




Regulating markets in eldercare: do we know what works?

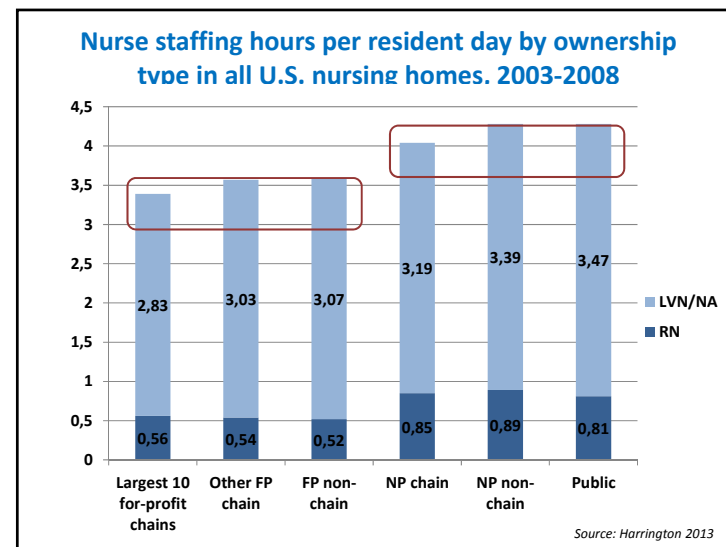
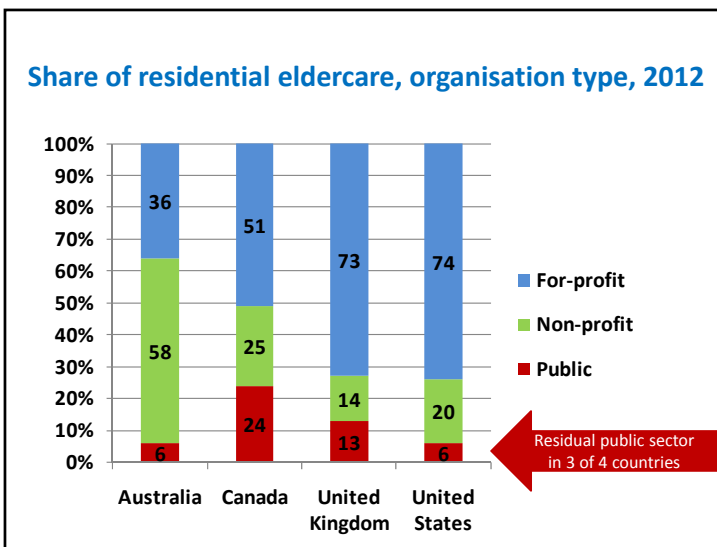
Critical lessons from the Anglo-Saxon world

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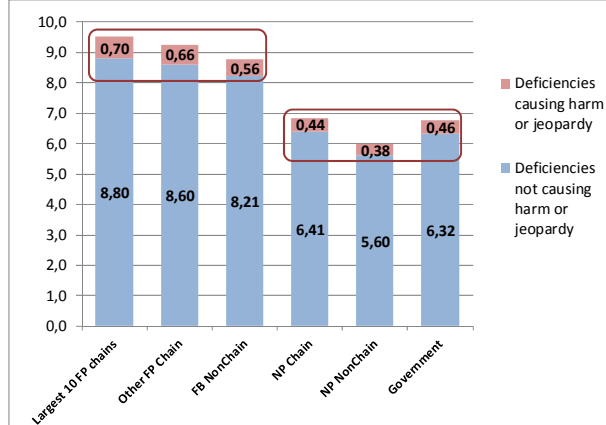
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Outline

- Marketised services in liberal welfare states
- Regulating quality in marketised service systems: predictable problems
- Responding to predictable problems: ideas from regulatory theory
- Can a perfect monitoring system be built?



Deficiencies (violations of regulations) and deficiencies that caused harm or jeopardy by ownership type in all U.S. nursing homes, 2003-2008



Regulation as response to marketisation

- 'Freer markets, more rules' (Vogel 1996)
- Increase in rules → 'regulatory trap' (Braithwaite et al. 2007)
 - Growth of monitoring against fixed standards
 - Ritualism in monitoring and compliance
 - Provider capture
 - Perverse consequences
 - Favours large organisations
 - Increasing rules *increases* inconsistency
 - Focus on things that are easily measured, but may not capture what is important
 - Documentation and compliance demands can reduce the quality of care
 - Regulatory systems are costly -- and typically under-resourced.

Professionalism: a forgotten dimension

- Research shows that:
 - the benefits of professionalism *cannot* be replaced by protocols, detailed rules and IT
 - the benefits of professionalism can be *damaged* by protocols, detailed rules and IT
 - *dialogue* is essential to making judgments about quality, and to gaining compliance with quality standards

Ideas from regulatory theory (1)

Enabling (more) effective regulation requires:

- *Resources* – for good quality care and for effective regulation
- *Training* – for care workers, service managers and business managers, and inspectors
- *Regulatory tools*
- *Recognition of and response to* the specific risks engendered by the organization and regulation of service supply
 - *Eg. In organization* – profit-seeking by private providers
 - *Eg. In regulation* – ritualistic compliance

Ideas from regulatory theory (2)

- *Regulatory tools* – including:
 - measures that are not too *many*, not too *narrow*, not too *specific*, and related to what matters in care (user-centred)
 - monitoring should include both standards-based and discipline/expertise based practices (Hagber et al. 2013)
 - focus on quality *improvement* (raising the ceiling), not just preventing serious problems (maintaining the floor)
 - backed up by real, escalating, enforceable sanctions for non-compliance

BUT ... regulation cannot solve all problems

All social service systems:

- are created by political decisions
- involve struggles over power and resources

This helps explain why:

- elder care and its regulation are different in different countries
- why social services cannot be fully steered by administrative technologies such as quality systems: market failure cannot be avoided.

Thus: analysis of regulatory strengths and weaknesses needs to examine how particular social service markets distribute power between the state, consumers and producers (Gingrich 2011).

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