

*Final version of this article published in A Global Village, 13 (2015).*

[http://aglobalvillage.org/journal/online/medical-tourism-in-the-tropics\\_krystyna-adams/](http://aglobalvillage.org/journal/online/medical-tourism-in-the-tropics_krystyna-adams/)

## Medical Tourism in the Tropics: New Regulation is Needed to Tackle Equity and Quality Concerns in Barbados

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Medical tourism is on the rise as many patients travel overseas to seek private medical care that is either more expensive, unavailable or requires long waiting periods in their home country. Barbados, a small Caribbean island actively planning for medical tourism industry development, faces common challenges affecting destination countries such as degraded local access to healthcare, and possible brain drain of domestic medical workers. To address such concerns, the government must navigate both legal and ethical obstacles to develop effective regulatory mechanisms for their emerging medical tourism sector.

*Medical tourism* refers to biomedical services that are promoted to foreign patients as a means of saving money, avoiding waiting lists, and/or accessing treatments that are unapproved or otherwise unavailable domestically.<sup>1</sup> The increasing privatization of health care and globalizing processes such as trade liberalization have enabled this industry to operate and grow, with corporations developing chains of medical facilities and other manufacturing and service activities that compliment medical tourism practices.<sup>2</sup> For example, in many Mexican towns close to the border, medical care is big business - attracting day tourists and short-term visits to fuel their economy. A broad range of medical professionals and companies have capitalized on their proximity to the border by developing clinics in this region<sup>3</sup>, including Mexican-owned dental companies like DentiCenter and Dental Avant which operate numerous clinics scattered along the US-Mexico border.

Countries such as Mexico that are seeking to develop their medical tourism sector may be motivated by factors such as economic development and/or health-system strengthening, with benefits potentially including the retention of health workers locally, expanded local access to high-quality medical expertise, and the importation of new medical technologies and procedures.<sup>4</sup> Significant concerns have been raised, however, about the potential negative impacts of medical tourism for destination countries. As medical tourists travel outside of formal referrals within the health care system, there is no tracking system of who is receiving care and where, limiting opportunities to regulate the industry and investigate problematic practices.<sup>1,2</sup> Patients choosing to access care abroad often rely on information provided by the facility or other stakeholders in the industry as indicators of quality of care. In particular, prospective medical tourists assess the quality of care provided based on indicators including potentially biased anecdotal evidence and/or international accreditation that, while regulating standards of care, may fail to ensure patients are making informed choices within a privatized culture of care.<sup>5</sup>

Other issues have been flagged such as: the potential for compromised patient safety; the use of publicly-financed tax incentives to spur international investment; and the drain of expertise from the public to the private health care sector. These concerns raise numerous ethical and legal issues related to factors as complex and varied as the ability of patients to achieve informed consent, the availability of legal recourse for patients' whose care is compromised, and the awareness of medical tourism sector stakeholders of their ethical responsibilities for addressing harms.<sup>6</sup>

One particular area of concern surrounds the emergence of facilitators who are highly influential actors in the medical tourism industry, providing resources and information to the prospective medical tourist in exchange for financial remuneration.<sup>7</sup> The case of a retired Canadian, Jolene, who travelled to Costa Rica for surgery, highlights some potential risks in this area given the privatized and unregulated nature of the industry.<sup>8</sup> In Jolene's case, her facilitator pointed her towards certain services and service-providers<sup>8</sup>, and offered to upgrade her accommodation from a 3-star to a 5-star hotel if she agreed to promote the facilitator's business in interviews with Canadian media outlets, using a prefabricated text that blamed the failed Canadian health care system for her decision to go abroad. Luckily Jolene's surgery was considered a success, yet it is clear from this case that a conflict in interest between the facilitator, the medical profession and the client may lead to unethical behaviours that could put patients at risk.<sup>8</sup>

Concerns about potentially inappropriate conflicts of interest involving facilitators have been raised in the literature on ethical and legal concerns of medical tourism. This body of literature suggests that facilitators should have to disclose their financial relationship with the hospitals they refer to, using legal mechanisms to regulate facilitator practices.<sup>6</sup> Furthermore, regulations can be put in place that restrict the types of medical services marketed by facilitator companies and ensure that patients are protected from financial losses resulting from unsuccessful treatments through facilitating patients' access to insurance for medical complications that may arise during medical tourism.<sup>5</sup>

Legal mechanisms may be useful for addressing the negative impacts of medical tourism sector development and generally regulating the industry in such a way that protects the health of local individuals and populations.<sup>6,9</sup> However, given the transnational nature of medical tourism, uncertainties exist as to the best approaches to such regulation. Added to this, the ways in which medical tourism has emerged and operates in different places are varied and thus a single regulatory framework will not offer much needed context-specific guidance.<sup>10</sup> The following sections discuss the legal context of Barbados, an island with a small but growing medical tourism sector, to demonstrate the complicated context in which Barbados is seeking to establish a medical tourism sector that, through appropriate regulation, is beneficial to the island.

