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# United Kingdom's healthcare corruption in perspective



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## Legislation

1976 International Covenant on Economic, Social and Cultural Rights-Art. 12.<sup>2</sup>

1977 Convention on Combating Bribery of Foreign Officials.

1996 Inter-American Convention against Corruption of the Organ of American States.

2005 United Nations Convention Against Corruption.

2006 UK Fraud Act.

2010 UK Bribery Act.

## Abbreviations

NHS - National Health Service (UK).

OECD- Organization for Economic Cooperation and Development.

SFO- Serious Fraud Office.

TRIPS- Trade Related Intellectual Property Rights.

UK - United Kingdom.

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<sup>1</sup> See <https://www.orcid.org/0000-0002-8854-4293>

See also <https://www.criminal-lawyer.org.uk/>

<sup>2</sup> The Preamble of this Covenant of the United Nations includes the words: "...Recognizing that these rights derive from the inherent dignity of the human person...agree upon the following articles...Part 3, Article 12(2)...steps to achieve the full realization of this right shall include those necessary for (a)the provision for the reduction of stillbirth-rate and of infant mortality and for the healthy development of the child; (b)...(c)...(d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness. See Evans, M.D.(2021) International Law Documents, 15<sup>th</sup> edn., Oxford: OUP, pp 113-125.

U.S - United States.

WTO – World Trade Organization.

## **Keywords**

Corruption; fraud; foreign investment; human rights; management; National Health Service (NHS); policies; procedures; trade.

## **Abstract**

Corruption deprives people of access to health care and can lead to the wrong treatments being administered. Drug counterfeiting, facilitated by corruption, kills en masse. Cases are recorded of water being substituted for life-saving adrenaline and of active ingredients being diluted by counterfeiters, triggering drug-resistant strains of malaria, tuberculosis and HIV. The poor are disproportionately affected by corruption in the health sector, and cannot afford to pay for private alternatives where corruption has depleted public health services. Analysis of corruption in the health sector of the UK can redress the information imbalance between UK government and service providers and patients. Health is a major global industry, a key responsibility and budget expense for governments and businesses. Corruption deprives people of access to health care and leads to poor health outcomes.

## **1. Corruption in the United Kingdom's NHS**

Corruption is 'the abuse of entrusted power for private gain'.<sup>3</sup> Internationally, the badness of bribery and corruption has long been recognised and various countries began to work together to address this growing problem. Then there was formed the OECD's 1977 Convention on Combating Bribery of Foreign Officials. Although corruption is 'as old as the hills', policymakers in countries soon realised that the growing evidence of corruption in a country and between countries does have an adverse effect on economic and social development. In the study of corruption, tools

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<sup>3</sup> See [http://www.transparency.org/about\\_us](http://www.transparency.org/about_us)

have been developed to assess the amount of corruption in any one country or industry and there is solid evidence that corruption has a negative impact on people and on markets.

## **2. UK Bribery Act 2010**

Recent legislative anti-corruption developments took place with the UK Bribery Act 2010, which gained Royal Assent in April 2010 but did not come into force until 1<sup>st</sup> July 2011 after guidelines were published by the UK government.<sup>4</sup>

The UK Bribery Act 2010 makes bribery of foreign public officials an offence and extends beyond a British company's employees to include the behaviour of third parties acting on behalf of a company. Ambitiously, the UK Bribery Act covers both commercial bribery and public officials; it does not allow for facilitation payments to expedite routine governmental actions; it creates a corporate offence of failing to prevent bribery; and makes it an offence to give a bribe and an offence to receive a bribe. There are four main bribery offences, namely:

- [1] the general offence of offering, promising or giving a bribe;
- [2] the general offence of requesting or agreeing to receive a bribe;
- [3] the separate offence of bribery of a foreign public official, and
- [4] the corporate offence for failing to prevent bribery, in which the corporation itself and its senior officers may be found guilty of paying or receiving bribes if it is found that a senior officer has consented or connived in the offence.<sup>5</sup> The UK's Serious Fraud Office (SFO) is tasked with enforcement of the UK Bribery Act. Yet, thirteen years later, there has not been a single bribery action against overseas companies.

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<sup>4</sup> Like Explanatory Notes to UK Statutes, guidelines to detail examples that would assist understanding of the statute are not part of the statute.

