

COMMERCIALIZATION AS AN APPROPRIATE APPROACH TO THE PROCESS OF RESTRUCTURING HOSPITALS IN POLAND

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Abstract

While Polish health system has been suffering from underfunding for over 20 years, Polish hospitals have faced chronic debt. The situation indicates that necessary action must be taken to transform the hospitals in terms of financial and organizational issues. Current law and organizational structure of Polish hospitals have many flaws and are not coherent with the turbulent environment in which the hospitals operate. Moreover, managers running hospitals under the structure of SPZOZ, do not have any incentive to enhance the functioning of their hospitals, and this contributes to poor managing of the companies. What is more, managers do not have clear information which management structure they should choose to be able to normalize the situation in the hospitals as they are attacked by two extreme groups having different remedies for the hospitals' problems.

Keywords: *transformation of hospitals, commercialization, health care, management, Polish hospitals, capital companies.*

1. Introduction

Niall Ferguson, one of the most brilliant contemporary intellectuals, in his recent book entitled "The West and the Rest", identifies six factors that have given advantage for the West over other civilizations and cultures: private competition, dynamic development of science, private ownership, consumption, work ethics and medicine (Ferguson, 2013). There is no doubt that Poland, after the collapse of Soviet regime in 1989, faced a very difficult task to begin and develop the relative advantages mentioned above. Undoubtedly, the introduction of free market rules in Poland has had significant influence on every area of Poles' lives. Ownership transformation, related to the collapse of the state monopoly, has influenced the intensification of private activities

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that launched the competition. This process has allowed Poland to increase the number of new technologies necessary for dynamic growth. The development of free market rules has prompted the growth of new areas of science and fostered significant improvement of the existing ones. Moreover, a new term - work ethics, virtually unknown before 1989, now appears in a dictionary of every company. After the era of socialism, Poland has followed the global trends that developed countries represent. In Poland, the mentality of people has been changed towards consumerism society which is connected with natural transition of every economy from industrial to postindustrial economy. According to Philip Kotler's definition (Kotler, Bowen, Makens, 2009), the postindustrial society in addition to having access to food, accommodation, basic utility services and access to a minimum level of education, is characterized by the need of broad and unfettered access to health care.

Health is the dearest value to a man. Health was the cause of creating the phenomena of Welfare State in the II Reich (Deutsche Reich). Social insurance programs, introduced in 1880 were the first in the world and have become an example for other countries to organize a public help as foundation of creating a modern Welfare State (Palmera, 2012). Otto von Bismarck, Chancellor of the Reich, introduced then pension, accident insurance, medical care and unemployment insurance. These steps changed definitely the perception of health in Europe. Individual approach was replaced by a collectivist attitude, which entrusts health protection to the state. Poland is not an exception and also there the case of health care was left to public institutions which led us eventually to disposing the idea of fraternal societies so widely popular in XIX century in Great Britain. The phenomena of Welfare state dismissed the notion of generating smaller communities focusing on specific industries guilds on the principle of mutual help. Having expanded successively the Bismarck's idea, societies in Europe have created a number of new institutions in different spheres of life, including health issues.

It is well known that depending on the quality of the institutions, people feel safe and satisfied with medical services or not. The most important institution which is responsible for caring about health of the society and is the closest to a patient is hospital. People express their opinions about health care system basically judging the quality of medical services that hospitals provide. According to a survey conducted by TNS Polska (<http://www.stefczyk.info/wiadomosci/gospodarka/coraz-wiecej-polakow-zle-ocenia-sluzbezdrowia>, access: 7.03.2014) at the beginning of 2014, almost 4 out of 5 respondents (79%) are not satisfied with the current health care system in Poland. Only 18% of respondents evaluate the system positively and meager 1% of the surveyed are very satisfied with the health services in Poland. Unfortunately, the case of Polish health system and hospitals are still issues that are not solved. That

indicates that despite the fact that many free market rules have been developed in Poland since 1989, medical care is a neglected topic in the political debate in Poland.

Nowadays, a big discussion is being undertaken in Poland. Its focus is: whether Polish hospitals should be commercialized or they should stay under the ownership construction of SPZOZ (independent public health care company). However, in the very important discussion on the creation of health care system, many misunderstandings are visible. The purpose of the article is primarily to indicate to the authorities of Polish provinces, managers of hospitals, politicians and people who are interested in the subject that necessary steps in terms of transformation of Polish hospitals have to be taken, since such institutions as SPZOZ do not function properly. They would be more effective if they functioned as capital companies.

