



POLICY CORPS

analysis | advocacy | action

Follow us on: [f](#) [@](#) [in](#) [t](#)

[Home](#) [About](#) [Submission Guideline](#)

[All Posts](#) [COVID-19](#) [Field Voices](#) [Essays](#)



Policy Corps Jun 11 7 min read

[Share Post](#)

Pandemic and Beyond: Regulating private healthcare

by Shweta Marathe



Image courtesy: Pixabay

A few days back Maharashtra government issued 'show cause' notices to four hospitals in Mumbai for non-compliance of state directives related to the treatment of COVID-19 and allegedly refusal of beds for patients.

Let's Chat!

Reports of how private hospitals are [overcharging](#) for treatments, denying care to COVID-19 patients, and how public hospitals are short of beds continue to come despite government's recent orders requisitioning private hospitals for treatment of positive patients. This indicates that the situation does not seem to have changed much for patients in spite of state measures. It is a matter of concern about the private hospitals, that when they are expected to follow their public health obligations, many have continued their reluctance in providing care. Many private hospitals have been observed to be operating on their own terms before and after the issue of state orders. Especially, corporate hospitals and diagnostic chains who have been behind profit maximisation by [charging](#) exorbitantly for treatment and tests.

Until now in India, the weak public health system has borne most of the burden of pandemic while the private sector which has grown significantly during the last three decades with corporate investments and accounting for 70% of healthcare provisioning seems to have maintained a low profile. [Data](#) shows that private hospitals, which account for two-thirds of hospital beds, almost 80% of available ventilators, and has employed 90% of medical doctors, are handling less than 10% of this critical load.

Table 1. Healthcare resources in Maharashtra (estimates)

| Facilities | Public | Private | Total |
|-------------|--------|---------|--------|
| Hospitals | 711 | 2492 | 3203 |
| ICU beds | 2572 | 9015 | 11,587 |
| Ventilators | 1286 | 4507 | 5793 |

Source: CDDEP

An unprecedented crisis and unprecedented state measures

The COVID-19 pandemic control measures and the provision of necessary healthcare services to people have emerged as an urgent obligations of the state, which resulted in various states taking truly unprecedented and positive steps.

Recognising the limited capacities of the public health system and as a response to a large number of patient's grievances about private hospitals, several Indian states have taken unconventional steps towards enforcing public obligations of private healthcare providers, which are beyond existing forms of engagement, mostly through publicly funded health insurance programs. While most other states have taken up private hospitals as designated COVID-19 treatment centres, in response to complaints of hospitals overcharging for COVID-19 tests and treatment, Maharashtra government has capped the rates of 80% beds from private hospitals for over [170 procedures](#), based on charges agreed upon with insurance companies under Mahatma Phule Jivandayi Arogya Yojana (MPJAY). Maharashtra has also declared that 100% of its population would now be [covered](#) by MPJAY, the state health insurance scheme, for free COVID-19 treatment and other [996 procedures](#).

While these pandemic-specific directives by the state are certainly welcome, patient's hardship to seek healthcare during pandemic continues unabated. This raises a question about the implementation of these critical decisions. Further, these exceptional measures are being positively perceived as a huge potential for the state to reclaim its shrinking role in health governance, accountability, and effectively steer the private sector in health.

Regulation: Looking ahead

In light of this, the following points suggesting short and mid-term actions need to be considered which are pertaining to the effective implementation of state directives and raising demand for regulated engagement of private providers.

Let's Chat!

Creating wide awareness among people about state measures: It may be worth noting here that the directive of regulating rates of 80% bed from private hospitals was issued on 21st May and is valid until 31st August while the decision of MPJAY was issued on 23rd and is valid until 31st July. These orders are active only for a short period of around 2-3 months. Already 3-4 weeks have passed. However, there seems to be confusion and lack of proper information among people about these state orders; whether rate regulation is applicable only for COVID-19 treatment or other procedures or if it applies to only charitable hospitals or for all types of private hospitals? or whether free care under MPJAY is available in charitable hospitals or all hospitals with MPJAY? Hospitals also have difficulty in understanding whether all treatments for everyone are covered under MPJAY or whether it is restricted only for COVID-19. Surprisingly, there is no mention of these orders either on the MPJAY site or COVID-19 dashboard of Maharashtra state. It is necessary that these orders are widely disseminated among the people using social media or other communication channels. Also, a region-wise list of hospitals under these orders should be made available so that people can avail healthcare without facing any more issues in seeking healthcare during the pandemic. On a positive note, Pune division has developed hospital wise bed availability [dashboard](#) for Pune, Sangli, Kolhapur, Satara, and Solapur, including data on hospital wise availability of free regulated beds, beds allocated for COVID-19. Such dashboard should be developed for remaining cities and districts too.

Monitoring the compliance of hospitals to state orders and guiding patients: Along with issuing directives for private providers, it is necessary to set up a monitoring mechanism to oversee if private hospitals are complying with state orders and patients are getting health services accordingly. In Mumbai, the government immediately issued show-cause notices to four hospitals for their non-compliance to state orders, however, there should be a state wide monitoring mechanism. Additionally, considering the continuing flow of patients' grievances ranging from overcharging, denial of care, health staff not attending them to shortage of beds, it is necessary to set up a patients' cell or helpline for guiding them while also seeking their feedback and addressing grievances regarding health services. In daily reports on COVID-19, while the state is declaring the number of tests done in public and private laboratories, these reports never included data on the number of patients treated and admitted in public and private hospitals. With the implementation of state directives, state should make this data public which would enable us to understand the level of response of private hospitals to the state measures.