<sup>5</sup> Black's Law Dictionary defines a 'bribe' as "Any valuable thing given or promised, or any preferment, advantage, privilege or emolument, given or promised corruptly and against law as an inducement to any person acting in an official or public capacity to violate or forbear from his duty, or to improperly influence his behaviour in the performance of his duty." Editors, Black's Law Dictionary, 3<sup>rd</sup> ed., Minn., U.S: St Paul's, at pg. 731.

### 3. Methods of measuring corruption

Using data collected by academics and anti-corruption practitioners<sup>6</sup>, it has been possible to analyse-

- [1] corruption and its effect on human rights;
- [2] corruption and media freedom;
- [3] corruption's effect on democracy;
- [4] corruption and its effect on economic development;
- [5] corruption's effect on social inequality; and
- [6] corruption and its effect on foreign investment.<sup>7</sup>

Researchers progressed to using cross-country indices of corruption which focused on political, social and economic issues, thus creating a rise of awareness among policymakers in many countries studied.

### 4. Indices as indicators

There are several of these indices and the most effective indices use cross-national data sources, e.g. expert ratings; public opinion polls; and surveys of business populations to generate an indicator of the extent of 'perceived' corruption in any one

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<sup>6</sup> We know that corruption is hard to measure because it is, by definition, clandestine and so researchers seek proxies or perceptions of corruption. They also look for those factors most likely to prevent corruption from occurring. They then progressed to assessments which indicators which can provide assessments which pointed to patterns of corruption and therefore corruption risks. Today corruption measures concentrate on one country at a time and use mixed-method indicators and other innovations and predictive technology.

<sup>7</sup> Sornarajah, M. (2016), *The International Law of Foreign Investment*, Cambridge, UK: Cambridge Univ. Press. The historical evolution of law is viewed from the time before ww2, when foreign direct investment did not face any risks except in states under colonial rule. Such nominally independent states either were protectorates or were subject to dominance by which European investments has enough protection, based on military power and 'gun-boat diplomacy'. Sovereign Wealth Funds now feature in the climate of global recession and economic crisis and this is causing national security in some rich countries to appear potentially hostile and existing laws on entry through acquisitions and mergers are beginning to be used to control such acquisitions and mergers. Some states are now requiring that entry is made into the country through the establishment of a joint venture with a local partner and prevailing weaknesses in the economy, such as corruption, could be exploited to thwart the purposes of state legislation. In some cases states actually promote the violation of their laws, ignoring violations.

country plus information released since the 1970s of bribery, extortion, and political payments by business enterprises.<sup>8</sup> This combination of a large number of individual sources reduces bias and error. Still, it must be remembered that these largely corruption indicators quantify a generalised corruption syndrome, since they measure a country's overall perceived corruption by way of one single score.<sup>9</sup>

## 5. NHS corruption

The United Kingdom's NHS corruption encompasses these elements:

- (a) bribery of regulators and medical professionals;
- (b) manipulation of information on drug trials;
- (c) the diversion of medicines and supplies;
- (d) corruption in procurement; and
- (e) 'over-billing' of insurance companies.

NHS corruption is not limited to abuse by public officials, because society frequently entrusts private actors in health care with important public roles as in NHS Trusts. When hospital administrators, insurers, physicians or pharmaceutical company executives dishonestly enrich themselves, they are not formally abusing a public office, but they are abusing entrusted power and stealing precious resources needed to improve health. Such breach of trust is disgraceful.

## 6. Corruption on a global scale

Corruption in the richest parts of the world has its costs.<sup>10</sup> Billions of pounds are lost each year to insurance fraud and corruption in rich countries such as the United States (U.S) and the United Kingdom (UK) and in this regard, fighting corruption in the health sector is a complex challenge. At one end of the scale are doctors and nurses

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<sup>8</sup> Jacoby, N.H., Nehemkis, P., and Eells, R. (1977) *Bribery and Extortion in World Business*, London, UK: Collier Macmillan Publishers.

<sup>9</sup> Sampford, C. et al (eds.) (2006) *Measuring Corruption*, Aldershot, UK: Ashgate Publishers.