The aim of this article is to demonstrate that transformation of SPZOZ to a capital company is an appropriate approach that managers should follow. This is a solution proposed by the Ministry of Health and after the changes in law in 2009 it is a normalized process, adapted to hospitals' needs. In the article many misunderstandings related to commercialization of hospitals are explained and clear advantages of commercialization are revealed to help managers choose a necessary path for overall restructuring. The article presents a commercialization process as the first and necessary step of Polish hospitals' restructuring.

2. Development of the health sector in Poland

In the last decades, in developed countries a fast development of health care sector can be observed. In many cases the dynamics of the growth is still faster than the dynamics of GDP growth. In Poland in the years 2000-2010, annual expenditures on health care have grown on average by 6.4% a year. Taking into consideration the list of countries included in the OECD survey, it was a remarkable result for Poland, which was beaten only by Slovakia, South Korea, Chile, Turkey and Ireland, which is indicated in Figure 1.

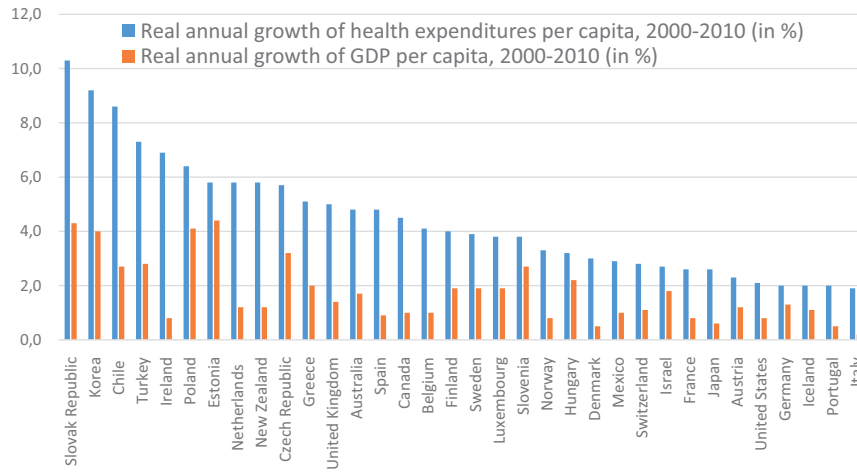


Figure 1. The growth of health expenditure compared to GDP growth (per capita) in 2000-2010

Source: own elaboration based on OECD Health Statistics (2014) and World Bank Indicators (2014).

In all countries represented in Figure 1, expenditures on health system grow faster than GDP per capita which is the consequence of the fact that medical care has the features of a luxury good (elasticity above 1), meaning that spending on medical services grows faster than revenues (Skorupska, 2012, p. 16).

The amount of expenditures that is transferred to health system depends heavily on the development level of a particular country, which is measured by its GDP. However how the system would be financed in terms of private or public sources depends on social policy run by a government. Figure 2 presents the level of public and private expenditures on health (in USD and according to PPP) in 2010.

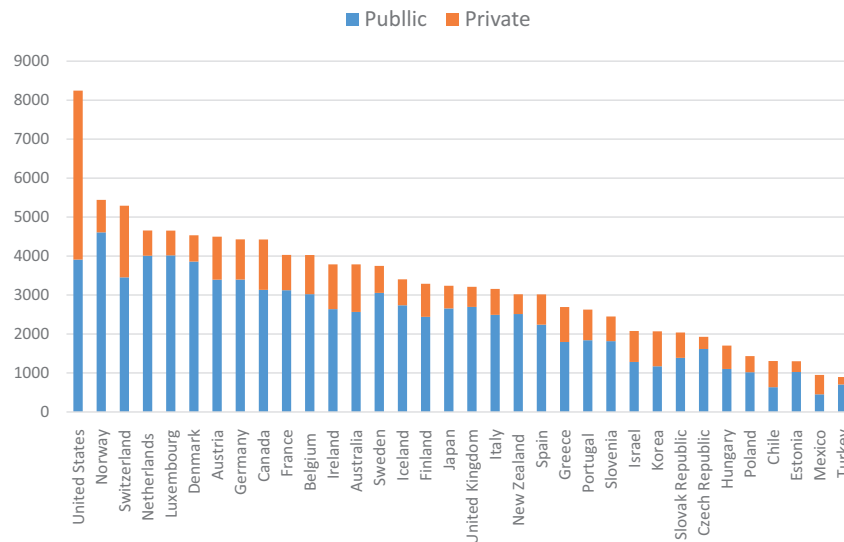


Figure 2. Public and private expenditure per capita for medical services in selected countries in 2010 in USD using purchasing power parity

