

24 April, 2007 (revised 22 May, 2007)

Submission to the Senate Economics Committee  
Inquiry into the Private Equity Investment and its Effects on Capital  
Markets and the Australian Economy

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Ref: [http://www.aph.gov.au/senate/committee/economics\\_ctte/private\\_equity/index.htm](http://www.aph.gov.au/senate/committee/economics_ctte/private_equity/index.htm)

## Terms of Reference

On 29 March 2007, the Senate referred an inquiry into private equity investment and its effects on capital markets and the Australian economy to the Standing Committee on Economics.

The terms of reference for the inquiry are as follows:

That the Senate, noting that private equity may often include investment by funds holding the superannuation savings or investment monies of millions of Australians, and because of the actual and potential scale of private equity market activity, refers the following matters to the Economics Committee for inquiry and report by 20 June 2007:

- a. an assessment of domestic and international trends concerning private equity and its effects on capital markets;
- b. an assessment of whether private equity could become a matter of concern to the Australian economy if ownership, debt/equity and risk profiles of Australian business are significantly altered;
- c. an assessment of long-term government revenue effects, arising from consequences to income tax and capital gains tax, or from any other effects;
- d. an assessment of whether appropriate regulation or laws already apply to private equity acquisitions when the national economic or strategic interest is at stake and, if not, what those should be; and
- e. an assessment of the appropriate regulatory or legislative response required to this market phenomenon, if any.

The Committee is to report to the Senate on 20 June 2007.

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# 1 Summary

This submission asserts that the explosion in private equity will potentate and exacerbate serious problems existing in vulnerable sectors of Australian society. It also addresses deeper problems across Australian society and the consequences for these.

It urges that the threat posed by the private equity phenomenon be the trigger for a change in strategy and a re-evaluation of the direction in which we are going. It uses developments in health and aged care to illustrate the problems that already exist and the likely consequences of these new developments

Anxiety is expressed about the narrow economic terms of reference which fail to specifically invite comments about critical issues for society and its members.

The development of prevailing economic theory and its political expression is examined. The consequences for vulnerable sectors like financial advice, health and aged care are documented. Reasons are suggested to explain why the market has been so dysfunctional in these areas and why regulatory control has been ineffective. The reasons and social mechanisms for this are explored. Wider consequences for the Australian political system, for democracy and for the community are documented.

The specific problems inherent in private equity are examined and the way they will augment and accentuate the problems which already exist is addressed. Some of the recent misdemeanours of the global financiers that both dominate the private equity phenomenon and act as role models and advisers to the sector are noted.

The involvement of the financiers, banks, trusts and other financial vehicles in health and aged care is addressed. A link is provided to a web page that documents the actual involvement of private equity conglomerates, banks and others in aged care.

The submission urges that advice given by the health department in Western Australia in 1993 to set up a process for developing a legislative state and federal response to the problems in health and aged care be followed. Other sectors might be treated similarly.

The private equity phenomenon will have far reaching consequences for our communities as business executives who are a part of each community and seek to serve them are replaced or controlled by market technocrats operating out of ivory towers in distant lands.

The submission urges a rethink of the sort of society we want to be. It urges the temporary quarantining of "at risk" sectors like health and aged care. This should be followed by the creation of political and reflective community processes that will neutralise the problems inherent in ideology. This should enable us to progress towards a society that is more balanced and inclusive than the one we have today. Some possible strategies are suggested.

The submission refers to issues in health, aged care and society with which some might not be familiar and where others have misconceptions. Over half of this submission consists of appendices that supply more detailed illustrative information on these issues. These illustrate the failure of markets in these sectors.

## 2 Background

### 2.1 The Terms of Reference

The terms of reference for the private equity review senate investigation are so worded that they clearly are not intended to address the human consequences of the private equity phenomenon. As a result, the senate committee's report may have a level of credibility it does not deserve and is likely to be implemented without considering adverse consequences for citizens.

I am disturbed by the practice of considering economic matters in isolation, without reference to the context in which they operate or of the general well-being of the communities on which they impact.

I respectfully suggest that the Committee's report would be more credible and more balanced if it explicitly addressed the impact on vulnerable sectors of society like health care, aged care and financial services. There have already been major problems in these sectors in the USA and Australia.

I will attempt to address these issues as best I can within reference terms **d.** and **e.** I will be looking at the national interest specifically.

I have reservations about the utility of political policy and legislation in affecting beneficial changes. Social processes within an intelligent and involved community provide a more appropriate context for progressing society. Legislative changes in health and aged care, that have been based on policies, which have little to do with the sector are a good example of how things can go very wrong.

What is required is a leadership which fosters and facilitates community discussion then ultimately gives legislative form to support developing trends in the community. This is not what we have.

### 2.2 The focus of this Submission

My particular concerns relate to the impact of private equity in health care, and to an even greater extent, the explosion in the even more vulnerable aged care sector.

In the regulatory sector I am concerned at the decay, and in aged care the removal, of the protection offered vulnerable sectors by the probity provisions in our laws. These are provisions which our community would strongly support if its interest were engaged.

In other instances there are serious loopholes which allow groups with dysfunctional and even criminal records into our health and aged care systems. Private equity groups are already exploiting them (see [Aged Care Regulations and Citigroup](#)—*appendix 5.1*).

Even more concerning is that governments, in their efforts to impose economic solutions in these sectors, have actively participated in the subversion of these provisions allowing severely dysfunctional entities into the sector. Perhaps because it is only an advisory body the FIRB has been singularly ineffective. (see [Tenet Healthcare, Sun Healthcare and Others](#)—*appendix 5.2*)

These matters already require attention. The advent of large profit hungry private equity businesses in the sector will only serve to further distance the financial managers (turnaround experts) from the coalface and so from the consequences of their recipes for profitability.

In order to address these issues and understand the risks we need to examine the current situation and how it arose.

## **2.3 Historical Perspective**

During the 20<sup>th</sup> century there have been major changes in society which have led to wave after wave of dysfunctional ideology. These have developed within narrow and sometimes disordered contexts before being generalised into global belief systems. A great deal of hardship and suffering has resulted.

The latest belief system is a form of economic theory which sees uncontrolled markets driven by behaviourist principles as a global good applicable to every context in society.

There is no argument about the market's economic benefit in supporting and making society viable. The increased focus on market processes and the use of behaviourist principles to motivate and drive individuals to greater marketplace activity has increased overall economic benefits.

### **2.3.1 Some problems with marketplace beliefs**

The concern is that instead of supporting society and the many contexts within which individuals build their lives, the market and its processes have consumed and appropriated them. The complexity and multitude of conceptual frameworks which give life its richness, depth and meaning now operate within crude carrot and stick frameworks.

This criticism is particularly applicable to contexts built around community activities, norms, values and motives. These cultural attributes depend on reflective cognitive processes that are challenged and degraded when forced to operate in a carrot and stick manner.

These sectors are the product of centuries of human social development. They represent the development of reflective qualities which allow us to build complex lives and operate independently from our basic instincts – the essence of our humanity.

Put crudely the market, important as it is as a foundation of society, exploits basic instincts relating to greed. In a balanced society it is balanced by our reflective humanity. When that balance is disturbed it has a profound impact on the sort of society we are, on how we behave, and on the type of individual we become. We are both primitive animals, responding to positive and negative stimuli, and humans with additional personal and social attributes that enable us to develop concepts, logical processes and complex understandings then respond in far more sophisticated ways.

Sectors where the application of marketplace thinking has been particularly harmful are those where people are vulnerable and easily exploited for profit. These sectors depend on norms, values and motives in which integrity, trust and trustworthiness are key attributes. These are encompassed by the term "probity".

### **2.3.2 Why these problems occur**

When market thinking is applied in contexts where it is inappropriate it has a profound impact on the context and on the participants who now find themselves driven towards outcomes in ways which confront their values, norms and motives – the very meaning of their lives.

They must strive to survive and succeed. To do so reflective activity is suspended and a number of well recognised strategies are developed in order to create the illusion that they are operating within their value systems and their norms.

As a consequence less reflective people with a greater ability to utilise these strategies succeed and reflective individuals go elsewhere. The system fosters attributes which are poorly suited to the context and selects leaders from the least suitable people in that sector. A dysfunctional culture is established.

Those unable to perform the psychological gymnastics are alienated and disillusioned. They lose motivation, becoming apathetic and disinterested. There is a high turnover of staff who are no longer loyal. Those most suited to the sector leave.

An additional consequence is a divide in perceptions so that the same events are experienced and understood in totally different ways by the two sides involved in the sector.

What happens is particularly well illustrated in health and aged care in the USA and in aged care in Australia. Health care is vulnerable but for various reasons has not progressed as far down this path in Australia.

There are wider concerns about the disparity in wealth between sections of the population. These have the potential to disrupt society. (see [Economic effects:-](#) –*appendix 5.3*)

## 2.4 Vulnerable Sectors

Vulnerable sectors in the marketplace are those where individuals are dis-empowered because of the complexity of the marketplace or their own incapacity. In complex situations citizens turn to “experts” for guidance. When incapacitated because of illness, psychological distress, mental deficiency or aging, citizens are in no position to choose. They turn to those they feel they can trust for their needs. Integrity, trust and trustworthiness are key attributes required in these sectors. The word probity embraces these attributes, but has wider implications.

Because of the contradictions with market thinking, sectors that depend on community or contextual value systems are particularly vulnerable. The processes I have described operate. Unsuitable people are attracted and unsuitable subcultures develop. The strategies individuals adopt to succeed in these contexts impacts on their integrity and their trustworthiness – their probity.

### 2.4.1 Financial Conglomerates

Financial services and banks are vulnerable because of the complexity of investment and because many elderly lose their market savvy at a time when they come to invest their life savings.