<sup>10</sup> Scott, J.C. (1972) *Comparative Political Corruption*, N.J, U.S: Prentice Hall, pg.3.

who (in the U.S) might charge small informal payments to patients to perhaps supplement inadequate incomes. Consequences of corruption in just one country, the United States, revealed that 17 years ago, statistics in 2006 for the U.S revealed that five times as many persons die (between 100,000 to 200,000) annually from illnesses and injuries contracted at their place of work, than are murdered by street criminals throughout the land. Also when ordinary folk learn of frauds committed by economic and political elite persons, it provides incentives for them to commit profit-oriented crimes<sup>11</sup> and this has been an important cause of the increase and growth in the U.S of organized crime.

## **7. Bribes**

At another end, are the corrupt suppliers, in both these countries, who offer bribes<sup>12</sup> and government health ministers and hospital administrators who accept bribes, and siphon millions of dollars from health budgets, skewing health policy and depleting funds that should be spent building hospitals, buying medicines and/or employing staff.<sup>13</sup> The burden of guilt in bribery is borne by the payer (for instance, the pharmaceutical company).

## **8. Extortion**

In extortion, the initiator is the recipient, the object is a thing of value, and the motivating force is a threat of harm to the payer (should he decide to whistle blow). The distinction is vital when a company makes an improper political payment , whether the company is a British company or a foreign company, noting that foreign company payments to a UK government minister can be a hybrid of a bribe and and extortion.

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<sup>11</sup> Simon, D.R. (2006) *Elite Deviance*, 8<sup>th</sup> edn., U.S:Pearson Publishers, at pg.39.

<sup>12</sup> A bribe is a payment made to induce the payee to do something for the payer that is improper. In a bribe, the initiator is the payer; the object is an improper favour, and the motivating influence is an offer of something of value. An extortion is a payment made to deter the payee from harming the payer in some way. In extortion, the initiator is the recipient, the object is a thing of value, and the motivating force is a threat of harm to the payer.

<sup>13</sup> Prest, A., and Coppock, D. (Eds) (1980) *The UK economy: A Manual of Applied Economics*, London, UK: Weidenfeld and Nicolson Publishers.

## **9. Tipping or facilitation payment**

The UK Bribery Act 2010 makes a facilitation payment illegal. Most facilitation payments can be argued to have been made to induce an official overseas to perform his regular duties. This is distinct from a payment to procure special favours for the multinational corporation, it can be argued.

## **10. Opaque health service spending decisions & pharmaceutical companies' aggressive marketing**

Every year, the world spends hundreds of billions of pounds sterling on health services, most of which is financed by taxpayers. These large flows of funds are an attractive target for abuse. Money lost to corruption could have been used to buy medicines, equip hospitals or employ medical staff. The diversity of health systems worldwide, the multiplicity of parties involved the paucity of good record keeping in many countries, and the complexity in distinguishing between corruption, inefficiency and honest mistakes make it difficult to determine the overall costs of corruption in this sector around the globe.

The United States spends 15.3 per cent of its GDP on healthcare. The two largest US public health care programmes, Medicare and Medicaid, estimate that 5–10 per cent of their budget is lost to 'overpayment'. In the United States, Americans spend more on health care than many other industrialised countries, yet health outcomes are arguably no better. Yet this is the ambition of the present UK government,; to privatise our National Health Service.

More worrying is the situation of breaches of Intellectual Property Law with regard to bringing new medicines to market, in which small developing countries suffer from theft of their pharma IP despite international treaties. In the area of International Trade, the Agreement on Trade Related aspects of Intellectual Property rights (TRIPS) agreed under the auspices of the World Trade Organization (WTO)



## **11. Health Service corruption: Columbia, Venezuela, Cambodia, Philippines, Mexico, and Kenya**

An analysis of Colombia and Venezuela shows that very different manifestations of corruption emerged as the two countries' health care models diverged. If there is corruption, no matter which system is opted for, and how well it is funded, health spending may not lead to commensurate health outcomes. In Cambodia, more than 5 per cent of the health budget is lost to corruption before it even leaves central government. In the Philippines, poor and middle-income municipalities report longer waiting times at public clinics than rich ones, and a higher frequency of being denied vaccines when corruption affects health policy and spending priorities. In Mexico and Kenya public officials have abused their power to divert funds to 'pet' projects, regardless of whether they are in line with agreed health policy. There are also incentives for a distortion in payments at the service delivery level.