Source: own elaboration based on OECD Health Statistics (2014) and World Bank Indicators (2014).

The lower level of expenditures on health care in Poland in comparison to its GDP and other countries, together with coexisting dynamic growth of the spending, indicates a big development potential of health care in Poland. Despite its intensive development, Polish health care system, whose dynamic growth is significantly faster than average growth among OECD countries, is not well-organized and its most important institutions - hospitals, still suffer from lack of organized structures and huge financial debt.

3. Problems of Polish hospitals

The lack of effectiveness of Polish hospitals is indicated by many experts as the biggest problem of Polish health system. Hospitals, due to their size, nature and scope of current activities, generate massive liabilities which generally exceed the funds which the hospitals obtain from NFZ (National Health System). The situation leads to the creation of huge debts for hospitals. The chronic problem of Polish hospitals is revealed by the fact that despite many attempts of debt reduction financed by the Ministry of Health (which according to the Ministry cost approximately 20 billion PLN so far), the situation has not improved. Even though the hospitals received the financial help, it was often not connected with overall restructuring of their functioning, and in the

long run the problem with the finance appeared again. Polish hospitals have suffered from financial debt for many years and according to the Ministry of Health data in the second quarter of 2014 the value of total liabilities reached PLN 10 030.3 million (Ministry of Finance, 2014). The disastrous financial situation often forces directors of the hospitals to incorporate drastic savings and even close entire medical departments.

Besides financial problems, managers and owners of hospitals have to act in the turbulent political environment, which is populated by people with contradictory views on health care structure, some opt for liberalism, others for socialism. The problem makes the managers confused - they do not know what steps they should take to solve the upcoming and current problems. Thomas Sowell is an American economist, associated with the Austrian school of economics, who a quarter century ago pointed at a very interesting phenomenon (Balcerowicz, 2012). As he discovered, it often happens that in various disputes nowadays, the same people could be found on the opposite sides of particular disputes. These disputes are on a variety of issues including political, economic, cultural, social, military and health issues. Following the observation of Sowell and public debate on the health care system in Poland, it is hard to disagree with Sowell's observation. During the reform of the health system in 1999, people representing a conservative wing objected to the idea of giving hospitals the status of independent institutions under the power of provinces, which was supposed to be the step taken into the direction of introducing a competition between hospitals (sic!). The same people placed themselves on the same side of a dispute during the next reform of health system in 2003 which involved the introduction of one payer to the system - NFZ instead of healthcare funds (kasy chorych). This step was also attacked by conservatives, who criticized the decision as a step towards implementing free market dogmas in the health system. Because of these numerous disputes, many health reforms were not completed properly. This is a fact but it cannot be an excuse for authorities that bear responsibility for the current turbulent situation in the health care system in Poland. In addition, many populists afraid of free market, development and changes are in opposition to organizational changes of the hospital system proposed by the Ministry of Health. The so-called 'Plan B' enables hospitals in Poland to transform directly their organizational structure from SPZOZ to one of the forms of capital company: limited liability company or joint-stock company. The group of people who were opposing the two previous reforms in 1999 and 2003 are also in opposition now. When the situation of hospitals in Poland needs urgent changes, they rise theses which are not empirically proven (for example that automatically, after commercialization, hospitals would become

privatized) which destabilizes the process of transformation of hospital and misinforms managers about which path they should take to run the hospitals.

