician Attempts at Negotiating with Insurers

Over the years individual naturopathic physicians and their small entities have tried one by one to negotiate reimbursement rates with insurers. The only "successful" negotiations in my recent awareness were with Cigna, as they moved their provider management of NDs to a third party administrator called "American Specialty Health."

The new contract was offered at the very lowest end of the discriminatory scale. When in-network NDs learned about this change by Cigna, they were quite upset. Many of them independently sent letters of termination, to which Cigna came back with a new, better offer. Cigna offered less than their previous below market rates, but above the worst of the worst fee schedules they are now offering as standard fare. Today, for those NDs with the "better" contract, Cigna pays around 60% of the median market rate paid any other provider type in Oregon providing the same services.

The Cigna episode is also the most recent time naturopathic physicians laboring in this state spontaneously desired to join together to take a collective action for equitable reimbursement rates. Antitrust law has been litigated on this possibility all the way to the US Supreme Court. Independent health care providers do not have a legal right to organize in order to force insurers to increase reimbursement rates.

At the same time, insurers are allowed an antitrust exemption by which they seem to be communicating to each other that it is okay to dictate below market reimbursement rates in contracts to naturopathic physicians.

The evidence for this allegation of insurer collaboration is prima facie, on the face of it, found in the transaction records of the All Payer, All Claims (APAC) database maintained by the Oregon Health Authority. All of the major insurers without exception pay naturopathic physicians 25-85% below the market medians revealed in APAC.

One of the benefits from my participating with DCBS on HB 2468-2015 and subsequent rule making was the opportunity to make contacts with Oregon's major insurance carriers. After the passage of the DCBS bill, and a 2015 OANP bill requiring insurers to provide NDs a path to PCP credentialing, OANP used those connections to reach out to three of the major carriers controlling massive subscriber market share in Oregon.

The responses back included stonewalling, never able to find a time, need, or priority to meet with us. At another carrier the insurance CMOs were apparently afraid or ashamed to sit down in person to meet with us face to face. We had multiple congenial conversations with another major, where the only reply on the question of reimbursement rates was head nodding. All of these interactions ended in the same place, no progress. All were different expressions of an unwillingness to deal fairly with naturopathic physicians.

The Big Picture

Oregon has been licensing naturopathic physicians for 92 years. Medicine is risky, with patient harms happening no matter how competent the provider. When you look at the safety record of medicine as a whole, and then compare that to naturopathic physicians as a subset, NDs enjoy an excellent safety record in Oregon. The Oregon Board of Naturopathic Medicine (OBNM) is professionally run, and forever diligent in protecting the public.

Through my participation on the HCWF committee I have gained awareness of the aching need for more qualified primary care providers to serve all the citizens of our state. The behavior of commercial insurers run counter to the state's efforts and investments to expand the primary care workforce through fully utilizing NDs. With their one-sided adhesion contracts dictated to NDs, insurers are doing harm to Oregon, its citizens, and the naturopathic physicians who have invested greatly of themselves to become doctors in the service of others.

Primary care is not easy work. High patient visit counts are causing rampant provider burnout and moral harm in conventional care. More and more, newly graduating medical doctors and doctors of osteopathy seek out specialty fellowships that lead them to a better work-life balance, and a more rational working pace and relationship with patients. NDs train to be primary care providers upon graduation, and form collaborative relationships with patients.

Oregon and the nation continue to face spiraling health care costs well above the rates of inflation and wage growth. Within the riddle I explained above, you can find some insights to the economic dynamic driving spiraling costs. The other big driver is the health of our population. We are not doing well. 70% of Americans take at least 1 medication, and more than half take at least 2 medications every day, with some taking many, many more.

Anything we can do to create more healthy citizens, dependent on fewer medications, is going to genuinely help reduce health system costs. This is the side of the equation where NDs shine brightest. Naturopathic physicians are not the whole answer, but we will never reach our full positive potential in this cause as long as health insurance companies are allowed to economically marginalize us through unjust contracting practices and below market reimbursement rates.

True Health Medicine, PC in Tualatin

In 2008, at mid-life, I officially changed from a career in high-tech to a small group naturopathic practice started by me and 3 other NDs who graduated together in 2007 from the National University of Natural Medicine (NUNM) in Portland, OR. The adverse financial situation we quickly discovered our clinic and selves to be in, led to learning how NDs are being systematically reimbursed at substantially less than market rates for our services. As a business we have struggled to hire and retain quality staff to support our efforts in patient care. Our doctors are financially marginalized, struggling with student loan repayments and to be meaningful contributors towards household income, with no ability to save for retirement. Of the 4 of us who started together, the 3 that remain are the ones with spousal income adequate for an acceptable private life. Our spouses are in effect subsidizing patient care for Providence, Regence, Moda and the rest of the insurance carriers who's subscribers are our patients.

Legislating Reimbursement Parity

Health insurance companies hold an unopposed monopsony power that requires state law and regulation to hold in check when setting reimbursement rates in contracts with naturopathic physicians. Passing SB 734 is essential to creating a positive future for naturopathic physicians who have invested much, and have long suffered in order to serve the citizens of Oregon with the aim always toward better healthcare and health for all.