## **12. Goal of cessation of corruption**

The goal of the cessation of corruption will ensure that essential medicines are available, accessible and of good quality. Corruption hampers compliance with each of these obligations. Opaque spending decisions and aggressive marketing practices by medicines producers and suppliers generate ample opportunities for corruption, when Regulators are bribed to exercise less than rigorous checks or Hospital Administrators purchase cheaper, less effective drugs and embezzle the proceeds.

## **13. Feigning ignorance of existence of corruption in the UK**

However, the matter is largely ignored in the UK, as if it does not occur. Provisions on cross-border cooperation reflect the increasingly international nature of corruption and the movement of its illicit gains. The human rights community needs to pay attention to corruption as being huge risk to a decent standard of health. One of the fundamental rights of every human being is incorporated in Article 12 of

the International Covenant on Economic, Social and Cultural Rights. Corruption is a major issue that is not being addressed within the framework of these basic rights. Corruption in the health sector affects people all over the world because money that should be spent on alleviating poverty and illness ends up elsewhere. Corruption denies people the care that their governments are obliged to provide. If corruption and a lack of transparency are not addressed as integral to health care strategies, HIV/AIDS and other infectious diseases will win.

#### **14. Reducing corruption can inject revenues into the health sector**

In the United Kingdom, the National Health Service's anti-fraud unit reported it had stopped corruption totalling more than £170 million (US \$300 million) since 1999, and the total financial benefits to the NHS (which also includes recovery of losses due to fraud and reduction in measured losses due to intervention by the counter-fraud service) have been enough to build 10 new hospitals. As with any sector, health system corruption is less likely in societies where there is broad adherence to the Rule of Law; to transparency and to trust: where the public sector is ruled by effective civil service codes and strong accountability mechanisms, and where there is an independent media and strong civil society. However, many will wager that corruption in the UK total billions of pounds and can probably replace all of UK's older, unfit hospitals.

#### **15. The health sector in general is prone to corruption**

Certain characteristics make all health systems – whether public or privately funded, in rich and poor countries – vulnerable to corruption. An imbalance of information prevails in health systems: health professionals have more information about illness than patients do, and pharmaceutical and medical device companies know more about their products than public officials entrusted with spending decisions do do.

Making information available can reduce losses to corruption. A challenge to policy-makers is the uncertainty in health markets – not knowing who will fall ill, when illness will occur, what kinds of illnesses people get and how effective treatments will be. This makes it difficult to manage resources, including the selection, monitoring, measuring and delivery of health care services and the design of health insurance plans. The risk of corruption is even higher in humanitarian emergency situations when medical care is needed urgently, such as the recent Covid-19 Pandemic. Oversight mechanisms are often bypassed with the excuse of the speed necessary to bring the product to market.

## **16. Uncertainty breeds inefficiency**

Due to uncertainty, medical care service markets and health insurance markets are both likely to be inefficient. Uncertainty pervades the health care sector. People may not even know that they are ill or that they could benefit from health care services – as frequently happens to people with high blood pressure, anaemia or the early stages of diabetes.

When people fall ill and seek medical care, they cannot judge whether the prescribed treatment is appropriate. If they get better, they may not know whether the treatment was necessary for their recovery. For example, people with viral infections are often prescribed antibiotics that are useless against viruses.

This uncertainty makes it difficult for those demanding medical care – patients or their families – to discipline suppliers of medical care, as occurs in other markets. Patients cannot shop around for the best price and quality when they are ignorant of the costs, alternatives and precise nature of their needs. In such situations, consumer choices do not reflect price and quality in the normal fashion, and other mechanisms such as the licensing of professionals and facilities or even direct public provision introduced to allocate resources and determine what kinds of care are provided. The uncertainty surrounding health care leads people to insure themselves against illness. But the functioning of voluntary insurance markets leaves too many people without insurance and encourages the provision of too much health care for those who have it.

## **17. Mandatory health insurance coverage**

Mandatory health insurance may resolve the market failures in health insurance but can introduce problems associated with ineffective public sector functioning. The resulting engagement of public policy in the provision or regulation of health insurance is another significant avenue for corruption.