A series of scandals attest to the problems with brokers, stock analysts and financial analysts. Wall Street based financiers like Citigroup have been embroiled in scandal after scandal across the world. Wall Street is the heart of the capitalist world. These massive financiers are the trend setters, advisers and arbiters of marketplace practice. They have embraced private equity. An analysis of the scandals surrounding Citigroup illustrates the processes I have described at work in the intellectual heart of the marketplace. The risks for private equity are as great.  
(see [http://corpmedinfo.com/access\\_citi.html](http://corpmedinfo.com/access_citi.html) )

The Australian financial sector has been plagued by similar problems; most notably financial advisers.

### 2.4.2 Health and Aged Care

My particular interest has been the appropriation of health and aged care by the marketplace. Here the paradigms of understanding which the community and professional providers have embraced is so directly contradictory to marketplace paradigms that they cannot be logically reconciled. They provide the best illustration of how the processes work. They illustrate the way people who might well

make valuable contributions in a market context rise to leadership and management positions in health and aged care. Here they create a series of disastrous situations. Citizens are harmed, costs increase and the social fabric within which a community cares for its less fortunate members is ruptured.

There is no longer any doubt that health and aged care in the USA is a disaster and that that disaster is a consequence of the market and the application of market thinking and culture. There are many examples illustrating the process described here.

While the Prime Minister, his Ministers and businessmen strenuously deny this, it is also clear from a succession of disturbing reports that aged care in Australia is well down the same path. We are faced by a tragic situation in which it was alleged by witnesses on Lateline ABC TV on 20 February 2006 that 90 year old ladies were raped or sexually abused while a nurse or nurses who saw or heard what happened did not report it for 2 months. Other reports by Lateline on 27<sup>th</sup> February 2007 and in the press (see [http://corpmedinfo.com/nh\\_santoro\\_rapes.html](http://corpmedinfo.com/nh_santoro_rapes.html) for more reports) indicate that such events may not be isolated. The Royal North Shore hospital's sexual unit alone claims to have treated 80 elderly rape victims over the last 10 years and many do not come forward.<sup>1</sup>

The examples reported may be exceptional or exaggerated but they are clear red flags pointing to a malaise affecting the entire sector and compromising the care provided there.

Nurses at the bedside have struggled to tell us what is happening but those responsible have not been listening. I do not believe that the principle reason why the situation has become so bad can be credibly challenged. This is the imposition of marketplace thinking and processes. (see [Health and Aged Care](#)—[appendix 5.4](#))

Analysis of the impact of the conflicts in health and aged care provide the best insights into the way the market operates in sectors where market practices and thinking are in conflict with the requirements of the context and the services required there. The likely consequences of the private equity explosion can be understood. (see [Understanding failures in care](#)—[appendix 5.5](#))

It is now clear that when the differences in the two types of health care, and the evidence, are put to the public they will opt for a system based on Samaritan values. There is also evidence to indicate that costs are increased and care compromised in a for profit corporate system. In Canada the Romanow Commission appointed assessors and invited submissions from the market sector. They put the evidence to the community. The market was unable to challenge its critics or show that it had advantages. (see [Reviewing Evidence](#)—[appendix 5.7](#))

### **2.4.3 Probity and its Implications**

Probity is a key concept; one, which by its very nature and its intent, serves to protect vulnerable sectors and vulnerable individuals. Once an important provision, it has been undermined, left legally unprotected and even surreptitiously removed from our laws. Regulations requiring probity are a target of "liberalisation". In their eagerness to support large corporate enterprises governments have even created loopholes in legislation that allow wealthy groups to buy into vulnerable sectors without facing any assessment of their suitability. Citigroup, a group with a very poor record for exploiting the vulnerable, now owns Australia's largest aged care company. (see ["Probity"](#)—[appendix 5.8](#))

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<sup>1</sup> **Govts urged to make aged care workers have security checks** *Australian Associated Press General News February 24, 2006*

#### **2.4.4 Oversight, Accountability and Accreditation**

Instead of taking steps to protect citizens from the risks posed by dysfunctional business enterprises, the government in Australia has chosen to follow the USA by waiting for problems to develop and then trying to address them by remediation and then punitive action.

In both the USA and Australia these processes have failed in a continuous and recurrent manner. Each failure has prompted renewed legislative effort and renewed claims to efficacy only to be followed by the exposure of ever more scandalous behaviour under the noses of regulators.

This is not the fault of regulators. The frameworks, within which they could operate effectively directly confront marketplace ideology. They succumb to the same conflicting pressures as the staff in nursing homes. Marketplace pressures are very powerful. Not only do these agencies not have the enormous resources in money and personnel to carry out their mission but there are cultural and interpersonal pressures which prevent it. There are staffing problems with a high turnover and progressive apathy. An equilibrium of inaction develops. (see [Monitoring, oversight and accreditation](#) –*appendix 5.9*)



## 3 Private Equity Investments

The growth of private equity and its invasion into every sector in our society is likely to have a profound impact on society and culture. This is not because it alters the marketplace processes but because it is the next stage in the flowering of economic rationalism. It takes the use of market forces and their global legitimacy to new levels of excess.

Large impersonal financiers, banks, trusts and other pure commercial ventures acquire and control more and more of the enterprises which were previously run by businessmen closer to the community. Here they were restrained by reflective values. Increasingly business ventures are bound to global market patterns and have little connection to the community. It is concerning that at the same time as microeconomic banking and local health services in third world settings are proving the utility of community involvement, the first world is moving in the opposite direction.

Private equity managers are selected for their marketplace skills and their ability to utilise business strategies to vastly increase profits. They are richly rewarded for increased profitability not social services.

Typically existing managers are inculcated with the market mission and are brought into compliance by management buyout structures. The original (or new managers) retain a large investment in the operation. They are richly rewarded when they follow the marketplace expertise of their new controllers and advisers. They internalise and identify with marketplace thinking.

Market managers typically set goals which place pressure on management throughout the company. Markers of profitability are identified and targets are set for these. Each level of management has defined goals which they are expected to meet. Considerable pressure is exerted and incentives are linked to success in achieving these. The adverse consequences from these "legitimate" universal and approved business practices is glaringly apparent in health and aged care. (see [Setting financial goals:-"appendix 5.6\)](#)

All of the dysfunctional aspects of the marketplace and its culture are reinforced and accentuated. The same forces I have described operate to exclude those who are socially or community focussed, and replace them with impressive but dysfunctional individuals driven by incentives based on profitability.

The private equity phenomenon can only increase the widening split between the rich and the poor. It can only accentuate the risks to the community inherent in the dominance of market thinking over intelligent reflection and critical interaction.

### 3.1 Private Equity in Health and Aged Care

In health and aged care private equity initially took over the ownership of corporate properties and then leased them to supposedly independent operators. In other instances providers spun off separate trusts in which private equity invested while the providers leased the facilities. Usually the operating company held a small investment in the property trust. Financiers maintained an investment in the operating companies and a position on their board.

This situation reduces the risk to capital should an operator go under but increases control by financiers. The trust can lease or appoint another operator. This does protect residents from eviction but places more pressure on the care they receive as an operator struggles to meet lease payments..

The private equity operator also has the option of taking control of the operating company if it fails. There are several examples of this. ING bank took control of retirement operator Village Life and

restructured its operations. Principle Health Care, the owner and business venture partner with Moran Health, has now taken control over large numbers of Moran run nursing homes and within 2 years will operate them itself.

Macquarie's aged care division, Retirement Care Australia (RCA), leases the operations of its aged care facilities to a number of other companies. It takes some insightful reading of their web site to realise that they are not running the operations themselves. The claims and assurances given about services and care are in fact delegated to others.

More recently, private equity has set out to acquire health and aged care operators that are under-performing economically, bringing in their marketplace expertise to turn the companies around and then selling them at a profit.

In the hospital setting Citigroup led venture capitalists acquired Mayne Health's hospitals in 2002 after doctors had responded to Mayne's disturbing business changes by exerting their economic muscle.

It is likely that state probity provisions were effective in protecting citizens. The hospitals were sold after only 2 years and before the promised turnaround had been fully accomplished. This may have been because licenses to operate hospitals were delayed by a prolonged probity investigation. They were only granted after the hospitals were sold.

In 2006 Citigroup entities purchased Australia and New Zealand's largest nursing home operator DCA. Objections were lodged with the federal body responsible for approving nursing home operators. In spite of previous assurances that the regulatory structure was designed to ensure that only suitable groups own and operate nursing homes Citigroup was not required to seek approval and did not have to respond to questions about its suitability let alone its probity.

Private equity as represented by banks, trusts and other similarly focussed financial entities now has a dominant holding in aged care across the country. Financial entities owned or managed by banks and other financiers are major shareholders in health care corporations. They also provide financing and arrange marketplace financing. This gives them leverage that places them in a position to insist that their marketplace advice is followed. Their track record in working with other companies is illustrated by the early 2000 Wall Street scandals in which several large banking groups were directly implicated in setting up the frauds of those they advised.

Other financial entities with major holdings in aged care include AMP, Westpac, Omega International, Babcock and Brown. APN, MFS, SCV and a large selection of construction companies investing in retirement villages.

In September 2006, I put a review of the role of large financiers in aged care in Australia on to the world wide web. It gives an idea of the extent of the problem.

(See <http://corpmedinfo.com/austrbanks.html> )

## 4 Suggestions for Addressing the Problems

In having the temerity to make wide reaching suggestions I speak from many years experience living in several countries, direct contact with a series of ideological systems, employment in multiple health care systems, and over 15 years examining and reflecting on the impact of economic rationalism and marketplace thinking on health and aged care.

### 4.1 Legislative Change

In 1993, the West Australian Department of Health urged their government to set up a review involving federal and state jurisdictions in order to address the emerging problems in health care that I have described here. The FIRB process and state regulations were found wanting. This advice was never acted on.

I urge the Committee to advise federal and state governments in their report to set in place such a review with a particular emphasis on probity requirements and other legislation to protect vulnerable sectors. It would be particularly important for all regulators and all jurisdictions to agree on legislation which reinstates probity requirements and protects decisions from legal challenge.

