



Written Testimony of

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Successful Policies to Improve Health Care Transparency Will Be
Grounded in Best Practices and
a Real World Assessment of Policy Limits

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Introduction

Consumers Union, the policy and advocacy arm of *Consumer Reports*,¹ appreciates this opportunity to provide testimony on the topic of consumers and health care transparency.

Improving the public transparency of quality and prices in the health care market – including health plans, health care providers and treatments – would be of great benefit to consumers. These benefits are likely to include:

- greater consumer engagement, empowerment and confidence
- better health from improved practice patterns by hospitals, physicians and other health care providers and better informed consumers

While such transparency is necessary, it may not be sufficient to lower costs or to create a better functioning marketplace.

The focus of my testimony will be to offer two cautions.

One: we must understand and acknowledge the complex process of getting from the “idea of transparency” to an actual consumer or provider-facing piece of information for which there is wide spread awareness, ready understanding and that compels the recipient to act on the information.

Two: there are limits to what improved information about health care prices for treatments can achieve – we must be realistic about those limits.

By offering these two cautions, we hope to provide a real world framework that facilitates constructive policy work in the area of increased health care transparency.

New Transparency Requirements Must Be Effective

We can all point to consumer disclosures that confuse more than help consumers (HIPAA privacy notices) and consumer disclosures that have had a tremendous impact on everyday lives (nutrition facts panel on food, MPG stickers on cars).

The truth is it isn't easy to introduce new transparency requirements that achieve their policy goals. Fortunately, we know a lot about how to be successful – we just don't consistently apply the lessons.²

¹ Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications. Its advocacy division, Consumers Union, works for health reform, food and product safety, financial reform, and other consumer issues in Washington, D.C., the states, and in the marketplace.

² For example, the Agency for Healthcare Research and Quality produced a three part report series on *Best Practices in Public Reporting* to provide practical approaches to designing public reports that make health care performance information clear, meaningful, and usable by consumers.

The first step is to agree on what constitutes “success.” Some public reporting is ignored by most consumers but is still extremely effective because it motivates new behaviors on the part of providers.

The next step is to account for all the steps that must be achieved in order for the consumer or provider to take appropriate action. Consumer information can’t merely be transparent. It must be crafted and conveyed so that consumers **act** appropriately on it. For example, these steps might include:

- Consumer is aware of the information
- It is easy to find information when they need it
- The relevance of the information to them is immediately evident
- Information is written in an understandable way, as demonstrated by consumer testing
- Consumer trusts the information and is confident that it will help them
- Consumer can use the information to make decisions and complete tasks
- The overall design supports the goals of the communication
- Feedback mechanisms are in place so communications success can be measured

Too often, some but not all of these steps are followed. For example, a disclosure may be nicely written in plain language, but the consumer isn’t aware of it.^{3,4} Or the consumer doesn’t know how to act on the information.⁵ Or the information is accurate but consumers don’t trust the source. Using data that is out-of-date can reduce the relevance of the information for the consumer.⁶ Consumers suffer from information overload. If potentially useful information is embedded in a mass of useless data or text, we haven’t helped them.

The only way to get usable, nuanced data about how consumers respond to information is to conduct consumer testing. Yet this step is rarely incorporated into the development process or required by legislation. As an example: when asked what “health plan quality” means to them, many consumers told us they think it refers to the comprehensiveness of the benefits⁷, whereas policymakers and others intend it to mean health plan quality (HEDIS) measures and consumer experience (CAHPS) scores.

<http://www.ahrq.gov/professionals/quality-patient-safety/quality-resources/pubrptguide1.html> See also: Hibbard et al, “An Experiment Shows That A Well-Designed Report On Costs And Quality Can Help Consumers Choose High-Value Health Care,” *Health Affairs*, March 2012.

³ http://www.naic.org/documents/committees_jt_bd_lim_med_ben_related_docs_consumer_alert.pdf

⁴ Consumers Union, *Early Experience With a New Consumer Benefit: The Summary of Benefits and Coverage Form*, February 2013. http://www.consumersunion.org/wp-content/uploads/2013/03/Early_Experience_Report.pdf

⁵ <http://www.nytimes.com/2012/01/22/sunday-review/hard-truths-about-disclosure.html?pagewanted=all>

⁶ Typically, health care information is one to two years old before the public sees it. Health statistics, University of Chicago Library, <http://www.lib.uchicago.edu/e/su/med/healthstat/>

⁷ Unpublished results from focus group testing sponsored by *Consumer Reports*.