## **18. The degree of uncertainty is not identical for all in the health sector**

This leads to another systemic feature, namely asymmetric information. Information is not shared equally among health sector actors and this has significant implications for a health system's efficiency and its vulnerability to corruption. The large number of parties involved exacerbates the difficulties of generating and analysing information, promoting transparency, and detecting and preventing corruption. The relationships between medical suppliers, health care providers and policy-makers are often opaque and can lead to distortions of policy that are bad for public health. Regulators, payers, health care providers, suppliers and consumers face a complex mix of incentives that can lead to corruption.

## **19. Forms of corruption in the health sector**

[1] Embezzlement and theft from the health budget or user-fee revenue.

This can occur at central or local government level or at the point of allocation to a particular health authority or health centre. Medicines and medical supplies or equipment may be stolen for personal use, or for use in private practice or for resale.

[2] Corruption in procurement.

Engaging in collusion, bribes and kickbacks in procurement results in overpayment for goods and contracted services, or in failure to enforce contractual standards for quality. In addition, hospital spending may include large investments in building

construction and purchase of expensive technologies, areas of procurement that are particularly vulnerable to corruption.

[3] Corruption in payment systems.

Corrupt practices include waiving fees or falsifying insurance documents for particular patients or using hospital budgets to benefit particular favoured individuals; illegally billing insurance companies, government or patients for services that are not covered or services not actually provided, in order to maximise revenue; falsification of invoice records, receipt books or utilisation records, or creation of 'ghost' patients. Other forms of corruption that relate to payment structures are: buying business from physicians by creating financial incentives or offering kickbacks for referrals; physicians improperly referring public hospital patients to their private practice; and performing unnecessary medical interventions in order to maximise fee revenue.

[4] Corruption in the pharmaceutical supply chain.

Products can be diverted or stolen at various points in the distribution system; officials may demand 'fees' for approving products or facilities for clearing customs procedures or for setting prices; violations of industry marketing code practices may distort medical professionals' prescribing practices; demands for favours may be placed on suppliers as a condition for prescribing medicines; and counterfeit or other forms of sub-standard medicines may be allowed to circulate.

[5] Corruption at the point of health service delivery.

This can take many forms including:

- (a) extorting<sup>14</sup> or accepting under-the-table payments for services that are supposed to be provided free of charge;
- (b) soliciting payments in exchange for special privileges or treatment;
- (c) extorting or accepting bribes to influence hiring decisions and decisions on licensing, accreditation or certification of facilities.

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<sup>14</sup> *Black's Law Dictionary* states that "to extort" means "to compel payments by means of threats of injury to person, property or reputation" or "the corrupt demanding or receiving by a person in office of a fee for services which should be performed gratuitously; or, where compensation is permissible, of a larger fee than the law justified, or of a fee not due."

## **20. Use of details from other studies of corruption**

For the UK to earnestly commence a thorough investigation of corruption in all its facts in all of the UK health service, the following details gathered from the study of corruption in general, inter-country, cross-country, and singularly.

## **21. Preventative measures that may not yet have been implemented**

[1] Procurement Guidelines.

[2] Codes of Conduct for institutional and individual operators in the health sector.

[3] Transparency Procedures.

[4] Monitoring Procedures.

[5] It is essential that governments and health authorities publish regularly updated information on the Internet on health budgets and performance at the national, local and health delivery centre levels. Government departments, hospitals, health insurance entities and other agencies handling health service funds must be subject to independent audits.

[6] Governments and health authorities have responsibility to ensure that information about tender processes, including offers to tender, terms and conditions, the evaluation process and final decisions, is publicly available on the Internet.

[7] Effective nationwide systems for reporting adverse drug effects must be implemented wholeheartedly by government, in order to provide a mandate and an incentive for physicians to report such information.

[8] A public database listing the protocols and results of all clinical drug trials needs to be developed and made publicly accessible.

[9] Reporting by the drug industry on clinical drug trials should be mandatory, as well as the disclosure of all financial contributions made to medical research units from pharmaceutical companies.

[10] Donors must be open and explicit about what they are giving, when and to whom. Donors should evaluate their programmes in terms of health outcomes rather than the level or speed of disbursement.

