

Orthopedics This Week

An Orthopedic Congressman With a Spine “Whips” CMS

BY WALTER EISNER

Dr. Tom Price believes that health care decisions must be made in the best interest of the patient, not based on whether or not your insurance provider (i.e., Medicare) will cover a procedure or device. He also believes that every American should be required to own a health insurance policy.

As the only orthopedic surgeon serving in the U.S. House of Representatives and a Deputy Assistant Whip for the Republican Caucus, this Georgian Congressman may have more influence over the direction of health care policy for Americans than most surgeons.

The recent controversy over CMS' CHARITÉ™ decision got us wondering what America's top elected orthopedic surgeon thought about the role of the FDA, CMS, physician-owned hospitals, stems cells and the future of our health care system.

Dr. Price earned his medical degree from the University of Michigan and did his orthopedic surgery residency at Emory University. He established an orthopedic clinic north of Atlanta and served as an assistant professor at Emory University's School of Medicine. Most recently he served as Medical Director of the Orthopedic Clinic at Grady Memorial Hospital in Atlanta.



He is a genteel Southern gentleman who uses graceful language to make his point. He's a reader of *Orthopedics This Week* and agreed to have a conversation with us this past week. For our readers who may not completely understand “Southern genteel” language, we've taken the liberty to offer a translation here and there.

OTW: Dr. Price, we'd like to ask you about the CMS decision regarding CHARITÉ.

Dr. Price: I have followed this peripherally and looked at your resource material.

OTW: Some in the industry say the rules are changing. CMS is substituting its own judgment about safety and efficacy for the FDA's. There appears to be a blurring of lines.

Dr. Price: Yes.

OTW: Is that how you see this?

Dr. Price: I think this is one of a number of items which is demonstrating that.

And frankly it's all predictable. CMS is the governmental entity that is charged with doing a number of things. But the most important thing they are charged with doing, from their standpoint, is balancing their budget. It's not their fault but points to the fundamental flaw that we have in our health care system and that is that money is driving medical and quality decisions when it ought not be.

OTW: CMS says that it is not allowed to look at financial considerations and therefore is making a safety decision about CHARITÉ. If there are shifting areas of responsibilities now, what would you advise the industry to do?

Dr. Price: In the first place, to have CMS state that money didn't enter into the decision or into their decisions is fundamentally inaccurate. Medicare Part D is a classic example of how finances fit into decisions. The entire Medicare system is in place precisely to handle a finite pot of money and the provision of health care. So I would strongly disagree with the assertion that money doesn't play a role in health care decisions at the federal level.

OTW Translation: “Hey CMS, your pants are on fire.”

The take-home lesson for folks is that political involvement is imperative. One of the things that drove me to get involved

in the political process was the appreciation that I gained, having been in private practice for a period of time, that there were policymakers that had no fundamental knowledge about health care, or about taking care of patients, that were making decisions that were fundamental and vital to my ability to take care of my patients, and their decisions were affecting my ability in an adverse way.

So as far as I looked at it, I had a number of options. First was that I could accept their decisions. Second, I could get into another line of work. Third, I could try to affect things from the outside. Or, fourth, I could try to get inside that room. And I chose the latter. The last two options both are equally of great merit. If folks are not going to get involved in the political process from the personal standpoint of putting your name on the line, then it is imperative they get involved in the political process in supporting individuals who will represent them well at the local, state and national levels.

It's only with that kind of education process and advocacy process that physicians will be able to take care of their patients in a way that's most appropriate.

OTW: That's the civics lesson: Show up! Some people in the industry believe that CMS is saying that you're now going to have to prove to them that the device is not only FDA-approved, but that it's also better and cheaper. Is that an appropriate guideline for CMS to follow?

Dr. Price: In a world in which individual patients have choices about the kind of health care they'll receive, then that might be an appropriate guideline. In a world where patients, especially seniors, truly have few, if any, choices about the kind of health care insurance they will have—they are essentially forced to take Medicare—then that is an absolutely inappropriate policy and guideline.

OTW Translation: "CMS, you're blowing it."

OTW: In other words, let the FDA do its job of determining safety and efficacy and let CMS determine how it will fit into a payment system.

Dr. Price: I'm not sure I would even link the two to that degree. It is appropriate to have the FDA evaluate and determine the efficacy, safety and quality aspect of drugs or devices. The next step of the decision-making process is between patients and physicians. And any other body, especially one that controls people's lives the way the bureaucracy at CMS does, that gets in the way of affecting that decision, I believe to be inappropriate in that equation.

No OTW Translation Required.

OTW: If CMS doesn't proceed in the fashion you described, is that then an appropriate place for Congress to step in and say, "Wait a minute, this is how the rules are going to be"?

Dr. Price: Without a doubt.

OTW: Would you consider federal legislation?

Editorial Note: Industry lobbyists, are you paying attention here?

Dr. Price: Yes, but this is just one of literally hundreds, if not thousands of decisions that CMS and other bureaucracies within the federal government make that may affect the health care options that patients and physicians have, and therefore the health care quality that patients have access to.