The system under which hospitals operate (which is based on contracts with one payer - NFZ) forced a strong competition among them and revealed a need for effective management of the limited financial resources. Nowadays, hospitals have to adapt to the new situation; functioning in the free market environment instead of the system based on public transfers. At the system level as well as in the sphere of realities of law in Poland, the optimal solution to introduce normality of functioning of hospitals and adapt to the changes appearing in micro and macro environment is to transform hospitals in the light of 'Act on Medical Activity' (*Ustawa o działalności leczniczej*) from 2011. In the wake of the Act from August 30, 1996 the process of transforming hospitals can be called commercialization and because of accepting in 2011 a program called 'Support of local government units in action to stabilize the health system' ('Plan B') by The Council of Ministers, for the first time, the process of organizational and legal changes in hospitals can be called 'transformation' (before 2011 the hospitals, which opted to be a capital company, first had to declare bankruptcy and then they could create the new structure). The transformation process was run by the majority of primary health care institutions in Poland (usually they were also privatized) but the vast majority of hospitals still acts as SPZOZ - an old fashioned construction, which does not allow hospitals for effective reorganization and effective functioning.

4. The meaning of Polish hospitals' commercialization

Understanding the concept of commercialization seems to be a key factor in Polish reality in order to understand correctly the process of transforming one company into a capital company. The term 'commercialization of hospitals' has negative connotation among the Poles after the social regime experience. First, commercialization in Poland is identified with privatization which causes strong social resistance and the wording itself is used as a component of political war. The social fear of commercialization enhances dark vision of long queues for free treatments, different quality of medical services for patients and payable hospital services. These concerns are at least exaggerated, which is clearly indicated by an example of non-public hospitals (NZOZ) that offer medical services faster than the public ones where patients have to wait for a particular examination for many months. The social dislike of the term 'commercialization' can be compared to the fear of the Poles of the term 'liberalism' or free market in the 90s. At the time when the government noticed that the market transformation paralyzed many Polish brains, they

used other words as synonyms for 'free market', for example 'western-type economy'. The similar situation can be seen nowadays when the government instead of using the term 'commercialization' uses a word 'transformation' to make the process acceptable by the Poles.

Opponents of commercialization indicate that the process is equal to privatization, which means that the patients would eventually have to pay for medical services and owners of the hospitals would only look at the financial statement and not at the well being of patients, or alternatively they will promptly transform the hospitals into plastic surgery entities. In this article, the author clearly emphasizes that these fears are not justified in the light of the concept of creation of commercialized companies presented in the act from August 30, 1996. There is a clear distinction between privatization and commercialization and these two terms cannot be treated as synonyms. Commercialization in opposition to privatization does not mean changes in the ownership structure but changes in law and organizational structure of hospitals which are subject to the changes. Therefore the process of commercialization of hospitals should be interpreted as transformation leading to changes in the structure of SPZOZ into capital companies. It is necessary to point out that according to Act on Medical Activity (ustawa o działalności leczniczej) a public authority retains full control over the new medical company created by the transformation of a hospital (Dercz and Rek, 2012). It means that public authorities still own 100% of shares and the ownership structure is not changed. The rules of law do not contain legal constraints which prevent hospitals from further possible privatization by selling some or all shares of a company by the local authority. Some restriction concerning forbidding privatization of hospitals is imposed only on clinical hospitals and is included in art. 6 paragraph 7 of Act on Medical Activities, according to which the value of shares belonging to clinical hospitals cannot be less than 51% of share capital of a commercialized hospital. It should be noted that rules of law indicate only the possibility of transforming SPZOZ into a capital company: limited liability or joint stock company. Therefore there is no possibility to transform hospitals into limited partnership. The ability to transform SPZOZs to a limited partnership or limited joint-stock company might begin the creation of a net of commercialized and connected hospitals - such model exists among trade networks¹. However the most important clarification is that one cannot mislead commercialization with privatization as commercialization of hospitals should be interpreted

¹ Shopping networks coordinated by an organizer, necessary for the functioning of hospitals, would allow managers of hospitals to receive better condition of contracts with suppliers. Concentrated network management in the hands of a single entity should also lead to formulation of a joint strategy for the entire network and taking steps to rebuild the structure in order to increase efficiency of functioning both the whole network and the individual hospitals. For example the network can include a combination of weaker companies connected with stronger ones in order to accumulate their resources and create multi-hospitals as institutions able to provide a wide range of medical services (Horosz, 2013, p. 67).

as transformation leading to changes in the structure of SPZOZ into capital companies but not ownership changes. The commercialization of hospitals is an appropriate approach of local authorities and they should notice the new chances for hospitals after the process as well as realize that the old fashioned structure of SPZOZ does not allow hospital to develop and adapt to turbulent environment.