[11] Donors also have the duty to coordinate their support to the health sector, using the same accounting and auditing mechanisms to reduce transaction costs, improve efficiency and reduce risks of corruption.

[12] Codes of conduct.

The introduction and promotion of codes of conduct, through continued training across the health system, must be made compulsory for regulators, medical practitioners, pharmacists and health administrators. These codes ought to make explicit reference to preventing corruption and conflicts of interest that can lead to corruption. They must detail sanctions for breaches and be enforced by an independent body.

[13] Pharmaceutical, biotech and medical device companies must adopt the *Business Principles for Countering Bribery*, through which a company commits to refraining from bribery in its operations and implementing a comprehensive anti-corruption programme.

[14] Health authorities must introduce avenues for public oversight, which improve accountability and transparency. These should oversee procurement and drugs selection at facility, health delivery at community, and local health board level.

[15] Public policies, practices and expenditures should be open to public and legislative scrutiny, while all stages of budget formulation, execution and reporting should be fully accessible to civil society.<sup>15</sup>

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<sup>15</sup> Corruption in the health sector is not exclusive to any particular kind of health system. It occurs in systems whether they are predominantly public or private, well funded or poorly funded, and technically simple or sophisticated. The extent of corruption is a reflection of the society in which it operates. Health system corruption is less likely in societies where there is broad adherence to the rule of law, transparency and trust, and where the public sector is ruled by effective civil service codes and strong accountability mechanisms. These general factors affect the extent of corruption in any sector, but the health sector has a number of dimensions that make it particularly vulnerable to abuse. No other sector has the specific mix of uncertainty, asymmetric information and large numbers of dispersed actors that characterise the health sector. As a result, susceptibility to corruption is a systemic feature of health systems, and controlling it requires policies that address the sector as a whole.

[16] Government need to introduce relevant and specific whistleblower protection for individuals working in procurement bodies, health authorities, health service providers and suppliers of medicines and equipment.

[17] Pharmaceutical companies must introduce whistleblower mechanisms and protection.

[18] In order to ensure that treatment is dictated by patient need and not by opportunities for profit, the government must continuously monitor payment mechanisms (whether fee-for-service, salary, capitation, global budgeting or other).

[19] Doctors, nurses and other health professionals need to be paid a decent wage, commensurate with their education, skills and training.

[20] Regulators have the responsibility to adopt conflict of interest rules that disqualify individuals or groups with an interest in the manufacturer from participating in clinical drug trials.

[21] Governments must push for transparency in drug regulation processes, reduction in the excessive promotion of medicines, tougher restrictions on doctors over-prescribing drugs, and closer monitoring of relationships between health departments and the drugs industry.

[22] Medical licensing authorities need to define the specific rules for physician behaviour regarding conflicts of interest-in particular in relationships with the pharmaceutical and medical device industries-and obtain the necessary resources to enforce these rules.

[23] Companies found to have engaged in corrupt practices must be debarred by Government from participating in tender processes for a specified period of time.

[24] It is essential for prosecuting authorities to strengthen the message that corruption has consequences by rigorously pursuing corrupt acts that are clearly proscribed. Producers of counterfeit drugs and the public officials who collude with them must be prosecuted and duly sanctioned.

[25] Special health sector anti-corruption and fraud agencies must be set up to detect corruption and promote preventative measures in the health sector and these agencies must be equipped with the necessary expertise, resources and independence



to carry out their functions, and be backed by functioning specialist independent court.

[26] Corruption in the health sector may be wider than in other sectors because society frequently entrusts private actors in health with important public roles. When hospitals or insurers act dishonestly to enrich themselves, they are abusing the public's trust.<sup>16</sup>

## **22. Health Systems' Roles and Responsibilities**

Roles and responsibilities within health systems are split between regulators, payers, health care providers, suppliers and consumers in ways that make good decision-making difficult. It is common for governments to assume the role of verifying that medications are safe and effective, that health care practitioners have completed approved courses or have proven skills, and that facilities are adequately staffed and equipped.<sup>17</sup> When the public sector provides services directly, it generally allocates resources through the normal public budgetary process.<sup>18</sup> Corruption can occur when officials embezzle funds or when the public insurer allocates resources for political gain at the expense of patients or taxpayers.<sup>19</sup>

Health care providers have a wide range of opportunities to engage in corruption

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<sup>16</sup> The medical profession is given great latitude in most countries to police itself in return for assuming professional responsibility to act in the best interests of patients. European members of the OECD collectively spend more than US \$1 trillion per year. The U.S spends US \$1.6 trillion. Latin America spends 7 per cent of GDP, or about US \$136 billion in health services annually. Ethiopia, Egypt, Indonesia and Pakistan spend 5% of GDP. Ireland, Germany, the U.S and Costa Rica spend 15% of GDP each year on health services.