Because private equity groups must place the commercial interests of their shareholders above all else they could not qualify for vulnerable sectors where probity requires that individual and community welfare be placed first. These vulnerable sectors should be quarantined while society is restructured to cope with the wider threat. They would be well placed to play a leading role in initiating social change.

### 4.2 Social and Political Reform

The advent of private equity should be a trigger for a closer evaluation of what is happening in our society and the first steps in a process to restore balance.

It is unlikely that legislative reform alone will have a major beneficial impact. Laws do not work effectively unless the sector which they aim to regulate identifies with them. This is not the case when markets dominate vulnerable sectors. What we should be looking at is political reform as well as social reform.

#### 4.2.1 Political perceptions

Ideology by its very nature embraces one belief system at the expense of others and rejects all challenges. It sets store on ideological accomplishment rather than reflecting on the full consequences of what is accomplished. This has a profound adverse impact on democratic processes and on the way individuals see and implement democratic processes. It impacts adversely on the way citizens experience the political system. Many are profoundly disillusioned.

(see [Politics and Ideology](#)"-appendix 5.10)

#### 4.2.2 Political Changes

My gut feeling is that citizens want trustworthy, sensible and logical representatives who will cooperate with one another and with citizens to generate balanced decisions in all citizens interests. They have reservations about politicians whose views are honed in seclusion by think tanks at one or other end of the political spectrum. They want people who will keep in touch with them and act in ways which reflect their values and their views. They want input into decision making.

Steps must be made to reverse current trends that make government less accountable. These trends include the suppression of dissenting views, the politicisation of government bodies, and the subversion of the will of the people by inappropriate lobbying and political donations. Democracy

must be given back to the people in a manner where trust and trustworthiness come to dominate. Politics and the marketplace should both operate within the context of society and be structured by its values and norms.

The threat posed by private equity is one for the community to confront by setting private equity's thinking, practices and conduct against its values and norms. The role of politicians is to ensure the community are well informed and then give their views form and effect in legislation.

Attention should be given to

- a funding system in which parties and members are not seen to be beholden to donors who are buying patronage,
- the subversion of the democratic process and the interests of the community by people with influence, paid by wealthy patrons,
- the abolition of political advertising and its replacement by discussion forums in which evidence and all issues of the day are discussed, and
- creating contexts in which the community rather than politicians set the agenda.

### **4.2.3 Social Change**

Politicians have been elected as our leaders and they contribute to community attitudes. Even though legislation will play only a part in needed changes they are in a position to set up structures through which changes can be mediated and then facilitate the process.

Many in the community are disenchanted with politics and resent having to vote for one of the major parties. They feel that they are irrelevant and have no impact on the way society is progressing. This together with the dominance of market thinking and practices in society serves to marginalise individuals who are more reflective and not competitive.

As is well illustrated in aged care many are unable to build a meaningful life in a competitive marketplace context. These are often people in a position to make important contributions. They might be ideally suited to the service provided. Their potential contributions to society are squandered. We need to think about ways of moving to a more acceptable society and of the sort of society we would like. The surge in private equity moves us in the opposite direction.

#### **4.2.3.1 Political inclusion using technology:-**

Technology, and the development of opinion sampling and evaluation techniques open up huge possibilities for citizen participation in a more democratic society. Hopefully everyone will soon be on line.

Government departments, freed from political control might well seek to involve citizens in evaluation groups. Representative cross cultural samples could enter into invited internet discussion groups, supplied with information and arguments, then be sampled for informed community attitudes and preferences. Groups from particular contexts and with particular expertise might be involved in a similar process that is then fed into the wider grouping to balance narrow expertise with broad community attitudes. Logical argument might replace assertiveness, as a valued attribute and in generating impact. A reflective and engaged community might create structures which direct and control the way private equity operates in each sector and exclude it from those where it might be harmful.

#### **4.2.3.2 Community Services:-**

There are many community services such as health and aged care which are poorly suited to the fluctuating fortunes of both marketplace and political contexts. These are essentially services that the community provides for its members. Stability is required.

Consideration should be given to the creation of more permanent cooperative and integrated community structures in which the community participates to control and provide services such as health and the more vulnerable aged care services. Services where marketplace thinking is inappropriate would be well served. Existing not for profit and professional entities can form a nucleus from which to build.

#### **4.2.3.3 A Civil Society:-**

Both of these suggestions aim to involve citizens in decisions affecting their destiny, and restore reflective community processes to a position where they balance and control behaviourist marketplace responses. It also aims to create contexts in which different frames of understanding are fostered. They would aim to develop structures that build harmonious relations by accommodating and understanding the different perspectives.

Many diverse but legitimate contexts might create opportunities for citizens with very different qualities. This would give them the potential to develop their lives in ways that contribute to the whole. Democracy should be seen as creating contexts which accommodate all citizens, not just those who are inherently competitive.

#### **4.2.3.4 Types of Democracy:-**

These are very different understandings to those espoused by the current economic rationalists. The suggestions aim to move us out of the cycle of recurrent ideology. They might enable us to use different beliefs and understandings as tools and would prevent them from becoming our masters.

This challenges the idea of democracy intrinsic to the Bush and Howard governments. It puts barriers in the way of ideology. It moves the idea of democracy towards, greater involvement and responsibility, increased social capital, diversity of perspective, and a broad framework within which a far wider range of individuals can lead fulfilling lives. While we currently pay some lip service to such a culture we do little to foster it.

#### **4.2.3.5 Managing the market:-**

In our current market society the market and economic power are determinants of success and within that culture severely dysfunctional groups prosper. Society is unable to restrain their activities. The law has performed poorly and can even protect some unsuitable groups and individuals.

The advent of enormously powerful and controlling private equity companies backed by global financiers with global rather than community interests provides a massive challenge to the concept of a civil society and the ability of democratic processes to control self centred commercial activities.

This challenge can only be met by creating a civil society where values and norms can be given credence, real force, and legal protection when society's interests conflict with the perceived rights of multinational financiers.

It will become an important task for politicians to legislate structures which allow communities to control and structure the way financiers, corporations, and private equity groups operate within their communities and the differing contexts there. The key to this will ultimately be the inclusion of financiers and their staff within communities so that they become part of the community and impose community values on the companies they manage.

This will require a restructuring of our ideas about corporations, the nature of corporations, microeconomic reform, and of global markets so that commercial entities come to have a far more

direct responsibility to communities and less to shareholders. The adverse impact of incentivisation on reflective thinking must be confronted.

Hopefully this will mean a diffusion of management away from board rooms and into the community. A reflective style will oversee and control the behaviourist structure of the market. It will be constrained by local communities. A very different and more reflective sort of person will rise in senior management. The enormous energies of the focussed individuals currently serving ideology can be controlled and directed into more socially acceptable activities.

#### ***4.2.3.6 A cautious approach:-***

It has taken many years for the market to reach its present pre-eminent position and to get its belief systems accepted as legitimate. It will take time to restructure it. What is required now is that we recognise the problems, define the sort of society that we would like and then carefully and systematically move in that direction.

This is not a prescription for specific changes but some suggestions for a changed direction and the sort of society we might consider – one which benefits and capitalises on the market without being consumed by it.

#### ***4.2.3.7 Health and Aged Care:-***

These two sectors are the ones most adversely affected by marketplace priorities and threatened by private equity. Numerically they are dominated by not for profit and professional providers. There are concerned community groups focussed on the area. The nucleus for an integrated and cooperative community service already exists. Lessons from a functioning and caring service would permeate into the community and steadily impact on other sectors. As indicated a first step would be to use legislation to quarantine it from further incursions by the private equity phenomenon.

## 5 Appendices of Supporting Information

These appendices are to assist those unfamiliar with developments in the health and aged care sectors and with the arguments.

### 5.1 Aged Care Regulations and Citigroup

The problems in dealing with powerful commercial entities, particularly multinationals within our current regulatory structure is well illustrated by the examples from health and aged care. These are compounded when the parties exert a powerful financial, supervisory and advisory role that influences the care provided but are not directly involved in management. Such indirect influence cannot be monitored and under our laws they are legally insulated from what happens.

In 1996/7 aged care regulations were redrafted with the assistance of members of the industry. Not only were the probity provisions removed, but large local and multinational commercial enterprises, purchasing local companies already operating in Australia, could do so without seeking approval. Citizens did not realise this.

In 1999 I was involved in correspondence with the department on these issues. I was assured:

- “. . . these processes include extensive inquiries relating to the suitability of the applicant. . . “
- “. . . the information provided by you will be taken into consideration if these companies apply. . . “
- “The Commonwealth is most concerned that only suitable persons are approved to provide aged care, and the approved provider criteria in the *Aged Care Act 1997* have been developed to ensure only suitable persons are approved.”

In 2006 a Citigroup Venture Capitalist entity purchased the giant nursing home operator DCA. It was not required to seek approval under the regulations. This was even though New South Wales had already investigated and found it wanting - imposing conditions on its licenses. This is at variance with the assurances I was given in 1999.

- (see [http://corpmedinfo.com/dca\\_sale.html](http://corpmedinfo.com/dca_sale.html) for details and correspondence)

Citigroup and its predecessors have been caught up in a number of matters which have received wide publicity. There are many allegations of socially unacceptable practices, Many of these have been settled by Citigroup for large sums over the last 15 years.