5. SPZOZ as a legal form that does not provide incentives for efficient operation of hospitals

An incentive for every change in a company is always the prospect of achieving better revenue, better effectiveness (Patena, 2011). It seems to be truism but when it comes to Polish SPZOZs it is not so obvious. Not only do the hospitals not observe environment, they do not introduce innovations and organizational changes which could improve their functioning, either. What is the worst, they seem to be indifferent with regard to significant negative financial results that in long term can lead the hospitals to bankruptcy. This irresponsible approach has its origin in the lack of real monitoring body which cares about financial issues of a hospital. The problem also appears when it comes to formulating economic goals of a hospital and responsibility for negative financial results which is a strong premise for commercialization of hospitals.

The monitoring of hospitals by local authorities, which are owners of hospitals and SPZOZs is based on three pillars (Horosz, 2012):

- 1) The first obligation is to present an annual financial statement by the director of SPZOZ to the local authority. The statement is presented annually or under special conditions more often at sessions of the appropriate council. What is worth emphasizing, authorities have no power to give any specific instructions to managers, which causes that the whole process of presenting the financial statements is useless and can be called a courtesy speech instead of being the discussion based on merits and analysis with the solutions for the future. Legislators, having created the structure of SPZOZ, did not include an obligation to accept the financial statement or sanction for managers in the case of rejection of the statement. This construction causes that both managers and owners of hospitals do not take the responsibility for positive result of the institutions as the main incentive does not exist and they are typically satisfied with *status quo*.
- 2) The second pillar, which is statutory responsibility for monitoring how hospitals function, is providing local authorities with the possibility of supervising SPZOZs. According to this possibility, the owner has an obligation to control the hospitals at least once a year. It may be done as a general control or supervision of only one department. If

the control reveals some irregularities, the authorities may inform relevant financial and law institutions about them. As practice shows, these institutions exhibit an unacceptable indulgence during the control. They claim by default that the system of health care in Poland is not perfect and hospitals are not prepared to avoid debt. That irresponsible thinking has led to a significant mismanagement of hospitals that causes multimillion debt in the whole system.

- 3) The third body of monitoring SPZOZs is called social council. The role of the body, contrary to boards of directors of commercial companies, is limited to an advisory body. It is formed and dismissed by the local authorities whose members at the same time are often the part of the body. Social Council has only some consultative power (for example they may express an opinion, accept donations, etc.) and has no tools to make or force changes in SPZOZ. During the presentation of a financial statement, the body gives opinions but cannot approve or disapprove the statement given by a manager. As in the case of the first pillar, the lack of pressure instruments makes that in practice presentation of the financial statement is totally inefficient.

Two acts of law (45b-cm 50 and 60) of Act of ZOZ indicate that hospitals and their managers are responsible for covering costs and liabilities and they have to manage the companies with accordance to the Act of Public Finance. Both acts do not regulate the rules of supervision of hospitals, or real control over planning and executing of a budget. The rules do not indicate who has the power to accept an annual financial statement and it is not written what consequences the managers whose hospitals have negative financial results face. Moreover, it can be read in the acts that whatever the financial result is it does not influence the future funding of the hospitals. According to the legal assumption that local authorities take over the debt of the hospitals, therefore one can say that legislators have allowed managers to grow debt and avoid any consequences. The role of external bodies (local authorities) can be interpreted as the role that is marginalized as the bodies cannot really control the functioning of hospitals or care about their effectiveness. As a result, SPZOZ is deficient, legal creation and in number of scientific research it is called 'legal and formal hybrid' (Perechuda and Kowalewski, 2008). Only commercialization can cause permanent elimination of the dysfunctions, because the first priority should be to provide the directors of hospitals with the responsibility for making decision. It is hard to imagine an effective management system without these components.

6. Advantages of commercialization of hospitals

The system solution that eliminates most of the barriers identified in the SPZOOZ structure, is the transformation of hospitals into capital companies. It can positively influence the management, and provide access to a range of financial instruments to be of use to hospitals. Understanding the basics benefits of this structure of hospitals is a core element of implementation of overall restructuring of hospitals, commercialization of which is a necessary component.