<sup>17</sup> However, this same existence of regulations creates avenues for corrupt activities when pharmaceutical companies skew research studies, influence review boards or simply bribe regulators to approve or speed up the processing of their applications. Other avenues for corruption occur in instances where health care providers and facilities pay a regulator to overlook lapses in licensing requirements. Payers engage in corrupt practices in instances where the public sector acts as a payer through direct provision of care or as a public insurance agency. In the private sector, payers are commercial insurance firms and non-profit insurance organisations.

<sup>18</sup> This creates opportunities for political interests to contravene decisions that are in the best interest of patients.

<sup>19</sup> Private insurers, whether for-profit or non-profit, who collaborate in public programmes, or are subjects of regulation and who defraud public sector programmes through fraudulent billing are corrupt as also when they reject insurance claims that they are committed to reimburse by law and when they bribe insurance regulators to ignore illegal practices.

because they have such a strong influence over medical decisions, including prescribing medications, determining the length of a hospital stay, ordering tests and referring patients for additional consultations or services.

When Health care providers act in ways that are not in their patients' best interests, whether motivated by direct financial gain, increased prestige, greater power or improved working conditions, they are corrupt, despite being bound by professional standards and ethical codes that are expressly aimed at deterring corruption. For example, when providers are paid 'fee-for-service' it is in their financial interest to provide more services, and more costly services, than might otherwise be indicated by the individual's condition.<sup>20</sup> In the case of publicly employed health providers, a wide range of abuses can occur.<sup>21</sup> They may steal drugs and medical supplies for resale or use in other places, and solicit bribes from patients for services that are supposed to be free.<sup>22</sup>

### **23. US and Canada: Medical Insurance Corruption**

In the USA and Canada, patients misrepresent their enrolment in an insurance plan by using the insurance cards of friends or family members. In Canada, the province of Ontario detected numerous people using forged cards to gain access to free public care. A patient may bribe a doctor to obtain benefits for non-health issues, such as a health certificate to obtain a driver's licence, to avoid military service or to obtain

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<sup>20</sup> When providers are paid on a 'capitated' basis (that is, a single fee to cover any services required by a patient enrolled in their care, regardless of how many are actually provided) then it is in their financial interest to provide fewer services than would otherwise be indicated by the individual's health condition alone. Were such providers paid a fixed salary, independent of the volume of services provided, there would be no financial incentives to oversupply or undersupply services.

<sup>21</sup> They can abuse their public sector job by referring patients to their parallel private practice (or use public facilities and supplies to serve their private patients). They may defraud the public sector by accepting a full salary while absenting themselves to provide private consultations elsewhere.

<sup>22</sup> Health care providers are also in a position to defraud payers. Most payment systems have to rely on the honesty of providers to state the kind and intensity of services that have been provided. Health providers may create 'phantom' patients to claim additional payments. They can order tests to be conducted at private laboratories in which they have a financial stake, or prescribe expensive drugs in exchange for kickbacks or bribes from pharmaceutical companies. Other health officials may accept kickbacks to influence the procurement of drugs and supplies, infrastructure investments and medical equipment. In so doing, they may pay higher prices or overlook shoddy work.

disability payments. Paying bribes to get privileged access to public care is also a common form of corruption.

## **24. Germany's Health Care Corruption**

In the mid-1990s, Germany investigated 450 hospitals and more than 2,700 doctors on suspicion of taking bribes from manufacturers of heart valves, life support equipment, cardiac pacemakers and hip joints. Suppliers can bribe public health authorities in any of their normal procurement processes, including kickbacks from companies that want to win lucrative hospital construction tenders and can bribe regulatory agencies to develop policies in their favour. For example, pharmaceutical companies may influence governments to impede competition from generic drug manufacturers, or equipment producers may try to change regulations so that licensed facilities will be required to purchase their products.