The issues include

- **Bond rigging**
  - *SEC widens investigation into bid-rigging in Treasuries market The Independent (London) August 21, 1991*
- **Stock manipulation**
  - *Wall Street banks close to settling \$ 1bn claim The Times December 24, 1997*
- **Price fixing**
  - *Nasdaq scandal brokers to be fined by SEC The Times (London) January 11, 1999*
- **municipal bond yield burning in the 1990s**
  - *UPDATE/MICHAEL R. LISSACK; The New York Times April 14, 2002*
- **money laundering from known despots or fraudsters in**
  - *Greece - - - Bank details revealed in Greek affair Financial Times {London,England} March 2, 1990*

- **Mexico** - - - **Citibank's Records Examined As Part of Mexican Inquiry** The New York Times March 30, 1996
- **Africa** - - - **Citigroup Head Concedes Laundering Controls Were Poor** The New York Times November 10, 1999 - - - **City banks 'handled dictator's fortune'** Financial Times {London,England} March 9, 2001
- **Russia** - - - **CITIBANK LAUNDERING CLAIM** The Independent {London} December 10, 2000,
- **Argentina** - - - **US gives details of Argentine cash-laundering** Financial Times {London,England} March 1, 2001
- **Illegally helping clients to conceal losses in Japan**
  - **Japanese regulator punishes Citibank** Financial Times (London,England) August 10, 2001
- **Persuading customers to buy overpriced mortgages and credit insurance.**
  - **Salomon Talks To the S.E.C. About Settling Conflict Cases** The New York Times September 28, 2002
- **Assisting other companies in their fraud including allegations about**
  - **Worldcom** (Citigroup paid US\$ 2.65 billion to Worldcom shareholders)
    - **Citigroup agrees to pay \$3.8b** The Courier-Mail May 12, 2004
  - **Enron** (Citigroup paid a \$289 million fine and US \$2 billion to Enron shareholders)
    - **Banks Pay \$289M in SEC Charges Officials say J.P. Morgan Chase, Citigroup knew A Warning Shot to Banks On Role in Others' Fraud** The New York Times July 29, 2003
    - **Bankrupt Thinking: How the Banks Aided Enron's Deception** New York Times August 1, 2003,
    - **Citigroup to pay \$2 bln to settle Enron lawsuit** Reuters News June 10, 2005
  - **Adelphia**
    - **Adelphia Creditors Sue Banks Over Loans to Rigas Family** The New York Times July 7, 2003
  - **Parmalat**
    - **Prosecutors turn up Parmalat heat, Citigroup sued.** Reuters News January 6, 2004
    - **Italy police seize papers from Citigroup unit.** Reuters January 14, 2004)
- **Staff involved in an industry wide mutual funds scandal**
  - **Smith Barney Fires Brokers for Trades** Associated Press 23 Oct 2003
- **Deception of investors** by corporate market analysts and by spinning shares to executives as kickbacks for past and future support – Citigroup paid US\$400 million of \$1.4 billion settlement
  - **The great Mom and Pop rip-off** The Guardian (London) June 1, 2001
  - **Telecom's Pied Piper: Whose Side Was He On?** The New York Times November 18, 2001,
  - **Lawsuit Says Salomon Gave Special Deals to Rich Clients** The New York Times July 18, 2002
  - **Ebbers Made \$11 Million on 21 Stock Offerings** The New York Times August 31, 2002
  - **Another Slap at Democracy On Wall St.** The New York Times September 1, 2002
  - **A Fraud by Any Other Name** The New York Times May 4, 200
  - **WALL STREET SETTLEMENT: THE OVERVIEW; 10 WALL ST. FIRMS REACH SETTLEMENT IN ANALYST INQUIRY** The New York Times April 29, 2003
  - **Citigroup CEO Barred From Talking** Bloomberg News May 5, 2003
- **Accusations of deceptive advice to novice employees** of companies with whom it had relationships and deals
  - **Outrage Is Rising as Options Turn to Dust** The New York Times March 31, 2002
- **money laundering and fraud in Japan** (forced shut down of bank)
  - **Angry with Japan incident, Citigroup CEO seeks employee accountability.** Australian Banking & Finance January 1, 2005



- **Inappropriate rapid trades of billions of dollars of Eurobonds**
  - *Bond Trades Far Too Agile Cost Citigroup \$25 Million* *The New York Times* June 29, 2005
- **Insider trading in Australia** (hotly contested by Citigroup)
  - *Bank accused of insider trading* *The Sydney Morning Herald* April 1, 2006

Other Wall Street operators were also involved in many of these Wall Street outcries. Citigroup was not alone but it was central to many. I do not know whether Citigroup was convicted, settled, or paid fines in all of these scandals. I have used Citigroup as a prime example because of its central role in many of the major Wall Street scandals, because its conduct is representative of what many did, because many of these companies are now major equity players, and because of its major involvement in Australia's private equity marketplace in health and aged care.

The important issue in the context of this submission is not whether Citigroup operated legally, or was successfully prosecuted but whether on balance its behaviour was socially responsible and it could be considered a fit and proper person to care for vulnerable citizens. When probity is at issue then the decision is not whether Citigroup was convicted or settled with denials but whether it can persuade Australian citizens and their representatives that they were not party to unsavoury practices (legal or not) and can be trusted. With so much smoke it seems incredible that this company could become an owner of nursing homes without proper scrutiny. A recent probity review in NSW resulted in the granting of licenses with restricting conditions. It is worth noting that Citigroup was awarded some dubious distinctions by the widely read Corpwatch as

- **the Worlds most destructive bank in 2000**  
*Citigroup Awarded "Honor" as World's Most Destructive Bank* *CorpWatch*  
<http://www.corpwatch.org/> August 2, 2000
- **one of the 10 worst corporations in 2003**  
*The Ten Worst Corporations of 2002* *Multinational Monitor* <http://www.corpwatch.org/> January 3, 2003

The allegations that in the early 2000s Citigroup was the prime offender, played a leading role, and paid the largest amount of the US \$1.4 billion Wall Street fraud and enrichment scheme settlement is particularly relevant. This involved the deception of trusting but vulnerable citizens whom it had undertaken to advise objectively. Competitors followed in order to remain competitive.

Citigroup has also paid out many billions of dollars to compensate shareholders of the companies it allegedly assisted in fraud while denying wrongdoing. The reported list of those involved in similar practices reads like a who's who of the financial world including JP Morgan Chase and Co., Barclays Plc, Credit Suisse First Boston, Merrill Lynch, Canadian Imperial Bank of Commerce, Toronto Dominion Bank, Royal Bank of Canada, Deutsche Bank AG, the Royal Bank of Scotland, Lehman Brothers and the Bank of America. Many if not all are prominent in the private equity phenomenon.

A large Citigroup predecessor was the banker, financial adviser, and glowing market analyst, during 15 of the 20 years during which HealthSouth, a rehabilitation giant, used an admitted US \$4 billion fraud to fund its growth. The bankers denied knowledge of the fraud. (see **Conflict Issue Over Analyst's Deal** *New York Times* April 8, 2003) The bankers involved moved to UBS in 1999 and took HealthSouth's business with them. HealthSouth's shareholders have sued UBS and these bankers claiming complicity.

- (See [http://corpmedinfo.com/access\\_citi.html](http://corpmedinfo.com/access_citi.html) for more information and references about Citigroup's worrying past.)

Citigroup is now entrusted with the care of the most vulnerable citizens in our country.

## 5.2 Tenet Healthcare, Sun Healthcare and Others

The problems in dealing with powerful commercial entities entering vulnerable sectors in Australia are well illustrated by our experience in dealing with multinational operators with poor track records, and with local entities that stretch the limits of acceptable behaviour to questionable legal limits. Our structures have been inadequate. These examples also illustrate the difficulties when companies stretch the limits of the law yet indulge in conduct that is socially untenable. They see this as legitimate.

**Tenet Healthcare** (then called **National Medical Enterprises or NME**) was approved by FIRB in December 1991. It was at the time the object of extensive media coverage in Texas. It operated in Australia with strong support from the establishment for over 5 years. This was even though our own authorities warned that aggressive commercial marketing of screening programs could result in unneeded treatment for patients in Australia. It is significant that 10 years later allegations supported by settlement agreements indicate that hundreds of US patients were subjected to major surgery when it was not needed. Many came for screening in response to company marketing. It is alleged that the CEO in charge in Australia in the 1990s was closely associated with this. Could this have happened here?

In 1991 there was a public senate inquiry in Texas at which many citizens testified to their adverse experiences as psychiatric patients. Senator Moncrief who chaired that inquiry summarised the findings for a later federal inquiry. The Texas inquiry was followed by a court action by the Texas authorities alleging the misuse of psychiatric patients in order to defraud government funding. The action was settled for US \$ 10 million, the largest at that time, although small by comparison with what followed.

- **Moncrief Texas Senator Mike**, page 11 of "*Profits of misery: How Inpatient Psychiatric Treatment Bilks the System and Betrays our trust*". Hearing before the select committee on Children, youth and families, House of Representatives, Hearing Held in Washington, DC, April, 28, 1992 US Government Printing Office, Washington
- **State of Texas vs Psychiatric Institutes of America and other NME subsidiaries in Travis County Texas, 250<sup>th</sup> Judicial District Plaintiff's original Petition ACN 91-539333. – Agreed Final Judgement with Permanent Injunction Cause number 92-07848 - Compromise and Settlement Agreement signed 3<sup>rd</sup> June 1992**

Objections were lodged with NSW Health early in 1992. Even though they were aware of the Texas senate inquiry and in possession of the Texas Court Documents they accepted assurances from the company and transferred hospital licences to NME's Australian subsidiary.

When NSW were sent the Profits of Misery transcripts and other material they acted. By that stage an extensive FBI investigation was in progress across the USA and multiple insurers were suing for damages. There was extensive publicity. NSW Health indicated publicly that they would delay the granting of a new application for a hospital licence until the unfolding probity issues were resolved,

Instead the director of NSW Health was found to have an undisclosed conflict of interest and a recently retired judge was appointed to make the decision. He:

- disregarded advice to delay the decision,
- overruled advice from the department that the application be rejected,
- imposed conditions which the department said it could not police, and

- accepted changes to his conditions dictated by the company.

A contract to use the company's US business expertise was not cancelled. The department considered the company's dealings with it were lacking in "frankness and candour".