Table 1. The differences between how hospitals function as SPZOOZ and as capital companies

SPZOOZ	Capital company
Management in hospitals	
Political responsibility, unclear responsibility of management board and owners	Procedures set out in the Code of Commercial Companies, the Board is responsible for the management of property and financial liabilities
Many decisions need a formal approval by local authorities	More freedom and flexibility in a process of decision making
Long-term process of generating of decisions (managers of a hospital and local government, committee of the council, the county council)	The Board makes decisions independently and it is responsible for them
Lack of responsibility for debt and making bad decision in terms of a hospital functioning which is not appropriate for creation of a sound health system	Legal responsibility for debt and making bad decisions
Owner supervision	
Social council - advisory body, participation of representatives who do not take responsibility for the results of a hospital	The Supervisory Board- the main body with legal responsibility. Representatives are collected by substantive approach, legal responsibility
Politicized supervision	Professionalized supervision whose rules are set in the Code of Commercial Companies
The Board and council of local authorities with political responsibility	Meeting of shareholders- body of owners with legal responsibility
Director responsibility	
Political evaluation of functioning	Merit based evaluation from the point of view of assumptions and results
Generally formulated in The Act of ZOOZ	Regulated in details by the Code of Commercial Companies

SPZOZ	Capital company
Lack of procedures in terms of financial statement. Rejection of the statement is not equivalent to a director dismissal. Lack of financial instruments to make plans and implementations of necessary steps	Annual statement presented at a meeting and evaluated by board of directors and accepted or rejected by shareholders at a shareholders meeting. Rejection of the statement is equivalent to dismissal of managers
Political responsibility and responsibility in front of commission of public finance discipline	Legal responsibility whose rules are regulated in the Code of Commercial Companies
Finance	
The negative financial result is covered by local authorities	The negative financial result may lead to bankruptcy
Lack of responsibility of director for their decision	Legal responsibility for directors taking decisions
A hospital cannot be liquidated in case of negative financial result	Liabilities exceeding initial capital automatically start bankruptcy procedures
Financial management is carried out on the basis of general rules	Financial management principles and financial statements structure is determined in the Code of Commercial Companies
Employees	
Wage regulations depend on the rules of law and ministerial orders which are not related to efficiency criterion	Transparent wage regulations based on the Code of Labor, wages depend on results
The statutory requirement of consulting a structure of employees with representatives of labor union and the necessity of receiving approval from local authorities for every change on important position	The criterion of the effectiveness of management
Creating a contest for hiring every head of department of a hospitals run in the light of rules of law determined in the Act on ZOZ- social trust is the dominant criterion	Hiring does require a contest - the dominant criterion is efficiency
External financial sources	
Difficulties with clear evaluation of financial statement which causes a problem with access to bank loan, credit	Access to all financial instruments. Evaluation of reliability and effective functioning based on standard procedures
Access to some financial sources of European Union and European Economic Area	Unlimited access to external financial sources and resources of European Union

Source: own study based on advantages of commercialization presented by Kachniarz (2008).

7. Conclusion

Thanks to the Act of August 1, 2011, hospitals in Poland received the possibility to transform their structure from old-fashioned SPZOZs to capital companies. Commercialized companies can be managed as businesses under much more stable organizational structure without many misunderstandings associated with SPZOZs. Moreover, the transformation helps hospitals adapt to the turbulent environment they operate within and normalize their internal organizational structure. The question arises whether the transformation is a panacea for all problems of Polish hospitals. It should be clearly pointed out that there is no single solution to solving the problems, but commercialization should be treated as the first step of shifting hospitals to the path of sustainable development. However, the success of the whole restructuring depends on overall approach, which has to be taken by all the sides involved in the process. There is no doubt that qualified management board is crucial in the restructuring process. The managers have to be able to manage a dualistic nature of commercialized hospitals: both as companies offering public medical services and companies acting under roles of free market. That situation requires extraordinary skills and great resilience from the managers. However, the commercialization of hospitals in Poland is a must as it is hard to imagine implications of management, financial, organizational and mentality changes and at the same time keeping SPZOZ structure. Responsible managers of hospitals, seeing all the constraints of SPZOZ, should decide to go for commercialization to secure short and long-term development of their hospitals.

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