Sweden and Spain have relatively well financed public health services that are directly provided by national or local governments in Canada and Germany, the public sector pays for health services that are provided by private and public health care providers. In most low- and middle-income countries, as in Mexico and South Africa, the health system is fragmented and may include:

- [1] a public insurance scheme for formal health- sector workers;
- [2] direct public provision of health care for the indigent;
- [3] private insurers and providers contracted by wealthier households; and
- [4] a large share of private practitioners who are paid directly by their patients, both rich and poor.

## **25. European Public Health Systems**

Many European countries follow a model of integrated public health systems which display a wide range of structural differences, whether through decentralisation (e.g. Spain) or experimenting with autonomous health facilities (e.g. Sweden), but they share common approaches to allocating budgets and delivering services.

## **26. Developing countries' Health Care**

In developing countries, successes involving direct public provision of health care services are rare. In the most effective ones, health services do reach the bulk of the population (e.g. Chile, Cuba, and Malaysia). In most cases, however, the public systems have been unable to reach large segments of the population, or to provide adequate services (e.g. Venezuela, Indonesia).

## **27. Subsidised non-profit Health Care Institutions**

In the absence of complete coverage, countries sometimes finance, or at least subsidise, non-profit health care institutions, such as mission hospitals in Africa or NGO health clinics in the Americas. The evidence available on corruption in health systems with direct public provision is largely focused on informal, or illegal, payments for services in developing or transitional economies. This form of corruption has a particularly negative impact on access to care for the poor when they cannot afford these payments. In China and many former communist countries of Eastern Europe and Central Asia, the apparent existence of such illegal payments has led observers to conclude that the health care system has been 'privatised', that it functions like a private health care market and is only nominally public.

## **28. Theft by employees, patients' self-referral etc.**

Corruption in health systems with direct public provision includes theft by employees, self-referral of patients, absenteeism and the illicit use of public facilities for private practice. Kickbacks and graft in the purchase of medical supplies, drugs or equipment have also been studied in health systems with direct public provision, but these forms of corruption are more difficult to detect and document. In many health systems, the entity that finances Health Services is separate from the entity providing those services. This is common in countries with social insurance systems (e.g., France and Germany) and in large federated countries (e.g. Brazil and Canada), and in systems with public safety nets such as U.S's Medicaid and Medicare. This separation of public financing and provision is rare in low-income countries, but is common in high-income countries and in the middle-income countries (e.g., Latin America and Asia).

## **29. Common forms of corruption in all health systems**

Cutting across types of health systems are forms of abuse in the processes of allocating public funds and transferring public funds between national and sub-national entities. Sometimes there is large-scale diversion of funds at the ministerial or senior management levels of a health system; in other cases, funds are diverted from their intended purposes then they are transferred to lower-level political administrators. Although these forms of embezzlement can potentially cost the system more than other forms of corruption that occur at the facility level, they are studied less often and are poorly documented.

## **30. Health Systems' vulnerability to abuse**

Both types of health systems share the vulnerability to abuse related to:

- [1] counterfeiting of drugs;
- [2] selling off faulty equipment;

- [3] misrepresenting the quality or necessity of medical supplies; and
- [4] Conflict of Interest between purchasers, providers, suppliers and researchers.

### **31. Conclusion**

Health systems are prone to corruption because uncertainty, asymmetric information and large numbers of actors create systematic opportunities for corruption.

Factors that combine to divide information among different actors are:

- [1] Regulators and Payers;
- [2] Providers;
- [3] Patients and Suppliers.

Such division of information occurs in ways that make the system vulnerable to corruption and hinder transparency and accountability. When regulations are put in place to remedy these problems, efforts to influence Regulators become a new potential source of corruption. Powerful interest groups, including suppliers, payers and health providers, may capture Regulators in order to evade their responsibilities, or further their interests at public expense.

However, today, with computerization at much lower costs than years ago, methodology can be directed towards electronic document review to identify relevant data –which can be made easily repeatable and reviewable in structured ways to identify issues and grade them to eventually make relevant decisions. Forensic accounting reviews will be enabled and this can uncover the reality of Flow of Funds, after which, external lawyers can take on the matter.

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