### **Sandcastles and stethoscopes?**

With a population of just under 300,000, Barbados is a small island nation. As with the rest of the Caribbean, its economy is dependent on tourism and the Barbadian government is keenly interested in diversifying into new sectors. Medical tourism is one form of diversification that has been identified, spurred by recent interest from foreign investors to develop this sector. Along with proposals from foreign investors, there has also been some interest by private health care providers in Barbados to promote their services to medical tourists. The island's most successful such clinic is the Barbados Fertility Centre which provides high-quality medical services to both local and foreign patients. This centre is particularly considered to be a success due to the small scale of the clinic, which mitigates concerns that vast quantities of health professionals will divert to treating foreign rather than local patients.

Since 2011 our team has undertaken significant on-the-ground research in Barbados about the country's developing medical tourism sector. We have examined the perspectives of numerous medical tourism stakeholders by drawing on interviews, focus groups, informal conversations, and media and policy reviews of the medical tourism sector in Barbados. Our research covers the concerns and hopes for the development of this industry. In particular, hopes for the ability for the current regulatory structure in

Barbados to ensure the industry develops in such a way that is beneficial for the country<sup>8</sup> and, if possible, contributes to processes aimed at enhancing access to and quality of health care.

Hence, while the potential to access foreign revenue is driving medical tourism development in Barbados, many healthcare providers and health policy-makers see it as an opportunity to increase equitable access to and quality of care for local citizens. For example, it is widely thought that high-paying medical tourists are most attracted to technologically savvy treatments abroad. Health policy experts are quick to point out that the provision of such care in Barbados for international patients can also benefit local patients through the introduction of such technologies on the island. Meanwhile, critics are concerned that most local patients will, in fact, be priced out of accessing such care and thus the presence of new types of secondary and tertiary care for international patients will not enhance equitable access to care for local citizens.

Another such quality issue has to do with the retention of health workers, where it is thought that many of the ‘best and brightest’ are recruited abroad. As with many other Anglophone Caribbean nations, there is steady out migration of health human resources to recipient countries such as the United States, Canada, and the United Kingdom.<sup>6</sup> Citizens and health workers alike recognize that medical tourism has the potential to create new jobs and retain some of these individuals. It is also recognized that some of these jobs would be in specialty fields that currently do not exist on the island, thereby expanding the scope of health worker opportunities in Barbados. However, policy officials and other stakeholders recognize that such employment opportunities will only become available in clinics that seek to hire local expertise rather than import health workers from elsewhere.

The introduction of new private sector clinics treating high-paying international patients will result in existing clinics and hospitals having to compete with such facilities for the best workers, forcing them to provide better opportunities for remuneration, advancement, and continued training than are currently offered. Consequently, some Barbadians view the introduction of a medical tourism sector as an opportunity to improve care quality by enhancing working conditions for health workers on the island, and nurses in particular. Additionally, medical tourism clinics can provide new training opportunities for medical trainees on the island, exposing them to the latest treatments. While it is certainly possible for such quality gains to be realized, once again many local stakeholders pointed out that privately-paying international patients would mostly benefit from such transformations as well as some of the island’s wealthiest residents.

### **Regulatory fixes**

There are regulatory options to try to remedy some of the concerns identified by Barbadians regarding equity and quality. Governments can limit the presence of medical tourism providers and require commitments from the facilities to provide care to locals during the licensing process. Regulations can be put into place to ensure that payments for treatment are standardized across medical tourism providers and local hospitals to prevent local hospitals from switching to more lucrative medical tourism provision. Finally, to fund public health care infrastructure, local governments can tax medical tourism providers.<sup>6</sup>

In a similar vein, the government can regulate the time that health care workers spend working in medical tourism and require that some amount of their time be spent working in the public system. Other regulation that can help prevent ‘brain drain’ would be to increase the number of physicians and nurses in the country through increased training spots, and use conditional scholarships as an incentive

for newly-trained professionals to stay in the country. This could also be combined with reforming the way in which the state supports medical schools and alleviates medical debt: the island could condition loan forgiveness for medical debt on service outside the medical tourism hubs with the general populace. Such opportunities can help forestall medical brain drain and encourage brain circulation, though there is some fear that one island's progressive approach on these issues may exacerbate brain drain from other islands in the Caribbean.<sup>11</sup>

Furthermore, it is also widely agreed that standards of care should be reinforced by requiring foreign providers in the sector to meet Barbadian licensing standards and by meeting any requirements set out by local health worker unions. The protection of these unions is perceived as a necessary means of protecting the safety standards of health care in Barbados.

