Hamstrung and Hogtied: Cascading Constraints on Citizen Governors in Medicare

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Executive Summary

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We explore what role there is for citizen governors to improve accountability within publicly-funded Medicare. We analyze five levels of decision-makers within the system: (1) the federal and provincial governments and health ministries, (2) inter-provincial agencies and provincial quality councils, (3) regional health authorities, (4) hospital boards, and (5) self-regulating professional colleges and professional associations. In reviewing the literature we found that concepts of citizen governance were often used interchangeably with broader concepts of public participation and engagement. Accordingly we discuss the extent to which citizens are involved not only as governors but through other forms of engagement. More specifically, we ask what forms of participation will strengthen accountability within Medicare.

In approaching the issue of citizen governance, we recognize that there are serious accountability problems within Medicare, but question the conclusion that more citizen governance is necessarily the best solution to these problems. Certainly the mere inclusion of more citizen governors is not enough; their participation must be meaningful. Sometimes, depending on the nature of the decision to be taken and the nature of the decision-maker, including more citizens as governors will be the best means to improve accountability and sometimes it will not. If the ultimate goal is to achieve accountability and improved decision-making, then other mechanisms to enhance accountability must be considered apart from including citizens as governors. Such alternatives include improving transparency and reporting requirements, or providing more mechanisms for individual redress.

A lack of accountability for governance decisions is the Achilles heel of publicly funded health care. We conclude that the role for citizen governors is potentially two-fold from the perspective of improving the quality of governance decisions. First, to provide a check on the political accommodations reached between governments and other interest groups like the medical profession and to better ensure that citizen values, needs and interests are adequately considered and reflected in decision-making. Second, to ensure that experiential knowledge from patients and local organizations is considered in decision-making processes.

Our review shows that there has been a significant increase in the quantity of citizen participation and governance as a result of the regionalization process across Canada. But this increase in the quantity of citizen participation may have been more than offset by the decline in citizen governance caused by the dismantlement of hospital boards across the country and the absorption of these management functions into regional health authorities. With respect to citizen governance within regional health authorities there has been a shift away from direct democracy (citizen elections) and a move towards the establishment of arms' length community councils, but there is little or no evidence as to the impacts of such a shift on the level of citizen involvement or upon accountability.

A measure of realism is required with respect to the potential for citizen governance. It is critical to understand that any power gained by citizens is constrained by overarching legislation and by the decisions of governors further up the political hierarchy. Canadian Medicare is comprised of a cascading series of inter-related decisions and decision-makers. We see higher levels of governance constraining discretion at lower levels. This in turn

constrains the effectiveness (and power) of citizen governors at these levels. We stress the risk of overestimating the real power of citizen governors who are involved further down the hierarchical chain of decision-making. Their powers are constrained through legislation, through other forms of hierarchical control such as agreements or contracts, and the fact that they may not have security of tenure.

We argue that the real issue in relation to citizen governance is quality as opposed to quantity. Mere inclusion can result in a facade of citizen governance when the reality is that the decision-making body has very little governance power. Moreover, the ideal of citizen governors making decisions could arguably prove illusory if they are unduly influenced by providers or other interest groups that are also represented on the decision-making body. But it is naïve to hope for some kind of model citizen, unmotivated by any particular interest or issue, and expect him or her to take on the hard tasks of governance. International evidence from Oregon, the United States and elsewhere suggests that citizen governance translates to a meaningful improvement in the quality of decision-making where there is pre-existing social capital. Careful institution design is required to ensure that citizens and their views are not overly subject to capture by providers, experts and government officials. No rigorous consideration has been given to this task to date in Canada.

One of the most promising opportunities for improving accountability on the part of governors to citizens is through the auspices of national and provincial quality councils. The views of citizens are not necessarily directly implemented through these councils but they can interpret information about public values. Councils, like the national Health Council and various provincial quality councils could earn the trust of citizens as decision-makers and "digest" complex sources of information and knowledge.

In our perusal of evidence from other jurisdictions we have been vigilant for innovative examples of citizen engagement that may be translatable to the Canadian experience. Australia provides such an example. Australia like Canada is a federal state; although it does not labour with the same degree of governance failure (direct responsibility for health care is more clearly split between the Commonwealth government and the states). The Australian model of funding grass-roots citizen and consumer groups through the auspices of a central agency to try to get citizens more involved with decision-making at all levels deserves close consideration. This is an initiative that is doable in our federation. More specifically, it is an initiative that the Federal government can use its spending powers to achieve and should consider doing so in furtherance of the Romanow recommendations for greater accountability. It is not, however, a panacea. As mentioned earlier, enabling citizen participation and citizen governance is unlikely to be effective unless there is pre-existing social capital and/or connectedness. Moreover, as stressed before, more citizen governance is not necessarily better governance. Including citizens in decision-making entities without teeth and without power will, over time, promote cynicism, passivity and a failed participation approach.

The Medicare system involves a complex web of accountability relationships; the patient and clinician should be at the centre but sometimes the web is so complex the ultimate relationship is overlooked. Thus it is important to consider more direct forms of accountability to individual citizens. Citizens' demands for more accountability within Medicare is, we suspect, more

strongly tied to a concern that the system is not responsive to individual concerns as opposed to a more abstract concern with accountability and governance within the system. In other words, where a decision adversely affects someone, then that person is unlikely to be placated by inclusion of citizens in decision-making structures. Instead, that person will look for a venue where their grievances can be aired before an independent decision-maker. A fair, transparent and accessible hearing process for individuals who wish to challenge decision-making in Medicare, in addition to meaningful citizen governance, will help legitimize Medicare decision-making and in particular the hard resource allocation decisions that must be made within any system.