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Should shareholder concerns govern our end-of-life care?

Business owners will tell you that the ideal business environment is one with low taxes and minimum regulation. But when we're talking about the regulations that govern hospice care in the state of Connecticut, adequate regulation is protecting our citizens from certain harm.

Connecticut residents are incredibly fortunate when it comes to access to hospice care. More than 90 percent of our citizens live within minutes of a hospice facility. But not all hospice care is created equal. In recent years, the proliferation of for-profit hospices owned by publicly traded companies has turned the hospice marketplace into a $14 billion growth industry with over 18,000 for-profit hospice providers. Having shareholders thrust into the patient-care equation creates conflicts of interest when it comes to how those profits are made. According to the Hospice Patients Alliance, with that growth there is also rampant Medicare fraud and abuse revolving around reduced medical services for hospice patients, including:

1. Manipulating staff ratios to make it impossible to provide continuous care at home.
2. Deceptive marketing practices that fail to disclose who is eligible for the Medicare hospice benefit.
3. Hospice admissions staffs not providing full, informed consent about the benefits to which patients are entitled.
4. Reducing visits from nurse case managers, counselors, chaplains, bereavement staff and social workers and using Licensed Practical Nurses and aides to perform medical services which only Registered Nurses are legally entitled to perform.
5. Refusing medical care in a crisis and even reducing pain medication because of the expense.

Ironically, Connecticut is proposing regulatory changes that mirror almost exactly the reduction of services in for-profit dominated states. In effect, for-profit hospices are asking the state of Connecticut to legalize their existing means of committing fraud against Medicare.

Just last week, the Department of Justice announced that it is joining a whistleblower suit against national hospice chain AseraCare, alleging that they admitted and retained individuals who were not eligible to receive Medicare hospice benefits. They are charged with diverting Medicare funding from patient care to boost corporate profits. Fraudulently enrolling non-terminal patients has become the for-profit hospice sector's game of choice in states less well-regulated than Connecticut. In one version of this scam, unsavory hospices have gone to Medicare patients asking if they want, say, an extra bath a week. Or perhaps a weekly visit from a chaplain? When the unwitting Medicare recipient says yes, they are signed into hospice care even though they are not suffering from any terminal disease. Since hospice care pays for palliative and not curative care, those non-terminal patients are then taken off of the medications they need to manage serious medical conditions. Death is often the result and numerous wrongful death suits have been filed recently in light of such criminal abuses.

Among the biggest for-profit hospice players nationally, and in Connecticut, is Vitas Innovative Hospice. A subsidiary of parent company Chemed, which also owns Roto-Rooter, Vitas's activities are currently under both federal and state microscopes. Chemed's stock tanked more than 11 percent in one day this past November on news that one of Vitas' employees had lodged a whistleblower suit against them. More than a dozen law firms, including Izard Nobel in West Hartford, are currently suing Vitas on behalf of Chemed's shareholders alleging that Vitas committed Securities and Exchange violations.

That, combined with a major fraud investigation into Vitas by the Department of Justice, which alleges that they have defrauded the Medicare and Medicaid systems out of nearly $200 million, should make Connecticut look very hard at who is knocking on the door of our Department of Public Health attempting to have the regulations governing hospices radically reduced.

Similarly, Amedisys, the new owner of Beacon Hospice, is a defendant in several class action suits that allege corporate malfeasance. The suits allege that Amedisys intentionally increased the number of in-home therapy visits to patients for the purpose of triggering higher reimbursement rates under Medicare. Since the company's reported sales and earnings growth were inflated by this scheme, the company is being charged with a material violation of its code of Ethical Business Conduct. Justice Department records also show that Gentiva, the nations' fastest growing for-profit hospice, agreed to pay $12.5 million to settle Medicare fraud claims.

Connecticut residents currently enjoy some of the nation's highest standards for hospice care, but if our state allows the proposed reduction in regulations to go through, it will open the door to the heinous abuses already being perpetrated elsewhere in the country. The move to repeal the existing regulations did not happen on Gov. Malloy's watch. Lobbyists have been angling for these changes for years. The fact that an inordinate number of state and federal investigations into massive fraud on the part of at least four of the for-profit hospices operating in our state have come to light, however, ought to bring any discussion of reducing our state regulations to a screeching halt. In what version of reality would anyone allow those same companies to call the shots on how we regulate the very industry they are abusing?

Connecticut's careful regulation of the hospice industry has thus far kept our citizens out of harm's way. We have a moral imperative to continue to protect the dying from the predators who have figured out how to game the system in answer to Wall Street's greed. Hospice has always stood for compassionate, clinical care to improve our quality of life at the end. It was never intended to be just another business to line shareholders' pockets. Connecticut must continue to exercise prudence and wait until the major federal and state investigations into hospice fraud are concluded before evaluating whether any change in how our state regulates hospice care is warranted. To do anything else would not only be irresponsible, for many of our citizens it could also prove lethal.

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