

July 28, 2023

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Hakeem S. Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Leader Schumer, Leader McConnell, Speaker McCarthy and Leader Jeffries:

The rising cost of health care continues to create significant challenges and consequences for American households. Year after year, skyrocketing insurance premiums and out-of-pocket expenses¹ squeeze consumers' budgets—leaving them with less money to spend on food, housing, and other essential needs. This not only puts pressure on families but strains businesses and has an adverse effect on the overall economy.

While multiple factors contribute to increased health care spending, high and rising hospital prices are a primary driver. As large health care monopolies purchase hospitals and physician practices and drive out competition, they drive up the prices they charge patients and consumers, increasing health care costs. We believe it's time Members of Congress take action to address hospital consolidation in health care markets.

We are a non-partisan group of organizations that represent consumers, patients, businesses, and physicians who are working together² to make high-quality health care more affordable. We believe that improving access to affordable health care is an economic and social imperative. There is clear evidence³ that hospital consolidation and a lack of competition in health care markets has led to higher prices for privately insured patients.

Over the past several decades, large hospital systems have acquired other hospitals and physician practices to increase their market power. As of 2017, the vast majority (90%)⁴ of health care markets were considered "highly concentrated" by Federal Trade Commission (FTC) standards. These dominant health systems use their market power to prevent competition from lower-priced competitors and negotiate higher prices with insurers. These higher prices are passed on to consumers, employers, and other payers as higher health insurance premiums, deductibles, and copays.

1 2022 Employer Health Benefits Survey. (2023, June 5). KFF. <https://www.kff.org/health-costs/report/2022-employer-health-benefits-survey/>

2 For previous statement on affordability, see: <https://craftmediabucket.s3.amazonaws.com/uploads/Health-Pricing-Joint-Letter-4.25.2023.pdf>.

3 What we know about provider consolidation. (2020, September 2). KFF. <https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>

4 Fulton, B. D. (2017). Health Care Market Concentration Trends In The United States: Evidence And Policy Responses. Health Affairs, 36(9), 1530–1538. <https://doi.org/10.1377/hlthaff.2017.0556>

Mergers have resulted in bigger bills for consumers and employers without improvements in the quality of care. Consolidated hospitals charge prices that are 12% higher⁵ than hospitals with at least four competitors. A separate report⁶ looking at the least competitive hospital markets shows that the average price of a hospital stay increased by 11% to 54% in the years following consolidation. Further, when physicians and hospitals merge, prices increase by 14% according to one study.⁷ And while hospitals often argue that consolidation can improve clinical quality, the evidence of that is mixed⁸ at best. Some studies show that horizontal consolidation between hospitals can lead to lower quality⁹ and worse patient experiences.¹⁰ Consolidation also limits patient choice and undermines access to care, including in rural communities. Consolidation in smaller markets often shifts resources from independent hospitals to larger consolidated systems.

The evidence is clear about the impact of hospital consolidation and its contribution to rising health care costs. There are several policies Congress can pursue to limit consolidation and its effect on pricing. Some of the most transformative actions that can be taken include:

- Congress can **advance site neutral payment and billing transparency reforms**,¹¹ which will help ensure patients pay the same amount for the same services regardless of where the service is performed (a hospital outpatient department, ambulatory surgical center, or physician's office). Paying more for the same service when delivered in a hospital outpatient facility rather than a community-based physicians' office—as Medicare and commercial insurers typically do—creates a financial incentive for hospitals to vertically consolidate with physicians and shift services to higher-cost hospital settings. Implementing policies that address site-based payments will save consumers, employers, the federal government, and taxpayers billions of dollars.
- Congress can **address anticompetitive contracting**. Dominant hospital systems exploit their market power by using anti-competitive practices in their contract negotiations with insurers and employment arrangements with clinicians. These practices stifle choice and competition and drive up prices. Banning these types of anticompetitive terms would help restore competition in health care markets.
- Congress can **increase price transparency**.¹² Moving towards achieving full transparency of health care prices is a critical step towards increasing competition in the U.S. health care system and ensuring our nation's families receive affordable, high-quality health care. Price transparency pulls back the curtain so that consumers, employers, policymakers, and researchers can see how irrational health care prices have become and take action to rein in pricing abuses.

5 Cooper, Z., Craig, S., Gaynor, M., & Reenen, J. (2015). The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured. NBER.

https://www.nber.org/system/files/working_papers/w21815/w21815.pdf

6 Abelson, R. (2018, November 14). When hospitals merge to save money, patients often pay more. The New York Times.

<https://www.nytimes.com/2018/11/14/health/hospital-mergers-health-care-spending.html>

7 Caps, C. et al. (2018, May). The effect of hospital acquisitions of physician practices on prices and spending. Journal of Health Economics.

<https://www.sciencedirect.com/science/article/abs/pii/S016762961730485X?via%3Dihub>

8 What we know about provider consolidation. (2020b, September 2). KFF. <https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>

9 Koch, T., Wendling, B. W., & Wilson, N. J. (2018). Physician market Structure, patient Outcomes, and Spending: An Examination of Medicare Beneficiaries. *Health Services Research*, 53(5), 3549–3568. <https://doi.org/10.1111/1475-6773.12825>

10 Beaulieu, N., Dafny, L. S., Landon, B. E., Dalton, J. O., Kuye, I. O., & McWilliams, J. M. (2020). Changes in Quality of Care after Hospital Mergers and Acquisitions. *The New England Journal of Medicine*, 382(1), 51–59. <https://doi.org/10.1056/nejmsa1901383>

11 For previous statement on site neutral payment see: <https://craftmediabucket.s3.amazonaws.com/uploads/Site-Neutral-Statement.pdf>

12 For previous statement on price transparency see <https://craftmediabucket.s3.amazonaws.com/uploads/AV-Pricing-Transparency-Letter-7-17-23.pdf>

Congress can counter the opacity of health care prices by pursuing policies to codify and strengthen the Hospital Price Transparency Rule.

- Congress can **enhance antitrust oversight and enforcement** to empower federal regulators to exert meaningful oversight over health care mergers and acquisitions and to address anticompetitive behavior. This includes ensuring the FTC has the necessary resources and legal tools, including an ability to conduct appropriate oversight over nonprofit hospitals' anticompetitive behavior.

Enacting these policies would not only promote a competitive and more innovative health care system, but aggressive actions taken to lower hospital prices would be widely supported by voters across the political spectrum. Recent polling¹³ shows 75% of voters are supportive of preventing hospitals from engaging in business tactics that reduce competition, while 74% of voters support limiting health care mergers and acquisitions. A large majority of voters (85%) support policies that limit outpatient fees to the same price charged by doctors in the community.

We urge Congress to pursue policies to take action on soaring health care costs and make high-quality care more affordable and accessible for American families. We stand ready to support Congress on these actions and others that address consolidation and limit anticompetitive behavior in health care markets.

Sincerely,

American Academy of Family Physicians

Purchaser Business Group on Health

American Benefits Council

Small Business Majority

Arnold Ventures

The ERISA Industry Committee

Families USA

The Leukemia & Lymphoma Society

¹³ Arnold Ventures, LLC. (2023, March 27). *New poll: Majority of voters support aggressive congressional action.* . . . Arnold Ventures.

<https://www.arnoldventures.org/stories/new-poll-majority-of-voters-support-aggressive-congressional-action-to-lower-hospital-prices>