**FOI material obtained from NSW in 1994** (multiple documents and correspondence between department, judge and company lawyers)

Even though the company had by then, paid US \$200 million in fraud settlements the Australian business community (banks) and even commonwealth operated investments funds immediately supported the company's expansion with loans. This support was conditional on the retention of the NME appointed CEO and the continuation of the business contract to use NME expertise. This expansion was thwarted by a probity review in Victoria and the medical profession in Queensland.

In 1994, court documents became available which revealed that the CEO in Australia had declined the opportunity to give evidence when a doctor, at the international hospital he had recently left, alleged that he had pressured doctors to enter into unethical contracts linking the number of patients admitted to financial benefits. These exerted pressure to over-service. The hospital had previously indicated that he would give evidence.

The company pleaded guilty in the USA to criminal conduct in 1994 and paid in the region of US \$1 billion to settle fraud actions by insurers and patient harm related matters. It was allowed to continue operations subject to the sale of over half its hospitals as well as injunctions obtained by the US Securities and Exchange Commission (SEC). New ethical and compliance processes were overseen by authorities.

- **Allan Clinic for Woman Pte Ltd vs Mount Elizabeth Hospital Ltd.** Case number 620 of 1989 in the High Court of the Republic of Singapore **Precourt documents 1989 to 1993 - Statement of Evidence August 1993**
- **United States of America vs NME Psychiatric Hospitals Inc** Case No Cr. 94-0268 June 29. 1994 **Government Statement of Facts in Support of Plea Agreement – Plea Agreement – Transcript Sentencing Proceedings**
- **SEC vs NME Complaint for Permanent Injunction** Case Number 1:94CV01505 dated 07/12/94 – **Final Judgement and Permanent Injunction** No 94 1505

The situation in Australia became untenable and steps were finally taken to force the company out of Australia. I played a role in this and examined vast numbers of documents.

**Senator Herron ADJOURNMENT** Dr Michael Wynne, Australian Senate Hansard for 28th November 1995

Less than 10 years later Tenet Healthcare was involved in another massive investigation of its profit generating strategies. This included allegations that 769 patients had their sternums split to perform unnecessary heart bypass procedures. Most it is claimed had normal hearts. Many had attended for screening in response to company advertisements. Some died and others were crippled. The person who had been CEO in Australia was now a vice-president in this region and is described as dealing personally with the doctors involved and negotiating contracts with them.. Tenet and its doctors paid US \$500 million to government and to compensate the victims but without admitting wrong doing.

**"Coronary: A true story of medicine gone awry"** by Stephen Klaidman published in 2007 by Scribner - New York, London and Sydney

Tenet also paid another US \$900 million to settle investigations of other matters including paying kickbacks to doctors and defrauding the Medicare system. This used a loophole which allowed it to capitalise on major and more risky surgical proceedings. It specifically targeted these areas. It settled without admitting guilt claiming what it did was legal. It is worrying that during the period when this was occurring nurses were complaining about inadequate staffing in its hospitals.

- **Tenet to pay \$900 million in global fraud settlement** ModernHealthcare.com June 29, 2006
- **SEIU alleges Tenet staffing levels may put patients at risk** Modern Healthcare December 16, 2002
- **Tenet Hospitals: Corporate Conduct Puts Patients At Risk** SEIU report December 1, 2002

▪ (see [http://corpmedinfo.com/entry\\_to\\_Tenet.html](http://corpmedinfo.com/entry_to_Tenet.html) for more information and references)

**Sun Healthcare** was welcomed into Australia in 1998. It is not clear whether FIRB's advice was followed. Sun was at the time involved in multiple investigations and concerns about standards of care in its nursing homes. NSW, the state where it would operate hospitals advised FIRB to refuse it entry.

The federal minister for health at the time refused to comment on Sun's suitability when asked by FIRB and by a politician. This was on the basis that the company was buying into hospitals, a state responsibility. He had no jurisdiction. In fact Sun Healthcare was buying pathology businesses and had indicated plans to enter the nursing home sector. Both were licensed by the ministers department.

Immediately after his colleague the deputy treasurer had granted approval for Sun's entry to Australia over the NSW objection, the federal minister for health announced plans to revolutionise health care using step down care. This was a Sun specialty in its nursing homes. Its meteoric growth was based on understaffing and on exploiting the vulnerability of the Medicare system in its step down services.

Sun was soon involved in multiple court actions. Adverse reports pointed to the neglect of frail elderly residents. Its expansion into Victoria was prevented by a state probity review. The US government stepped in to stop the roting of Medicare. Sun's Chairman and founder was dismissed and the company became bankrupt in the USA and Australia.

Sun's chairman was a charismatic and persuasive character. He promoted the notion that trained and skilled nurses were unnecessary in nursing homes. His influence persisted long after his downfall. His glib rationalisations about staff requirements were what the market and politicians wanted to hear. They developed a life of their own.

▪ ( see [http://corpmedinfo.com/access\\_sun.html](http://corpmedinfo.com/access_sun.html) for more information)

This nonsense was welcomed by politicians in the USA and probably in Australia. It is reflected in our 1997 aged care legislation where all staffing requirements were removed. Long after Sun had fallen from grace, the aged care minister was making similar claims.

- **Crimes of neglect.** *The Australian* March 4, 2000)

It was not until 2006 that some attention was given to the need for proper training and skills in Australia. Many hundreds if not thousands of frail elderly have received substandard care as a result - in the USA and Australia.

In 1997 the giant **Columbia/HCA** (now HCA) was welcomed. It was about to spend \$1 billion on hospitals in Australia. Its practices were the focus of intense adverse community criticism in the USA

at the time. At that point the FBI raided its hospitals across the USA in the first stage of a US \$1.7 billion fraud investigation. Its position was untenable and it backed off.

- (see [http://corpmedinfo.com/access\\_columbia\\_hca.html](http://corpmedinfo.com/access_columbia_hca.html))

**HealthSouth** entered Australia in 1998 and departed in 2006. Its Australian operations were involved in the international part of its US \$4 billion accounting fraud.

- (see [http://corpmedinfo.com/access\\_healthsouth.html](http://corpmedinfo.com/access_healthsouth.html))

As in the USA, Australian regulatory bodies such as the HIC have had considerable difficulty in imposing sanctions and resisting appeals to the courts when companies stretch the limits of the laws in conduct which most would consider dysfunctional and unacceptable. This has occurred in

#### Pathology

- **Macquarie Group under Tom Wenkart is experiencing difficulties** *Radio National March 3, 1998*
- **Catchlove Conflict Inevitable** *Australian Financial Review October 30, 1999*
- **Pathology Giant Faces Kickback Allegations**, *Australian Financial Review March 27, 2001*
- **Gribbles Faces Testing Times** *Business Review Weekly (Australia) December 12, 2002*

#### General Practice

- **Big Business Targets GPs In National Buying Spree**, *Australian Financial Review 23 May 2000*

#### Aged Care

**History Of Problems At Home** *The Age March 3, 2000*

**Nursing home fights for its name and funding.** *Australian January 3, 2001*

**The role of financiers.** Most of the big US companies were advised by bankers and their analysts. They attended health care business conferences run by the health care divisions of Citigroup's subsidiaries or its competitors. This is well illustrated by Citigroup and UBS involvement with HealthSouth. Most of these large financiers are now involved in private equity investments in one way or another.

- (see [http://corpmedinfo.com/healthsouth\\_ties\\_aud\\_bnk.html](http://corpmedinfo.com/healthsouth_ties_aud_bnk.html) and <http://corpmedinfo.com/citihealth.html>)

### 5.3 Economic effects:-

There are economic and development benefits from changes based on market ideology for sections of the population. These are accompanied by emerging economic problems in Western countries relating to the distribution of wealth. The New York Times recently commented.

Not since the Roaring Twenties have the rich been so much richer than everyone else. In 2005, the latest year for which figures are available, the top 1 percent of Americans ~ whose average income was \$1.1 million a year ~ received 21.8 percent of the nation's income, their largest share since 1929.

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Sensing a political problem, administration officials from President Bush on down have begun acknowledging income inequality. But in their remarks, they invariably say it has been around for decades and is largely driven by technological change. Translation: „We didn,t cause it, and trying to do something about it would be silly.

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Lets get a few things straight: First, the economic gains of the last few years have been exceptionally skewed. From the 1970s to the mid-1990s, the gap between rich and poor widened considerably, but produced nothing like today's intense concentration of income at the very top.

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In contrast, the economic policies of the Bush years have failed to benefit most Americans. The tax cuts have overwhelmingly benefited the richest. As a result, the tax code does less to narrow the income gap now than it did as recently as 2000.

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The nation needs an administration that will offer solutions for the scourge of income inequality.  
**It Didn't End Well Last Time** The New York Times April 4, 2007

Private equity by its very nature concentrates wealth and power in fewer and fewer hand so compounding these problems. Wide disparities in wealth lead to unrest. Some doomsday analysts have even predicted a world of “haves” and “have nots” engaged in a bitter guerrilla war. While this may be fanciful the disenchanteds do channel their discontent into religious or ideological belief systems. We live in a world where radical and disenchanteds Muslims have already resorted to terrorism.

### 5.4 Health and Aged Care

These sectors illustrate how bad things can get and why they go wrong. I use them to illustrate what happens.

Health and aged care have traditionally been a community focussed sector operating within its own context. They have been humanitarian services provided by the community or by professions acting as agents for the community. They embraced ethical traditions that placed service and responsibility to those they served above personal advantage. These go back thousands of years to the Hippocratic tradition. An important community concept, “probity” ensured that only people who could be trusted to do so were embraced in these sectors.

The sector, like any system depending on reflective values, has been particularly vulnerable to changes in community perceptions. Those involved are part of the community. Professions have bent before the pressures of a succession of ideologies that have challenged their traditions. Their response to a society driven by marketplace belief systems is no different.

Professionalism has also been exceptionally durable. Traditional values are reclaimed when the ideology loses its grip. Professional people have often been prominent in opposing and leading the community away from damaging beliefs (eg. apartheid).

