

# Resistance grows to managed-care attack on patients, U.S. medical system

by Marcia Merry Baker and Patricia Salisbury

Even before some U.S. states have officially convened their legislatures for the 1997 session, already several actions intended to curb the practices of health maintenance organizations (HMOs), which are harming and killing people, and dismembering the U.S. medical system itself, are under way. Individual activist lawmakers on the state and federal levels differ greatly in their motivations, and their understanding of how deep the threat goes. Some think the HMO system can be policed, and thus made to “work”; others know it must be rolled back. The group representing HMOs, the American Association of Health Plans, is also highly mobilized, promoting fig-leaf “reforms” that will not cut their profits.

At a Nov. 9, 1996 policy forum in Washington, D.C., sponsored by the FDR-PAC, entitled “Managed Care Commits Crimes Against Humanity” (available in print and video), at which doctors and nurses from Pennsylvania, New York, and Washington, D.C. participated, Lyndon LaRouche outlined the need to organize for twofold legislative action: First, to enact measures to define the “civil requirements” that must be met for standard medical care provision (ratios of skilled staff, beds, diagnostic and therapeutic equipment, screening, follow-up, and so on), which requirements should be set by experienced medical experts. Second, to enact legislation defining “criminal penalties”—specifics of punishable practices, and codes for enforcement and sentencing.

Here, we review some of the recent state initiatives. In past issues, we have reviewed the core nature of the HMO/managed-care system, and how it came about over the past 30 years—an understanding of which makes clear that the task now is to not merely curb “abuses,” but to replace managed care with public-interest health care policies. The interview with Dr. Bryant Welch (see p. 10) makes this point clear, in terms of mental health care.

In essence, the managed-care system is based on a swindle that allows private, for-profit entities and persons to delimit health care and medical treatment, and to take over, make use of, and shut down hospitals, specialty services, public health clinics, and other community facilities, for private gain. This process has reached the point of causing harm and loss of life for whole categories of people, in particular, the poor and elderly; and whole classes of patients, in particular, the men-

tally ill and those needing medically advanced treatment, such as heart surgery. By the criteria of the Nuremberg Tribunal, those individuals imposing managed-care practices are guilty of crimes against humanity (see *EIR*, Oct. 25, 1996, “‘Managed Health Care’ Is a Crime Against Humanity”).

## ‘Patients’ rights’ bills

On Jan. 13, members of legislatures from nine states held a press conference in Washington, D.C., to announce a drive for coordinated state enactment of a model bill, the “Managed Care Consumer Protection Act.” They said that versions of the bill would be introduced in New Jersey and Texas on Jan. 12, and soon thereafter in Colorado, Georgia, Delaware, Kansas, Ohio, Oregon, and Tennessee. The group said that their intention is to protect “the rights of managed-care enrollees.” There are now over 60 million Americans who have managed-care health insurance.

Among the backers of the drive (perhaps spearheading it) are several Republican legislators who are working in tandem with the managed-care industry, writing legislation that would prevent people from demanding that legislators throw out managed care altogether. The HMO trade group, the American Association of Health Plans, has a campaign called “Patients First,” which is promoting HMO-friendly “reforms.”

The proposal was developed with heavy input from Women in Government, a non-partisan group working with women policymakers at the state level. In a Jan. 13 press release, Joy Newton, the executive director of Women in Government and the former director of corporate relations for the Republican Governors Association, stressed that managed care is a fact of life that must be respected. She said, “The development and introduction of this bill sets an important precedent for legislatures that are both pro-consumer and pro-business in the age of managed care. These nine legislators saw beyond the current patchwork of legislation to regulate the rapidly growing managed-care industry and fashioned a comprehensive bill that protects consumer rights without hobbling managed-care plans with mandates and micromanagement.”

On Jan. 13, some state legislators echoed this HMO-defer-

ential approach. "The bill can be as valuable to the business of managed care as it is to consumers," said New Jersey Assemblywoman Barbara Wright (R). Others differ.

The draft bill would require that an HMO let patients use an outside doctor, if the patients agree to pay an additional fee; require that HMOs give clear definitions of coverage rules for experimental treatments, and timely written explanations to the patient if such treatments are denied; require HMOs to ease their rules restricting coverage of emergency care, and a physician's choice of prescription drugs (both severely limited under managed care).

