



**CONSUMERS F1RST**

The Alliance to Make the Health Care  
System Work for Everyone

**Statement for the Record**

House Committee on Energy and Commerce

Subcommittee on Health

Hearing on “Lowering Unaffordable Costs: Examining Transparency and Competition in Health Care”

Prepared by *Consumers First: The Alliance to Make the Health Care System Work for Everyone*

March 28, 2023

Chairs McMorris Rodgers and Guthrie and Ranking Members Pallone and Eshoo, on behalf of *Consumers First* and our undersigned allies we want to thank you for holding this important and timely hearing on transparency and competition in health care, and to offer our sincere appreciation to all of the witnesses and committee Members who are lifting up the impact that unaffordable health care costs have on people all across this country. As an alliance that brings together the interests of consumers, employers, labor unions, and primary care clinicians working to realign and improve the fundamental economic incentives and design of the health care system, *Consumers First* thanks you for being responsive to our call to action<sup>i</sup> and stands ready to support you as you embark on this critical work.

Our country is in the midst of a health care affordability crisis where consumers, employers, workers, and clinicians are struggling in a health care system whose payment and delivery structure incentivizes high cost, low quality care. Families are experiencing rising health insurance premiums, reduced access to care, and record levels of medical debt.<sup>ii</sup>

This crisis is overwhelmingly being driven by health care industry consolidation - particularly among hospitals - that has eliminated healthy competition and led to irrational health care prices and anticompetitive behavior.<sup>iii</sup> Hospital prices have become highly problematic as the role of hospitals in our economy has shifted over the last 60 years from charitable institutions to corporate entities, resulting in a fundamental misalignment between the business interests of the hospital sector and the interests of our nation's families, workers and employers. The impact is stark:

- Since 2010, more than 1,600 hospitals have merged, and the number of doctor's offices being bought by health care monopolies has increased dramatically, with more than half of all physicians now being employed by hospital-owned practices.<sup>iv,v,vi</sup>
- Since 2015, hospital prices increased by more than 30 percent, accounting for one-third of U.S. health care spending, and growing *four times* faster than workers' paychecks.<sup>vii,viii,ix</sup>
- High hospital prices result in one-quarter of a trillion dollars in waste each year, which accounts for a quarter of *all* waste annually generated by the US health system.<sup>x</sup>
- And importantly, hospital prices are not only high, but have become essentially irrational. In 2020, across all hospital inpatient and outpatient services, employers and private insurers paid on average 224 percent of what Medicare pays for the same services.<sup>xi</sup>
- Prices at hospitals in concentrated markets are 12 percent higher than those in markets with four or more rivals without any demonstrated improvement in the quality or access to care.<sup>xii,xiii,xiv</sup> All the while, the workforce in these concentrated markets suffers - wages for nurses and other health care workers decrease significantly after mergers and acquisitions.<sup>xv</sup>
- Prices for the exact same service vary widely: A colonoscopy at a single medical center in Mississippi can range from \$782 to \$2,144 depending on insurance.<sup>xvi</sup> At one health system in Wisconsin, an MRI costs between \$1,093 and \$4,029 depending on level of insurance.<sup>xvii</sup> Across the country, the average price for a knee replacement ranges from \$21,976 in Tucson, Arizona to \$60,000 in Sacramento California.<sup>xviii</sup>

It is time to implement policy changes that will make the health care sector more competitive, make health care more affordable, and allow our nation's families to access the health and health care they deserve.

The Energy and Commerce Committee has a key role to play in both uncovering concerning health industry behavior through bipartisan oversight and hearings such as this one, and addressing those behaviors through legislation. We urge the Committee to consider well-vetted, bipartisan, and commonsense legislation that would remedy some of the most obvious health system failings, and to take on rising health industry consolidation among hospitals, insurers, and other health care organizations that enables anticompetitive behaviors, prevents healthy competition in markets and results in monopolies that have the ability to set outrageous and unjustifiable prices.