### 5.4.1 The USA

Unlike the United Kingdom and Australia in the post war era, care was not delegated to government in the USA. Government provided funding for some sections but the community continued to provide services. At the same time the additional funding brought entrepreneurs. They seized the main chance, provided by the weakness of the funding system and the vulnerability of the clientele.

Corporate representatives criticised the Samaritan tradition and the values supporting it by labelling them as obsolete. They built vast corporate empires and became both wealthy and credible. By the 1980s the increased credibility given by their marketplace success enabled them to impose their frameworks of understanding and their mode of operations on the entire health and aged care system.

In the USA a major problem has been the subjugation of the medical profession to the market following the publication of Joseph Califano's book in the 1980s. He urged the market to take control of doctors by controlling their income and their careers.

*"America's Health Care Revolution" Who lives? Who dies? Who pays? By Joseph A. Califano, Jr - 1986*

For profit companies and managed care companies have since then tied doctors incomes, and their careers to compliance with corporate objectives. This has led to the subversion of the Hippocratic tradition to the extent that patients' wellbeing is subjugated to a ruthless commercialism. In an extreme example doctors at one hospital are alleged to have performed 769 unnecessary coronary bypass operations in order to boost their own incomes by helping the company meet its financial targets.

This market approach has been driven by advice from the large financiers. These financiers have gained ever greater credibility by organising trade meetings. They promote the market practices they favour through the choice of speakers. These same groups now give advice on private equity buyouts and in many instances have private equity divisions.

The disastrous situation in health and aged care in the USA is now widely recognised but no one is able to find a way out of the mess. Not only is it by far the most expensive system in the world but WHO figures indicate that the overall standard of care is inferior to that of most developed countries.

The situation is no better in the aged care sector where reviews of state oversight reports have indicated a doubling or tripling of preventable complications in nursing homes operated by corporate chains as contrasted with not for profit operations. This is a direct consequence of the need to divert a major proportion of the available funds to the business of the competitive marketplace and to profits. While not for profits are now forced to spend funds intended for care in similar ways they are not as profligate.

A savage rebellion by citizens and disgusted juries, who awarded massive damages, has driven the worst aged care chains from some states.

#### See:

- "Critical Condition: How Health Care in America Became Big Business & Bad Medicine" by Barlett & Steele Nov 2004 (DoubleDay 2004)
- "Money Driven Medicine: The Real Reason Health Care Costs so much" by Maggie Mahar (HarperCollins 2006)

- For an analysis of developments in the USA see also [http://corpmedinfo.com/corporate\\_overview.html](http://corpmedinfo.com/corporate_overview.html)

## **5.4.2 Australia**

In Australia we have adopted a middle road with both public and private systems. As in the USA the not for profit sector came to dominate the private system in health and aged care. They set the frames of understanding under which the system operated. The legitimacy of the corporate for profit sector remained questionable. This sector consequently developed much more slowly. Social pressures rather than legislation controlled their behaviour.

This changed radically during the 1990s. Conservative parties aided and abetted by the marketplace set out to sell an economic vision to the electorate. Government played a far greater part in promoting market medicine in health and aged care than in the USA.

Although half of all hospitals and three quarters of nursing homes are still operated by not for profit and government groups, government policy has ensured that marketplace thinking and competitive marketplace practices have come to dominate. They have become the norm in both sectors.

The proportion of hospitals and nursing homes owned and operated by primarily for profit and market listed entities has steadily increased, most recently in aged care. Not for profits find it difficult to compromise with a system which so radically confronts their humanitarian mission. Some have elected to abandon the sector.

- (See "Agenda - Church Inc." by Karen Kissane, The Age April 13, 2003 – Copy at <http://corpmedinfo.com/notforprof.html>)

### **5.4.2.1 Health Care in Australia:-**

Starting in the early 1990s corporate involvement was supported and a system of managed care contracts with corporations and insurers was planned. The profession were well aware of what was happening in the USA. Relations between government and profession were ruptured when doctors refused to enter into any contracts which might impact on their clinical independence.

The wisdom of this became apparent in 2000 when Mayne Health appointed a renowned Mr Fixit to resolve their financial problems. The practices he introduced resulted in cherry picking, and in the disruption of the smooth operations in the hospitals in ways which compromised care. Doctors simply took their patients elsewhere and Mayne's hospital division collapsed.

Doctors had retained economic leverage and had used it effectively. I argue that this economic leverage has prevented Australia from following the USA in this sector at least for the moment. Companies still attempt to align doctors financial and career interests with those of the corporation by encouraging shareholdings and joint ventures. Neither are considered to be illegal kickbacks but are still questionable. They create a commercial hold over the doctors.

### **5.4.2.2 Aged Care in Australia:-**

In aged care the situation is very different. Doctors do not refer patients to nursing homes so have no leverage. There is a shortage of places so that any benefits that competition may have are lost. The 1996/7 regulations were drafted by the aged care market lobby. All restrictions were removed and it became open slather for the profit hungry. The system is now spiralling down the same path as the USA.



It is not surprising therefore that reports indicate a steady deterioration in the sort of care aged residents receive. There has been progressive demoralisation with a steady deterioration in the quality and quantity of staff.

The problem emerged dramatically with the revealing Riverside scandal in 2000. This was followed over the succeeding years by a string of scandals involving the neglect and exploitation of frail elderly in nursing homes. Whistle blowers have been crushed and complaints ignored. Complaints by the nurses and their unions have fallen on deaf ears. One nurse aid expressed the revulsion and the disillusionment experienced by motivated carers trapped in this environment by writing a satirical piece called "people farming". It is on the web site I write. Others use the term wrinkle ranching to express their disquiet at what is happening

- (see [http://corpmedinfo.com/nh\\_peoplefarming.html](http://corpmedinfo.com/nh_peoplefarming.html)).

The demoralisation in the sector culminated in 2006 with the rape of 80 and 90 year olds; in one instance without other nurses taking action. In other instances some nurses described how other carers taunted patients to make them agitated so that they could be sedated and require less attention.

***Allegations of abuse at aged care facility Lateline ABC TV February 20, 2006***

The previous aged care minister and the prime minister both claimed that these were exceptional instances. A number of subsequent reports and studies do not support these claims .

- ***New laws loom on nursing home rape*** *The Age* February 22, 2006
- ***Recent events highlight shameful neglect of Australia's elderly*** *Australian Associated Press General News* February 24, 2006
- ***Govts urged to make aged care workers have security checks*** *Australian Associated Press General News* February 24, 2006

What is abundantly clear is that all these very public allegations of problems in nursing homes are pointers to a widespread and systemic problem within the nursing home sector. At the root of this is the alienation and demoralisation of a workforce required to work in a market context that devalues and removes the fundamental values and the rationale for their being there.

Equally, the detailed allegations of abuse, gathered by the pair while studying and placing student nurses in facilities during the past three years cannot be dismissed as isolated and unsubstantiated observations.

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It is simply unacceptable that in today's wealthy and enlightened society, appalling examples of neglect, verging on personal cruelty, should be allowed to occur. Ms Khoo says nursing home residents are victims of a lack of time, a lack of qualified staff including registered nurses and a regime of paperwork.

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She says palliative care nurses are worn down, burned out and finally squashed by the system until they are numb to what is going on around them.

**A case of dignity ahead of dollars** *AdelaideNow* February 7, 2007

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Yesterday, overwhelming support from relatives of aged care residents and aged care sector leaders emerged for the academics, Dr Anita De Bellis and Maree Khoo, who went public in *The Advertiser* with numerous examples of abuse.

**Experts agree on aged abuse** *AdelaideNow* February 8, 2007

It is a reflection of the dominance of the prevailing market ideology that a not for profit industry body would consider it appropriate to approach the university at which these academics work to “*develop an appropriate strategy to ensure that we cooperatively work towards achieving positive publicity for the industry*” and to ensure that students and researchers they teach are “*better educated about aged care*”. Academics, already under market pressures would see this as another attempt to muzzle independent criticism that challenges the market.<sup>2</sup>

There is a total and unbridgeable divide between the conceptions of market focussed managers in their offices and at corporate headquarters, and of caring staff at the coalface.

Nursing homes have become a prime target for private equity operators who exert strong commercial pressures and whose decisions are made in board rooms even further from the bedside.

- For more about aged care in Australia and the role of government see “Government and Nursing Homes : Australia” at [http://corpmedinfo.com/nh\\_ausgov.html](http://corpmedinfo.com/nh_ausgov.html)
- For extensive information about aged care failures see the web site <http://www.agedcarecrisis.com>

## 5.5 Understanding failures in care

I have tried to explain why the entry of marketplace thinking into health and aged care has had such an adverse impact. The thesis of this explanation is that humans have a strong biological urge to compete, to survive and to succeed in whatever situation they find themselves. Those with the qualities needed to succeed and do whatever it takes prosper. Those without these qualities, and those unable to do “whatever it takes” become alienated.

The situation that arises when incompatible frames of understanding both require allegiance is described in section 2.3.1. In health and aged care the starting points, the mode of operation and the outcomes desired are so very different from those imposed by the marketplace that it is not possible to compromise and serve both masters. The market is the strongest and most insistent. It competes directly for the dollars required to provide care.

The way in which people respond to this situation is described in section 2.3.2. Humans cannot operate without conceptual frameworks that give their lives and their actions meaning. These responses result in distorted conceptual frameworks that lead to socially unacceptable behaviour.

( see “Belief versus Reality in Reforming Health Care “ Health issues 83:9-13 2005 Download copy from <http://corpmedinfo.com/jmwynne83.pdf>)

### 5.5.1 Selection of the fittest:-

The market system in health selects for individuals who are adept in adopting the survival strategies needed for success in this market context. It shifts the pattern of behaviour towards a closed mindedness which fails to grasp the consequences of what is being done.