If disclosures of any type are to work as intended, the disclosure must go through a high quality development effort. This development effort and a requirement for measurable outcomes (through testing or feedback mechanisms) should accompany every consumer-facing or provider-facing disclosure requirement affecting consumers over a certain number or having to do with transactions over a certain value.

Limits Of Increased Price Transparency

Everyone can get behind better, more usable information about the price of health care treatments. Ideally, this information would:

- be the final price paid by the consumer;
- enable consumers to price compare alternative treatments/drugs or devices and/or alternative providers and venues; and
- indicate whether this was the right or the fair price, or – even better – be a summary measure indicating the value of the treatment (price+quality).

However, a lot of claims are made about the benefits of better price transparency. It is important that policymaking in this area be grounded in a realistic assessment of what will and won't be accomplished by better price transparency. For the reasons stated below, better transparency around health care prices may not lead to lower costs or better functioning markets.

Not all health care is “shoppable”

While it is feasible to do comparison shopping for elective procedures (LASIK, cosmetic surgery) and non-urgent care, a lot of health care is complex and/or urgent. At a certain point, consumers can not choose between alternate, complex treatments just because they featuring different price tags. In these cases, they must rely on trained providers to evaluate the overall benefits of the alternate approaches. The majority of health care costs are tied up with the latter type of patient. The five percent of the population with the highest spending are responsible for nearly half of all spending.⁸

Consumers Are Starting With A Bias Against Shopping By Price—And May Erroneously Equate High Price With High Quality

A large segment of consumers would prefer not to make their treatment decisions based on cost – at least under certain scenarios.⁹ Focus group testing identified four barriers to patients' taking cost into account: a preference for what they perceive as the best care, regardless of expense; inexperience with making trade-offs between health and money; a lack of interest in costs borne by insurers and society as a whole; and a willingness to act

⁸ NIHCM Foundation, *The Concentration Of Health Care Spending*, July 2012.

⁹ Roseanna Sommers et al, “Focus Groups Highlight That Many Patients Object To Clinicians’ Focusing On Costs,” *Health Affairs*, February 2013.

in their own self-interest although they recognize that by doing so, they are depleting limited resources.

Research confirms that consumers, faced solely with cost information, often assume that a provider charging more provides better care.¹⁰ Ironically, if we only provide price information, we may inadvertently steer consumers to higher priced services. Instead of focusing on price transparency, we need to move towards tested measures of quality and value.

Price Per Procedure May Not Be Useful

The price for a medical procedure (CPT code) sends an incomplete consumer signal. Knowing the price of an individual procedure tells the consumer nothing about the complete bundle of procedures and other costs that makes up the treatment, nothing about the long run cost of choosing one treatment regime over the other and nothing about the non-price dimensions of the decision such as safety, quality, convenience, and other outcomes.

Which Price Should Be Displayed?

The median market price for a service may still be the wrong price. There's plenty of evidence to suggest that even if we reference the median price in the market, we may still be overpaying.¹¹ Given the health and financial impact on families, ideally the price of health care would be close to the cost of providing the treatment and would exclude excessive profit taking. Billed charges and reimbursements paid do not reflect cost. The cost of using a resource (e.g., a physician, piece of equipment, or area of space) is the same whether it is reimbursed poorly or highly. A better price would be the one that signals to the consumer this is a fair price.

Price Transparency Won't Overcome Market Concentration of Providers

Provider market power is a key factor driving the pricing of services in the health care market.¹² And consumers have no market power, even if armed with price information. History shows us that large payers (like Medicare and CalPERS) are much more effective in reining in price increases than individual consumers. So let's be sure to put our policy muscle where it will have the biggest impact, if we want to meaningfully address the upward trend in health care prices.

¹⁰ Hibbard, et al. Op cit.

¹¹ Steven Brill, "Bitter Pill: Why Medical Bills are Killing Us," *Time*, March 2013.

¹² For example, see the Catalyst for Payment Reform, *Provider Market Power in the U.S. Health Care Industry: Assessing its Impact and Looking Ahead*, 2012 http://www.catalyzepaymentreform.org/images/documents/Market_Power.pdf or Massachusetts Attorney General's report on the role of provider market power in the negotiation of contracts with insurers: <http://www.mass.gov/ago/docs/healthcare/2011-hcctd-full.pdf>