**Price transparency.** One crucial way this Committee can address provider consolidation and encourage competition in the health care system is through price transparency. Unveiling prices is a critical step towards achieving truly affordable health care, improved health, and more competitive health care markets across the U.S. health care system. Price transparency pulls back the curtain on prices so that policymakers, researchers, employers, and consumers can see how irrational health care prices have become and take action to rein in pricing abuses. Further, unveiling prices can inform where the highest and most irrational prices are occurring in the health care system, so policymakers can implement more targeted policy solutions to bring down the cost of health care. We strongly support the administration's efforts to increase hospital price transparency and urge Congress to strengthen and codify the Hospital Price Transparency Rule.

**Site-neutral payments.** Another area we encourage the Committee to pursue is addressing payment differentials across sites of service that financially incentivize further consolidation. The continuation of this perverse payment incentive drives up costs and incentivizes consolidation with no corresponding improvement in quality or access. We urge the Committee to consider implementing site-neutral payment policies across the board as recommended by MedPAC<sup>xix</sup>, and to eliminate site-dependent reimbursement distortions that indirectly incentivize acquisition of non-hospital patient access points.

**Anti-competitive contracting.** We also urge the Committee to take a closer look at anticompetitive practices and clauses in health care contracting agreements, which occur in a variety of places including between providers and insurers and in clinician and health care worker employment arrangements. In contracts between provider entities and insurers, large entities in highly consolidated markets have the upper hand in contract negotiations to build networks and set prices. As a result, many of these contracts include terms that limit access to higher-quality, lower-cost care. When anticompetitive terms are present in health care clinician and worker employment contracts, they can further stifle competition, lead to burnout exacerbating workforce shortages<sup>xx</sup>, impede patient access to preferred providers and care, and in some cases lead to higher prices for health care services<sup>xxi</sup>.

We also encourage you to work with colleagues on the House and Senate Judiciary Committees to ensure that the Federal Trade Commission and U.S. Department of Justice Antitrust Division are appropriately resourced and have the legal tools needed to exert meaningful oversight of health care merger and acquisitions, including examining the impact on patient access to quality care.

Enacting these policies would set critical groundwork to reduce inflated spending throughout the system and make health care more affordable and value-driven for consumers.<sup>xxii</sup>

*Consumers First* and our undersigned allies look forward the discussion today and to working with you to enact bipartisan and commonsense improvements to our nation's health care payment and delivery system. Please contact Jane Sheehan, Director of Federal Relations at Families USA,

[JSheehan@familiesusa.org](mailto:JSheehan@familiesusa.org), for further information and to let us know how we can best be of service to you.

Sincerely,

Consumers First Steering Committee

American Academy of Family Physicians  
American Benefits Council  
American Federation of State, County & Municipal Employees  
American Federation of Teachers  
Families USA  
Purchaser Business Group on Health

Supporting Organizations

Allergy & Asthma Network  
American Medical Student Association  
APIAHF  
Center for Independence of the Disabled, NY  
Colorado Consumer Health Initiative  
Connecticut Oral Health Initiative, Inc.  
Consumers for Affordable Health Care  
Consumers for Quality Care  
Democratic Disability Caucus of Florida  
Florida Voices for Health  
Health Access California  
Health Care Voices  
MomsRising  
National Alliance of Healthcare Purchaser Coalitions  
National Partnership for Women & Families  
New Jersey Citizen Action  
Northwest Health Law Advocates (WA State)  
Pennsylvania Health Access Network  
Small Business Majority  
Tennessee Health Care Campaign, Inc  
The Arc  
The ERISA Industry Committee  
Third Way  
U.S. PIRG (Public Interest Research Group)  
Universal Healthcare Foundation of CT  
Utah Health Policy Project  
Virginia Organizing

---

<sup>i</sup> <https://familiesusa.org/wp-content/uploads/2023/01/Consumers-First-letter-to-118th-Congress-final-1.23.23.pdf>