Reflective individuals unable to perform the mental gymnastics are sidelined, labelled, fired or more often leave in disgust. The workforce becomes alienated, demoralised and apathetic. Intermediate management, closer to the coalface, are most stressed by what they are required to do. There is a

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<sup>2</sup> Update on the recent Aged Care Publicity in Snippets - Volume 7 Issue 2 February 2007 ACS web page <http://www.agedcommunity.asn.au/publications/Feb07.php#Update>

high turnover of nurse managers and nurses. Those able to survive and succeed are often those least suited to care for vulnerable citizens. The consequences are glaringly obvious in the Australian aged care system.

### **5.5.2 Seeing things differently:-**

A direct consequence of this is the development of a divide in perceptions. The same things are seen very differently from each side of the divide. On the one side are the businessmen, the managers and the politicians who support the system. On the other are the nurses, the residents and the relatives who have had sufficient real experience of what is happening to see past the glib brochures and political marketing.

There can no longer be any doubt as to which set of perceptions is more real. Dave Lindorff first described this difference between the way managers and recipients experienced the health system in the late 1980s in his book "Marketplace Medicine". The patient abuse and health care fraud scandals only hit the headlines in the 1990s showing who was correct.

(See <http://corpmedinfo.com/divide.html>)

### **5.5.3 Handling conflicts like kickbacks:-**

A good example of the way conflicting concepts are handled is the issue of kickbacks, incentives and bonuses. It has long been recognised that payments linked to financial outcomes are severely dysfunctional for doctors and that they compromise judgement and care. They are called "kickbacks". They are illegal and unethical.

In the marketplace incentives and bonuses tied to economic outcomes are not only legitimate but essential for success. They are a key plank of "microeconomic reform". Even a cursory examination of what has happened in the USA shows that they are no different to kickbacks, and even more dysfunctional when given to managers in health and aged care.

The market sees incentives given to doctors as essential business tools and not as kickbacks, They concentrate on legal definitions to justify their position. They seek to find legal ways of aligning doctors practices with corporate objectives by some form of economic reward. Without reflecting they have no difficulty with a variety of tortuous inducements which align doctors economic well being with corporate financial objectives. This is exactly what laws forbidding kickbacks aim to prevent.

US authorities have not accepted the tortuous schemes and legal arguments corporations advance, but few have come to court. The majority of the major fraud settlements in the USA include charges of paying kickbacks to doctors. When prosecutions have come to court the legal hairs have prevailed and prosecution for kickbacks has often failed.

This indefinable borderline between legal kickbacks and incentives has been a problem in Australia as well as the USA. The HIC has had difficulty in prosecuting kickbacks given to doctors because of the strategies used to give them.

### **5.5.4 Implications of private equity for aged care:-**

The private equity operators are there to make money and the only reason that they invest in health or in aged care is because they believe that they can squeeze more profit from this sector than from other sectors. Their focus is on managing the business. Their staff are trained to do so and are highly focussed. Their success and their rewards are dictated by financial outcomes.

Private equity's goals are often short term with plans to rapidly turn around a company's operations. They are remote from the bedside. They typically employ others whose marketplace activities they

monitor and control. Their credibility will enable them to make unacceptable market practices legitimate. Managers unable to do what they require leave or are fired.

## 5.6 Setting financial goals:-

Private equity groups are market managers. A key strategy for successful managers is the setting of financial goals and then devising strategies to meet them.

Typically profit projections are set and the business is structured to meet these goals. The goals are broken down and spread throughout the system so that each facility and each manager has a set of goals on which his career and his economic reward will depend. Such systems have been set in place in most of the big health and aged care companies. The pressures generated have been critical in driving fraud and in the development of what have been identified as dysfunctional systems of care.

In the 1980s and 1990s National Medical Enterprises (NME), now renamed Tenet Healthcare, called these goals "plan". Each hospital and each manager had a plan. Continued employment depended on meeting plan and large bonuses on exceeding it. NME developed admission policies and a profit generating clinical system called "programmatic care" which witnesses claimed was unrelated to the care needed by patients. This enabled managers to ratchet up profits. It was praised by market analysts. Available documents support the assertion by one doctor who described the hospital where he worked as "akin to a severely dysfunctional family system which had become un-therapeutic for patients". My experience of an NME international hospital in 1988 led me to a similar conclusion. Well meaning and motivated doctors had identified with company policy.

Senior staff in the USA considered themselves as exemplary citizens and some were publicly honoured as such in the business community. The business practices were those extensively used and sanctioned in the wider marketplace. Staff identified with them. The culture was blind to and denigrated traditional health care thinking. NME's chairman (like Citigroup's) was a renowned philanthropist.

- **US Stock Analysts' reports 1991**
- **Monthly memoranda from Zober to Eamer, Cohen, Ragland and Heckendom** describing business practices and "plan" in NME's psychiatric hospitals.
- **See evidence by Moncrief M, Durrett R H, Afield WE, Arnold CS, Bok D and Parisi L** in "Profits of misery: How Inpatient Psychiatric Treatment Bilks the System and Betrays our trust". Hearing before the select committee on Children, youth and families, House of Representatives, Hearing Held in Washington, DC, April, 28, 1992 US Government Printing Office, Washington
- **Administrator Driven Intake Systems August 1991** NME policy document (Describes the way in which administrators took over and drove the admission process.)
- **Creating and Managing Winning Programs (1990)** NME document (This deals with the "Nuts and Bolts of Managing your Program" and "Managing Your Bottom Line". How to increase profits)
- **Outreach Programs that "Feed" inpatient programs - Program directors Conference June 1989.** Staff enthusiastically present to others the strategies they have used to attract patients and secure admissions. Success of all activities reported is measured by number of admissions generated.
- **William McCabe vs Recovery Centres of America (RCA) and NME** particularly documents submitted in evidence (documents setting out policies and financial priorities including a policy document to "All Executive Directors" re financial priorities dated October 3, 1988, a document setting out terms and conditions of employment with incentive plans dated March 5, 1990, and a set of instructions following a meeting which include firing an administrator who was "too clinical" dated May 3, 1990 )

Large settlements were paid to patients who claimed that they were harmed when as children they were needlessly incarcerated in psychiatric hospitals. Multiple insurers secured hundreds of millions when they sued claiming they had been defrauded. A pattern of rationalisations enabled staff to

justify their actions and identify enthusiastically with what was being done. Dissenters were marginalised and whistle blowers destroyed.

***\$100 Million Settlement Seen in Tenet Suits*** *The New York Times* July 30, 1997 (previous patients)  
***Travellers Insurance Co and seven others vs NME companies*** Civil Action Number 92-1787 US  
District Court for the District of Columbia (settled US \$89 million)  
***Aetna Life Insurance Co and Metropolitan Life Insurance Co vs NME*** Civil Action No 3:92-CV-  
1868-P United States District Court, Northern District of Texas, Dallas Division

In spite of the criminal convictions and settlements, many senior Tenet staff never accepted that they had indulged in criminal activity or been seriously at fault. Ten years later the same company now renamed Tenet Healthcare used similar goals to drive a system which it is claimed carried out hundreds of unnecessary operations. As indicated in section 5.2 the company has now paid US \$900 million to settle an action which alleged, among other things that managers manipulated finances to use a loophole to defraud Medicare of millions of dollars. The company did not admit liability claiming that this was legal. The company concentrated its operations on the sort of complex and high risk care which could be manipulated in this way and not on the health care needs of the community.

Mackey was depicted by the SEC as the principal architect of the scheme. In 1999, under Mackey's direction, Tenet management calculated the precise increase to Tenet's gross charges needed to boost Medicare payments to a level that would allow the company to meet earnings targets, according to the SEC. By 2002, revenue from treating extraordinarily sick Medicare patients had more than tripled, accounting for over 40 percent of earnings in fiscal 2002, the SEC said.

**Tenet to Pay \$10M in SEC Settlement** Associated Press April 4, 2007

Columbia/HCA (US\$1.7 billion fraud) called its system "report cards". Careers and bonuses depended on the cards meeting financial expectations.

It was alleged that HealthSouth's (US \$4 billion fraud) chairman simply handed its financial officers the company's inflated public market projections. They were expected to produce financial results which met or exceeded these projections. Because of 5 year limitations prosecution involved only the last US \$2.7 billion. Seventeen senior financial staff pleaded guilty and in their plea bargains implicated the charismatic chairman and founder Richard Scrushy as the driving force. The fraud was never denied but at a trial by jury in his home town he was acquitted.

## 5.7 Reviewing Evidence

There is little doubt that if the matter were put to Australian citizens in clear terms the public would prefer to trust their care to someone whose values, norms and primary interest relate to their care ahead of someone where these relate to the profit which can be extracted from their misfortune.

In Canada the 2002 Romanow Commission did address all of these issues. The issues were clearly explained to the public. They clearly indicated their preference for a system which was not based on profit.

In Australia corporate for profit care has crept in behind the skirts of the not for profit sector by using the term "private care" to embrace both. The debate has been about public and private care which is about who pays. The fundamental differences in the way private care is provided by operators with a very different focus have not been confronted.

In health care in the USA market forces have operated over a long period. It is now clear that the system has failed.

In his review Romanow also invited the for-profit marketplace to produce evidence to show that it could provide cheaper and better care. They were unable to do so or to challenge the analyses made by Romanow's investigators, and the criticisms made by those who had studied the sector. Romanow's report came down strongly in favour of a health system based on community values. Canada's health system unlike ours is publicly funded but provided by both public and private not for profit operators. He found this was economically sustainable.

For more information see "Building on Values: The Future of Health Care in Canada" Health Issues March 2003 Download from <http://corpmedinfo.com/wynneandarmstrong.pdf>

## 5.8 Probity

Historically in society, in professionalism, and in the health and aged care context the concepts of "probity" and being of "good standing" were important. They went to the integrity and the trustworthiness of individuals and businesses. These concepts were included in legislation and in the constitutions of health and aged care bodies including medical boards. Australian health care licences included provisions to ensure that those who operated health care facilities were "fit and proper" to do so.