Orthopedic and spine surgeons must not look at this and say, "Oh, I'm being picked on." This is not a unique decision. It may be unique in a different area or different diagnosis or surgical treatment regimen, but it is not unique. So first, I see my role in Congress as educating my fellow members in Congress and the Administration why these kinds of decisions adversely affect quality patient care.

And second, working as diligently as I can to put in place systems that allow for decision-making at the appropriate level.

OTW: And that's between the doctor and the patient?

Dr. Price: FDA determination and then between the doctor and the patient. Could I introduce a bill that says, yes, this device ought to be required to be used and covered by Medicare? We could do that. But that to me is the wrong debate. I could use up all of my time picking literally thousands of things that aren't appropriately compensated by CMS. But that doesn't fundamentally solve the current situation and the current crisis we have as it relates to health care.

So I have chosen to fight the battle for a change in the structure of the health care system that will make it easier or facilitate those decisions to be made at the appropriate level and that is between the patient and physician.

OTW: You are authoring legislation in that area.

Dr. Price: My vision for the provision of health care in our nation has two main prongs. First, it is to move us from a system of defined benefits to a system of defined contributions.

Dr. Price Translation: "That's fancy language for saying that regardless of who is paying the cost for the health insurance policy, whether it's the federal government through Medicare or the state government through Medicaid, or the employer or the individual, the patient owns the policy."

"Each individual privately owns his or her health insurance policy ... and is thereby empowered."

Dr. Price: It's the patient's personal private asset and ownership. Patients are empowered to vote with their feet, which they haven't been able to do for

decades. If they are not fond of whatever plan they currently have, they can move to another private policy or they can move from Medicare and Medicaid to a private insurance company. Over a relatively short period of time the insurance companies would have to become responsive to patients. And patients are thereby empowered.

OTW: How would this work with the current implant situation?

Dr. Price: In the instance of the device implant (CHARITÉ), Mrs. Smith would come in and her surgeon would say I believe you need to have this surgery and this is the device we need to use. Currently your insurance company doesn't cover or allow us to utilize that implant. Mrs. Smith goes home and calls her insurance company and says that her doctor, the individual whom she trusts implicitly with decisions about her health care, has recommended that she should have this procedure done, but the insurance company won't allow it to be performed. The insurance company then has to make a decision about whether they want Mrs. Smith to move to another insurance company with her dollars or whether they want to reconsider their decision about the use of the implant. So it empowers patients in a way where they currently have no power.

“Each individual must be required to own a health insurance policy.”

The second arm, equally important and equally controversial, is that each individual must be required to own a health insurance policy. We have 43 million to 45 million uninsured in this nation. Right now we are unable to cover those individuals for the provision of health care as we have in the past with cost shifting. Cost shifting no longer exists in the health care industry. So when those folks

that are not insured, or underinsured, come through the doors of a hospital or a physician's office they are immediately a liability for those physicians or that hospital. And that makes it so that appropriate decisions are extremely difficult to make. I just don't believe we can solve our current dilemma as it relates to health care unless every single American citizen has health insurance.

OTW: Under this scenario, how would pressure be put on CMS? Would people be allowed to opt out of Medicare and no longer have deductions taken out of their paychecks?

Dr. Price: They might still have deductions taken out of their paychecks but they would be able to use those deductions for a selected insurance policy and insurance plan that works best for them.

“Why we believe that the government ought to be running our health care system is peculiar to me.”

The pressure would be to have a much more vibrant private system for everybody for health care. Why we believe that the government ought to be running our health care system is peculiar to me given that the model for provision of government health insurance around the world is one of rationing and lower quality and greater difficulty in the provision of health care for its citizens.

Physician-Owned Hospitals

OTW: What about physician-owned hospitals? The President signed into law a new budget that treats physician-owned hospitals differently from other hospitals. Do you have an opinion about that?

Dr. Price: We've gone so far down the wrong road in health care that we find ourselves now as a society wanting to

limit the kinds of things we say we want in every other industry: competition, vision, entrepreneurship, diligence and hard work. This is another example of precisely that, where we are so far down the wrong road that it is even difficult for folks to fathom how to get to the right road. Consequently, decisions are made, like that one, which smack against some of the principles that we say we believe. In my vision competition is allowed to work in the health care industry just as it works in every other industry.

OTW: Regardless of who owns it?

Dr. Price: Correct. And it works because everybody has health insurance. The reason that folks say that they are opposed to physician-owned hospitals is that they would cherry-pick the patients that bring the greatest reimbursement and not provide any indigent care. Well, if you don't have any indigent care then that argument goes away and the argument regarding skimming of healthy individuals or high-cost procedures goes away because of competition. You allow competition and the whole system gets changed in terms of its template and its model.

Orthopedic Stem Cell Use

OTW: What have you been following about the use of adult stem cells in orthopedics?

Dr. Price: Peripherally understanding that adult stem cells is where the biggest bang for the buck has been in every area of medicine, including orthopedics.

OTW: We hope we can have another conversation with you soon. Many of our readers consider you the closest thing they've got to somebody on the inside.

Dr. Price: I appreciate that and give my best to everybody.