In Congress, Reps. Rosa DeLauro (Conn.), Fortney Stark (Calif.), and John Dingell (Mich.), and Sen. Edward Kennedy (Mass.) are working on legislation on the Democratic side, while Reps. Marge Roukema (N.J.) and Susan Molinari (N.Y.), and Sen. Alfonse D'Amato (N.Y.) are working on legislation on the Republican side.

The summary description of the "consumer rights" movement, according to Tennessee State Representative Kathryn Bowers (D), is, "We're hoping this bill will give other state legislatures a template for drafting their own consumer protection legislation."

But, as the 1996 legislative year shows, there is a revolt against the HMO system.

## States revolt against HMOs

In 1996, at least 30 states took some form of action to curb and redress managed-care practices. For example, 16 states passed measures requiring HMOs to "un-gag" doctors, that is, to cease compelling physicians (through financial and other threats) to withhold information on treatment options from a patient.

This growing state revolt prompted the Clinton administration to announce on Dec. 5, 1996, that a letter had been sent to the 300-plus managed-care companies nationwide, banning use of these so-called "gag" rules.

Congress passed a law in 1996 to prevent "drive-through" childbirth, referring to the HMO practice of not allowing mothers and newborns hospital-stay time. Representative DeLauro has drafted a bill to prevent "McDonald's mastectomies" ("breast surgery to go"), referring to the HMO-asserted medical "standard" that a breast removal should be an outpatient procedure.

However, implicit in the one-by-one approach of listing and proscribing abuses of HMOs, is the problem that thousands of items could be banned, even "Jiffy Lube" heart surgery, and you still would not get at the root of the menace. The managed-care system itself is based on profiting from denying care, undermining facilities, and even stopping medical science and training. Local communities and states are battling this take-down of public assets in many locations.

On Jan. 15, a New York Supreme Court judge in Queens, New York issued a ruling blocking the turning over (on 99-year lease) of the public Coney Island Hospital, to the man-

aged-care company Primary Health Systems of New York—a deal which New York City Mayor Rudolph Giuliani favors, to pave the way for privatizing the city hospital system. The community and medics are fighting Giuliani. The judge ordered that any such takeover (of a non-profit hospital, by a for-profit company) must have the approval of the city council and state legislature.

In Nebraska in the spring of 1996, the legislature passed the Non-Profit Hospital Sale Act. It went into effect immediately upon the governor's signature, and allows the state to stay takeovers of non-profit health centers by for-profit entities; and otherwise, to set conditions of operation if the state does approve a takeover.

A particularly vital resource targeted for shutdown in the managed-care era of 1997, are the medical teaching hospitals. In Illinois, a consolidation move, occasioned by federal cuts in medical services for veterans, is now threatening medical training at the University of Illinois at Chicago, which works with the West Side veterans' hospital, and at Northwestern University, which works with the North Side veterans' hospitals. In Boston, there is a pitched battle to save medical education.

## Massachusetts vs. Columbia/HCA

On Jan. 6, Massachusetts State Senator Mark Montigny (D-New Bedford), co-chairman of the Joint Committee on Health Care, filed a bill which calls for a moratorium on conversions of acute-care hospitals, from non-profit, to for-profit status. The bill seeks to halt any further conversions before the legislature can act on a separate bill that would regulate such conversions.

In filing the bill, Senator Montigny was responding to public outrage generated by a *Boston Herald* series on the threat to teaching hospitals. The *Herald* reported the impending move by the world's largest for-profit hospital owner/manager company, Columbia/HCA, to purchase the famed New England Medical Center.

The modus operandi of Columbia/HCA is to move into a region, buy out facilities, shut down services, and profiteer off remaining operations. Acquisition of the New England Medical Center would represent the first acquisition of a large-scale teaching institution, undermining the training of physicians and nurses, and ongoing medical research.

Montigny has made his call for a moratorium an emergency measure, by attaching it to the first bill to be taken up by the legislature. A regulatory bill, which was also filed by Montigny and Sen. John McDonough (D-Boston), would include a provision that would require the hospitals, if approved for takeover, to continue to provide the same level of free care as had been given in the past.

Warnings against a Columbia/HCA takeover have come from all parts of the medical community and the public. Dr. Arnold Relman, former editor of the *New England Journal of Medicine* who teaches at Harvard Medical School, was quoted

in the Jan. 6 *Boston Herald* calling the arrival of for-profit health care “a very troubling new development. They play hardball. They’ll do everything to take patients away from the other hospitals, and doctors away from other hospitals, and they don’t have the same sense of commitment to the community services and research and education the others have.”