These concepts embodied a fundamental democratic principle to balance the democratic rights of individuals when these threatened the community. The principle was one of responsibility to the community and recognition that there were at risk situations where the protection of the community took precedence over the rights of the individual.

While criminality impacted on probity it is important to understand that probity was a much broader and more refined concept. It described your social acceptability - whether your peers and the community within which you lived considered that you were trustworthy. In the health and aged care context probity meant that the welfare of those you served was your primary objective. You could be trusted to put this ahead of your own economic and other personal interests. The sick or frail individual could depend on you not to take advantage of their vulnerability.

The modern market listed, and also the private equity, groups have a prime purpose and a legal responsibility to make a profit for their shareholders. If probity were a real entity today then neither market listed nor private equity companies would qualify. The invasion of health and aged care by market listed entities is a comparatively recent phenomenon. There was a time when their involvement would have been seen as distasteful and unacceptable because they could not be trusted to put care first.

A report from the Western Australian Health Department to the state government in 1993 stressed the emerging problem posed by corporatisation and the invasion of multinationals. It even predicted some of the problems – including prophetically the use of screening and other recruitment programs to funnel patients needlessly into medical care and profitable surgery. This was a concern I had drawn their attention to regarding a Tenet/NME run international hospital.

The report indicated that only Victoria's probity laws were robust enough to successfully resist a legal challenge by a multinational. It is significant that both Tenet and Sun Healthcare's credibility was finally destroyed by probity reviews in Victoria. The WA report urged a cooperative effort between the commonwealth and all states to coordinate and beef up legislation to address the unfolding problem. This advice was ignored by the West Australian government and no action was ever taken.

These problems can only get worse as private equity firms enter the health and aged care sectors. The senate committee would serve Australian citizens well if it initiated, however belatedly the recommendations made by the WA report.

## 5.9 Monitoring, oversight and accreditation

Instead of addressing the threat to care created by market pressures our government chose to address the issues only after they had become a problem. There is a long history of regulatory failure in Australian health care.

- For an account of ongoing regulatory failure in health care in Australia see a 2000 web page "Regulation in Australia" [http://corpmedinfo.com/reg\\_austr.html](http://corpmedinfo.com/reg_austr.html)

### 5.9.1 Oversight and accreditation in the USA

Oversight of aged care federally and by states in the USA has been patchy and ineffective. There have been recurrent scandals exposing the repeated failures of the oversight system. The systems have been revised and beefed up on multiple occasions but have soon relapsed into ineffectiveness. Another congressional inquiry is currently initiating a new cycle of oversight and penalties.

- see "Oversight of Nursing Homes Is Criticized" New York Times April 22, 2007

There are many reasons for this. One of the most important is the nexus between powerful and wealthy businessmen and the politicians whose campaigns they fund. The officers undertaking oversight and prosecuting offenders are appointed and fired by politicians who are sympathetic to complaints made by the donors who have supported them.

Of more concern for Australia is the recurrent failures and the repeated revisions made by the Joint Commission for the Accreditation of Health Care Organisations (JCAHCO) and other accreditation agencies.

During the 1980s and 1990s hundreds if not thousands of children across the USA were needlessly incarcerated in psychiatric hospitals for long periods of time where they were mistreated and over-served. Texas was the state most affected and NME was the prime offender there. All of the many Texas hospitals owned by NME were uncritically accredited by the JCAHCO and at least one other accreditation agency. I am not aware of any of the other US hospitals involved in these practices failing accreditation but I have not specifically searched. I know that a psychiatric industry specific accreditation body had not penalised or even criticised any. The JCAHCO made much of the changes it made after this.

In the early 1990s Columbia/HCA obtained glowing reports from the JCAHCO and used these in its marketing. Other investigations and many reports indicate that it did not provide needed but unprofitable care, had reduced staffing levels and indulged in a number of unsavoury practices – as well as a US \$1.7 billion fraud. Representative Pete Stark attempted to pass legislation to limit the influence of corporations on the JCAHCO.

In spite of this two senior Tenet staff became senior members of the JCAHCO. During this period one Tenet hospital performed 769 unnecessary cardiac bypass procedures while regulators bickered about its failure to implement peer review, but did nothing about it. Medicare inspectors had also not acted when they had identified problems.

Large numbers of patients at another Tenet hospital doing cardiac procedures developed serious infections. Because of the costs the hospital had refused to do anything about the well documented problems in their theatres. A number of the cardiac patients died. The accreditation agency had

bickered but not acted. The severely disabled survivors were paid many millions when they sued but this did not give them back their health.

In a third Tenet hospital the chief of surgery resigned and complained to the JCAHCO when the hospital instructed the sterilisation unit not to inform the surgeons that the sterilisers were not functioning correctly. They would have cancelled surgery, compromising profits. The JCAHCO spoke to the hospital but did nothing more.

- **Whistleblower Wants Tenet to Come Clean** *The Street.Com* Jul 25, 2003
- **Untangling Tenet's Ties to Watchdog** *The Street.Com* Aug 7, 2003
- **Congressmen start bill to stop fraud in hospitals : RMC used as example of facility where federal oversight didn't work** <http://www.redding.com/> July 21, 2004
- **CHRONIC CONDITION The Waste in Medicare Spending: At California Hospital, Red Flags and an FBI Raid: State Regulators Cited Concerns but Say They Couldn't Force Change** *Washington Post* July 25, 2005

I recently saw a report indicating the JCAHCO was once again revising its processes.

In spite of these many failures the JCAHCO remains a highly credible organization internationally. Its practices are followed slavishly by others and it now accredits hospitals internationally. Performance and credibility seem to be disconnected.

Also see "Why Regulation Fails" at [http://corpmedinfo.com/regul\\_fails.html](http://corpmedinfo.com/regul_fails.html) and "Hospital Accreditation" at [http://corpmedinfo.com/hospital\\_accreditation.html](http://corpmedinfo.com/hospital_accreditation.html)

## 5.9.2 Accreditation in Australia

I am not aware of major problems in accreditation of hospitals in Australia. I suspect that this has more to do with the financial leverage exerted by doctors than with the process of accreditation. Doctors have identified with and supported the process. The accreditation process was not set up by or in cooperation with the marketplace.

The story in aged care is a very different one. Doctors have little influence. The accreditation process for aged care was set up in 1997 under the guidance of the small but vocal market sector that had close links with the coalition government. Government were already well aware of the recurrent failures in accreditation in the USA. I had personally sent politicians many reports during the early 1990s.

Not unexpectedly there have been recurrent failures and many press reports documenting these failures in Australia. Both the accreditation process and the complaints process have been strongly criticised. Once again there have been cycles of revisions. There have been unfounded claims about the success of the processes - notably that the exposure of the deficiencies in nursing homes show that the process is working.

Changes were made after the 2000 scandals and additional draconian measures were introduced after the rape scandals in 2006. Experience indicates that these will be no more than marginally effective but they will certainly be more burdensome for staff in nursing homes.

Instead of confronting the role of government policies and marketplace thinking the minister made much of his draconian processes and was soon out there energetically promoting marketplace processes and care – the real problem.

- For a detailed criticism see [http://corpmedinfo.com/nh\\_accreditation.html](http://corpmedinfo.com/nh_accreditation.html)



## 5.10 Politics and Ideology

Political ideologies pose a constant threat to democracy. The majority of severely dysfunctional regimes have succeeded only by subverting, or abolishing democratic processes.

A characteristic feature of any ideology is a total belief in its validity and this entails the abandonment of reflection and so of intellectual challenge. Initial success within its frames of understanding are justification for its universal validity. Intellectual activity is devoted to rationalisation and other closed minded strategies.

As a consequence critics or those with alternate points of view are seen to lack credibility, are labelled and side lined in favour of true believers who will do what is required. Democratic political and community processes that provide a venue for debate and criticism are not supported. Independent social structures that do not share the ideals are dismantled. Structures which will do whatever it takes to do what ideology dictates are set up. This is not a conscious effort to destroy democracy but a cultural process inherent in ideology. Participants strenuously deny its adverse impacts on democratic process.

Belief systems seldom include frameworks for their own criticism. Criticisms of the left are best made using concepts from the right. The right's deficiencies are best exposed from the left. The arrogant denigration and labelling of critics using terms such as "loony left" and the attack on academia in similar terms are symptoms of the ideological disease that pervades the Australian right.

It is significant that much of the criticism that is coming from the left is directed not against the policies of the right but against the erosion of the democratic structures of society that create a vehicle for criticism.

Ideological beliefs are by their very nature in conflict with much of the complex society which comprises the real world. Contortions, rationalisations and blatant untruths dressed in emotive clothing have been used to make these beliefs appear legitimate and all encompassing.

The arguments supporting beliefs are of necessity disconnected from the contexts where they are applied. In Australia, politics has reached a stage where politicians are no longer credible, are no longer believed and can no longer be trusted. The logical and factual contortions impact on credibility and integrity

The nature of the economic rationalist ideology itself has a profound effect on the political process and on society. It is dominated by economics and a belief in the universal applicability of a competitive marketplace. Politics has been turned into a market in which ideology is bundled with economic incentives and then sold.

Each party sells itself and its policies to the electorate by marketing their political products next to dishwasher liquids and other commodities. Advertisements rather than discussion determine electoral outcome. Those with enough money to market their beliefs and their inducements win elections. Taxpayers funds are diverted to marketing.

This is very costly and parties need finance from donors to do so. They are then beholden to those who donate. There is a revolving door between big business, the lobbyists they employ, and politicians. Together they form an elite whose credibility and legitimacy hangs on the effectiveness with which they market their view of the world.

In this climate personal ambition and political advancement have come to dominate the political reward system. The satisfaction which comes from living out values through serving the community comes a poor second to party loyalty and personal advancement.

Signed: \_\_\_\_\_

J Michael Wynne