- <sup>ii</sup> Gaynor, M. "Examining the Impact of Health Care Consolidation" Statement Before the Committee on Energy and Commerce, Oversight and Investigations Subcommittee, U.S. House of Representatives. 2018. [https://www.researchgate.net/publication/323228757\\_Examining\\_the\\_Impact\\_of\\_Health\\_Care\\_Consolidation\\_Statement\\_before\\_the\\_Committee\\_on\\_Energy\\_and\\_Commerce\\_Oversight\\_and\\_Investigations\\_Subcommittee\\_US\\_House\\_of\\_Representative](https://www.researchgate.net/publication/323228757_Examining_the_Impact_of_Health_Care_Consolidation_Statement_before_the_Committee_on_Energy_and_Commerce_Oversight_and_Investigations_Subcommittee_US_House_of_Representative)
- <sup>iii</sup> Jaime S. King et al., Preventing Anticompetitive Healthcare Consolidation: Lessons From Five States (Source on Healthcare Price and Competition and Nicholas C. Petris Center on Health Care Markets and Consumer Welfare, University of California Berkeley School of Public Health, June 2020), <https://sourceonhealthcare.org/profile/preventing-anticompetitive-healthcare-consolidation-lessons-from-five-states/>; Martin Gaynor, Kate Ho, and Robert J. Town, "The Industrial Organization of Health-Care Markets," Journal of Economic Literature 53, no. 2 (June 2015): 235–284.
- <sup>iv</sup> Chart 2.9: Announced Hospital Mergers and Acquisitions, 2005–2017," TrendWatch Chartbook 2018: Trends Affecting Hospitals and Health Systems (Washington, DC: American Hospital Association, 2018), <https://www.aha.org/system/files/2018-07/2018-aha-chartbook.pdf>
- <sup>v</sup> Gaynor, M. "Examining the Impact of Health Care Consolidation" Statement Before the Committee on Energy and Commerce, Oversight and Investigations Subcommittee, U.S. House of Representatives. 2018. [https://www.researchgate.net/publication/323228757\\_Examining\\_the\\_Impact\\_of\\_Health\\_Care\\_Consolidation\\_Statement\\_before\\_the\\_Committee\\_on\\_Energy\\_and\\_Commerce\\_Oversight\\_and\\_Investigations\\_Subcommittee\\_US\\_House\\_of\\_Representative](https://www.researchgate.net/publication/323228757_Examining_the_Impact_of_Health_Care_Consolidation_Statement_before_the_Committee_on_Energy_and_Commerce_Oversight_and_Investigations_Subcommittee_US_House_of_Representative)
- <sup>vi</sup> Updated Physician Practice Acquisition Study: National and Regional Changes in Physician Employment, 2012–2018," Physicians Advocacy Institute (PAI), February 2019, <http://www.physiciansadvocacyinstitute.org/Portals/0/assets/docs/021919-Avalere-PAI-Physician-Employment-Trends-Study-2018-Update.pdf?ver=2019-02-19-162735-1>
- <sup>vii</sup> Kurani, N. et al. *How Has U.S. Spending on Healthcare Changed Over Time?* Health System Tracker, Peterson-KFF. 2022. <https://www.healthsystemtracker.org/chart-collection/u-s-spending-healthcare-changed-time/#Contribution%20to%20change%20in%20total%20national%20health%20expenditures,%20from%202019-2020,%20by%20spending%20category>
- <sup>viii</sup> *Policy Approaches to Reduce What Commercial Insurers Pay for Hospitals' and Physicians' Services*. Congressional Budget Office. 2022. <https://www.cbo.gov/publication/58222>
- <sup>ix</sup> Desilver, D. *For Most U.S. Workers, Real Wages Have Barely Budged in Decades*. Pew Research Center. 2018. <https://www.pewresearch.org/fact-tank/2018/08/07/for-most-us-workers-real-wages-have-barely-budged-for-decades/>