While all of these regulatory efforts should be pursued, two notes of caution are in order: First, negative effects of medical tourism on destination country health care is unlikely to be completely eliminated, so we are talking about managing or reducing the effects not eliminating them. Second, the lessons of informed observers regarding other destination countries should make us nervous on follow-through: it is much easier for politicians to promise to remediate ill effects or even to pass regulations to that effect than it has been to get the political and legal systems of medical tourism hubs to actually enforce those promises.<sup>6</sup>

### **Race to the bottom?**

As discussions of the medical tourism industry in Barbados demonstrate, the health equity implications of medical tourism sector growth are complex and require careful consideration to ensure that the benefits from this practice are realized by the greatest number of people, and particularly populations that face barriers to accessing health care.<sup>9</sup> Challenges remain even in contexts where there is the political will and adequate governance to enforce tax adjustments and monitor health worker practices and contribution to the public sector.

For example, existing trade commitments under the GATS agreement (General Agreement on Trade in Services) may test the implementation of these policies and programs. Regulations on the services available in the medical tourism sector may be considered trade barriers, necessitating the development of regulations that do not warrant trade sanctions.<sup>6</sup> Additionally, while governments may view the regulation of medical tourism as an important means of protecting the health care system from disruptions, these regulations may also be viewed as barriers to investment in the industry and consumption of the services. Competition between destinations seeking to grow their medical tourism sector may result in a regulatory race-to-the bottom, with countries weakening their regulations to meet the demands of investors and consumers. While international guidelines could potentially establish rules about medical tourism practices that limit race-to-the-bottom activities, currently international bodies face numerous challenges in detecting and enforcing rule violations.

Overall, while legal regulatory mechanisms such as licensing and malpractice legislation play an important role in developing a regulatory structure that addresses the health equity concerns associated with this practice, there are numerous challenges to the implementation of these regulations given the transnational scope of this industry.

### **Acknowledgements:**

This research was funded in part by an Operating Grant from the Canadian Institutes of Health Research (FRN 119355). VAC is also funded by a Scholar Award from the Michael Smith Foundation for Health Research and holds the Canada Research Chair in Health Service Geographies.

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### **References:**

- [1] Johnston, R., Crooks, V.A., Snyder, J. & Kingsbury, P. (2010). What is known about the effects of medical tourism in destination and departure countries? A scoping review. *International Journal for Equity in Health*. 9:24.
- [2] Cortez, N. (2012). Into the Void: The legal ambiguities of an unregulated medical tourism market. In J.R. Hodges, L. Turner & A.M. Kimball (eds) *Risks and Challenges in Medical Tourism*. Santa Barbara: ABC-CLIO.
- [3] Gaynor, T. (2009). As U.S. health row wages, many seek care in Mexico. Reuters, 13 August.
- [4] Mainil, T., Platenkamp, V. & Meulemans, H. (2011). The discourse of medical tourism in the media. *Tourism Review*. 66(1): 31-44.
- [5] Turner, L. (2010). Quality in health care and globalization of health services: accreditation and regulatory oversight of medical tourism companies. *International Journal for Quality in Health Care*. DOI: <http://dx.doi.org/10.1093/intqhc/mzq078>
- [6] Cohen, I.G. (2014). *Patients with Passports: Medical Tourism, Law, and Ethics*. New York: Oxford University Press.
- [7] Penney, K. Snyder, J., Crooks, V.A. & Johnston, R. (2011). Risk communication and informed consent in the medical tourism industry: A thematic content analysis of Canadian broker websites. *BMC Medical Ethics*. 12(17). doi:10.1186/1472-6939-12-17
- [8] Labonte, R., Runnels, V., Packer, C. & Deonandan, R. (2013). *Travelling Well: Essays in Medical Tourism*. *Transdisciplinary Studies in Population Health Series*. 4(1). Available at: <http://www.iph.uottawa.ca/eng/transdis/files/Volume%204%20Issue%201.pdf>
- [9] Chen, Y.Y. & Flood, C. (2013). Medical tourism's impact on health care equity and access in low- and middle- income countries: Making the case for regulation. *Journal of Law, Medicine & Ethics*. 41(1): 286-300.
- [10] Terry, N.P. (2007). Under-regulated health care phenomena in a flat world: Medical tourism and outsourcing. *Western New England Law Review*. 29.
- [11] Eyal, N. (2013). Conditioning medical scholarships on long, future service: A defense. I I.G. Cohen (ed.) *The Globalization of Health Care: Legal and Ethical Issues*. New York: Oxford University Press.