Charitable trust hospitals and government health insurance schemes need to be at the forefront in COVID-19 care: Charitable hospitals are expected to play a major role during pandemic after public hospitals. However, barring some notable exceptions, recent news indicates this does not seem to be happening much. It may be noted here that, all four hospitals which were issued show-cause notices for non-compliance happened to be big charitable hospitals from Mumbai. [There are around 444 trust hospitals across the state, of which nearly 35% were in Mumbai \(76\), Pune \(57\), and Thane \(20\).](#) In fact, in retrospect, appropriate pulling of bed capacity from charitable hospitals right from March 2020 (when cases started increasing) would have significantly lessened the burden on public hospitals. However, now for effective implementation of state orders, it needs to be ensured that charitable hospitals fully comply with these norms.

Next to this are publicly funded health insurance schemes, most of which are implemented with major involvement of the private sector. Hospitals empanelled under such schemes are also supposed to be contributing majorly during COVID-19 pandemic. At the national level, [data](#) by National Health Authority reveals the number of claims under Pradhan Mantri Jan Arogya Yojana (PMJAY) for Severe Acute Respiratory Infection (SARI) and influenza-like illness has reduced significantly in April 2020, which is despite the ministry to accommodate treatment for COVID-19 under existing pack

Let's Chat!

respiratory failure, and other conditions. Hopefully, in Maharashtra, this would not be the case and state directive will be fully followed by private hospitals with MPJAY, with having wide awareness and proper monitoring mechanisms in place.

Regulation of the private sector beyond pandemic: Effective regulation of the dominant private healthcare sector has remained a long-pending agenda in India due to a variety of factors. However, the unconventional steps taken by government regarding mandatory engagement of private sector, perceived to have opened the way for developing an effective and regulated engagement of private healthcare within the health system.

1. Enactment of Clinical Establishment Act (CEA)- The Act was passed by the central government in 2010 to regulate both the public and private clinical establishments with certain positive features such as the publication of standard treatment guidelines, mandatory display of rates for services, and the standardisation of rates. But it is waiting for enactment in many states including in Maharashtra. It has been stuck due to resistance from medical professionals, private providers, and weak political will of the government. So far, legal arguments based on 'freedom of business' has been used to resist regulation. But during the exceptional situation of the pandemic public interest and social obligation for provision of healthcare have become paramount and resistance of private sector has been muted. Taking this forward, now it is necessary to bring CEA back on agenda once again and state which was has been reluctant so far, must ensure its enactment as soon as possible.
2. Rate regulation of private providers beyond the pandemic- While some standardisation of rates has been achieved for a section of private sector through health insurance schemes, their involvement in the schemes is strictly dependent on financial engagement. Besides this, the universal standardisation of rates in private sector has never been pushed beyond a point. Provision for rate standardisation in CEA has always met stiff resistance from representatives of medical associations. However, as mentioned above, the state directive of capping the rates for COVID 19 treatment did not face any opposition from the medical fraternity. Taking this further, it is time to bring this to the fore in the public discourse and drive for private sector regulation beyond the pandemic. To start with, state should definitely consider regulating rates of the 80% beds from charitable trust hospitals, in view of the large concessions they are being given by the state.

Popular demand for implementation of patients' rights charter: In the last few years, demand for regulation of private healthcare sector and adoption of patients' rights charter has been raised persistently of certain civil society networks, health activists, and professionals. Patients' rights charter has been adopted by the National Human Rights Commission (NHRC); but it is awaiting Health Ministry approval. Now it's high time that this demand comes from masses. Given the ineffective grievance redressal process in India (ibid), enactment of patients' rights is of critical importance. It could provide a legal base for seeking the justice in case of violation of patients' rights. With large number of cases of denial and violation of patient rights during the period of pandemic, hopefully, people would realise the need for demanding the patients' rights charter more strikingly.

These are few points focusing on the implementation of state directives and some mid-term actions linked with it. It is well understood that state governments have invoked pandemic diseases act among others to make the mandatory engagement of private sector possible and this is done in a totally exceptional situation. However, in the view of much-needed regulation of the private sector, it is necessary to build on the current developments and implement legally institutionalised measures for the effective engagement of private sector.

Ms. Shweta Marathe works with SATHI as a health systems researcher. The views expressed in the article are author's personal views.



COVID-19

499 views 1 comment

12

Recent Posts

See All

Digital health in the era of pandemics: A possible gam...

361 Write a comment 8

Covid-19, beyond data: A saga of resilience and the...

656 6 29

"Between lockdowns and relaxations": Time for an...

1,249 1 21

[Log in](#) to leave a comment.

krishnan.athirahere Jun 12

Its a relevant writeup at this point where the number of cases are increasing exponentially. Without handholding with the private health sector, the public health sector may crash even though this wouldnt be evident from an insider perspective. Our State (Kerala) had a futuristic thinking on this and had constituted a committee itself for private sector engagement. Since then the private sector were involved in discussions with healthy output. The public sector approach to them as well as the private sector compliance to the emergency situation is a unity which stands apart.

5



©2020 by POLICY CORPS

Let's Chat!