- <sup>x</sup> Shrank, W. et al. Waste in the US Health Care System: Estimated Costs and Potential for Savings. JAMA. 2019. <https://jamanetwork.com/journals/jama/article-abstract/2752664>
- <sup>xi</sup> Whaley, C. et al. Prices Paid to Hospitals by Private Health Plans. RAND. 2022. [https://www.rand.org/pubs/research\\_reports/RRA1144-1.html](https://www.rand.org/pubs/research_reports/RRA1144-1.html)
- <sup>xii</sup> Cooper, Z. et al. The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured. The Quarterly Journal of Economics. 2019. <https://academic.oup.com/qje/article-abstract/134/1/51/5090426?redirectedFrom=fulltext&login=false>
- <sup>xiii</sup> Gaynor, M. Diagnosing the Problem: Exploring the Effects of Consolidation and Anticompetitive Conduct in Health Care Markets. Statement before the Committee on the Judiciary Subcommittee on Antitrust, Commercial, and Administration Law. U.S. House of Representatives. 2019. <https://www.congress.gov/116/meeting/house/109024/witnesses/HHRG-116-JU05-Bio-GaynorM-20190307.pdf>
- <sup>xiv</sup> *The Impact of Hospital Consolidation on Medical Costs*. NCCI Insights. 2018. [https://www.ncci.com/Articles/Pages/II\\_Insights\\_QEB\\_Impact-of-Hospital-Consolidation-on-Medical-Costs.aspx](https://www.ncci.com/Articles/Pages/II_Insights_QEB_Impact-of-Hospital-Consolidation-on-Medical-Costs.aspx)
- <sup>xv</sup> Prager, E. Schmitt, M. *Employer Consolidation and Wages: Evidence from Hospitals*. American Economic Association. 2021. <https://www.aeaweb.org/articles?id=10.1257/aer.20190690>
- <sup>xvi</sup> Kliff, S. Katz, J. *Hospitals and Insurers Didn't Want You to See These Prices. Here's Why*. The Upshot. The New York Times. 2021. <https://www.nytimes.com/interactive/2021/08/22/upshot/hospital-prices.html>
- <sup>xvii</sup> Kliff, S. Katz, J. *Hospitals and Insurers Didn't Want You to See These Prices. Here's Why*. The Upshot. The New York Times. 2021. <https://www.nytimes.com/interactive/2021/08/22/upshot/hospital-prices.html>
- <sup>xviii</sup> *National Chartbook of Health Care Prices*. The Health Care Cost Institute. 2016. <https://healthcostinstitute.org/national-chartbook-health-care-prices-2015>
- <sup>xix</sup> "Aligning fee-for-service payment rates across ambulatory settings," *Report to the Congress: Medicare and the Health Care Delivery System*, MedPAC, June 2022, [https://www.medpac.gov/wp-content/uploads/2022/06/Jun22\\_Ch6\\_MedPAC\\_Report\\_to\\_Congress\\_SEC.pdf](https://www.medpac.gov/wp-content/uploads/2022/06/Jun22_Ch6_MedPAC_Report_to_Congress_SEC.pdf)
- <sup>xx</sup> Smith EB, "Ending Physician Noncompete Agreements—Time for a National Solution," *JAMA Health Forum*. 2021;2(12):e214018. doi:10.1001/jamahealthforum.2021.4018 <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2786894>
- <sup>xxi</sup> Hausman, Naomi, and Kurt Lavetti. 2021. "Physician Practice Organization and Negotiated Prices: Evidence from State Law Changes." *American Economic Journal: Applied Economics*, 13 (2): 258–96.DOI: 10.1257/app.20180078 <https://www.aeaweb.org/articles?id=10.1257/app.20180078>

---

<sup>xxiii</sup> *Policy Approaches to Reduce What Commercial Insurers Pay for Hospitals' and Physicians' Services*. Congressional Budget Office. 2022. <https://www.cbo.gov/publication/58222>