Michael Miller, of Health Care for All, a consumer advocacy group opposing the takeover, issued a call in early January for a moratorium on any new conversion of non-profit hospitals until safeguards are put in place to protect the public interest. On the Columbia/HCA takeover, he is quoted in the Jan. 4 *Washington Post*: “Do we want an institution with a profit-driven philosophy in the middle of Boston with deep pockets ready to drive other institutions out of business?”

Boston has been a traditional world-class center of medical research, training, and treatment. Under the managed-care onslaught, its network of facilities and staff is being rapidly dismantled. In 1993, there were 55,000 people in Boston employed by hospitals. Today, the estimate is 40,000, because of the layoffs, mergers, and downsizing.

The situation is so critical, that Boston leaders are calling for government intervention. Boston University Professor Alan Sager warned in January, “Government has to come in, set up a structure and give it a push. Without government, you end up with cartels and monopolies. It is crazy to allow the free market to destroy our trust in the health-care system.”

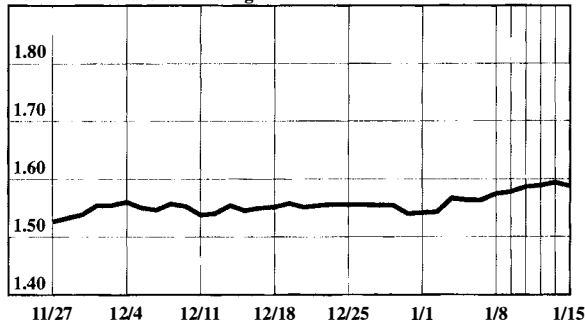
For research funding specifically, in the past, Boston and other U.S. teaching hospitals received some funding from hospital-imposed surcharges on patients’ bills; and most patients were covered under traditional insurance plans that paid hospitals for each service provided. Now, the HMOs pay cut-rate for even the bare minimum services; no money at all goes for research.

Columbia/HCA Corp., the largest U.S. operator of for-profit hospitals, is the result of the February 1994 merger of Columbia Hospital Corp. with Hospital Corp. of America (HCA). Columbia was founded in 1987 in Texas, by circles associated with the Bass family fortune (and Bush family), which proceeded to buy up hospitals, impose selected shut-downs, and monopolize the remaining services available to a community. HCA was founded in 1968, in Tennessee, by circles connected to current U.S. Sen. Thomas Frist, Jr. (R-Tenn.); by 1983, HCA owned 376 hospitals in the United States and seven other countries. By the end of 1994, Columbia/HCA had 42,357 beds; revenues in 1995 were \$17.695 billion, with profits of \$961 million, a profit margin of 5.4%. The Oct. 14, 1996 *Wall Street Journal* expressed worry about “Columbia/HCA’s desire to buy more bricks and mortar,” because “America has too many hospitals.” But, of course, Columbia/HCA specializes in buy-ups, to then create scarcity, and soak the community. To this looting, the Massachusetts moratorium backers say, “No.”

## Currency Rates

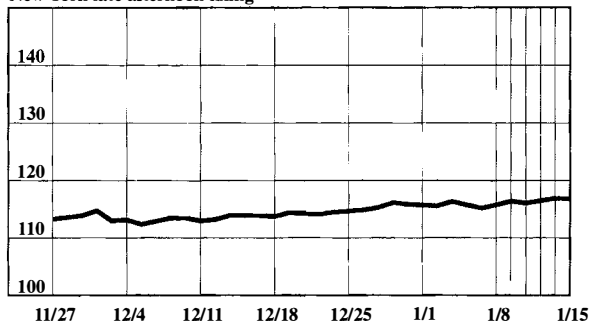
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New York late afternoon fixing



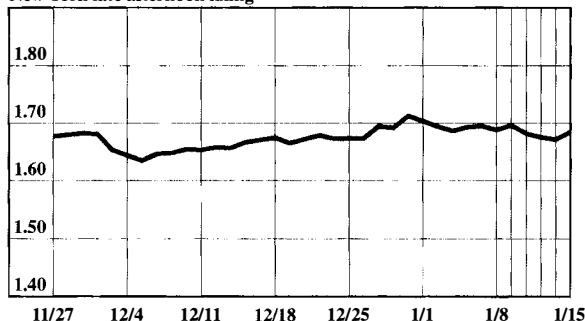
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### The British pound in dollars

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### The dollar in Swiss francs

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