

June 24, 2024

The Honorable Dan Frankel
Chair, House Health Committee
Pennsylvania House of Representatives
326 Main Capitol Building
P.O. Box 202023
Harrisburg, PA 17120

The Honorable Kathy Rapp
Republican Chair, House Health Committee
Pennsylvania House of Representatives
312 Main Capitol Building
P.O. Box 202065
Harrisburg, PA 17120

Dear Chairs Frankel and Rapp:

On behalf of Families USA, a leading nonpartisan, national voice for health care consumers, we write today to express our strong support of Pennsylvania HB 2344, which would strengthen the Pennsylvania Office of Attorney General's statutory authority to oversee health care markets in the State of Pennsylvania and ensure Pennsylvania residents and their families have access to the high quality and affordable health care that they need and deserve.¹

For more than 40 years, Families USA has been working to achieve our vision of a nation where the best health and health care are equally accessible and affordable to all. In October 2022, we launched the Center for Affordable Whole Person Care in affirmation of our commitment to revolutionize America's health care system to hold the health care industry accountable for delivering affordable, equitable, high-quality health care and improved health for all. HB 2344 is essential and timely legislation that promises to help deliver on that mission.

The U.S. Health System in Crisis

Our country's health care system is in crisis, evidenced by a lack of affordability and poor quality.² At its core, this crisis is driven by a fundamental misalignment between the business interests of the health care sector and the health and financial security of our nation's families – a business model that allows industry to set prices that have little to do with the quality of the care they offer. These high and irrational prices are largely due to trends in health care industry consolidation that have eliminated competition and allowed monopolistic pricing to push our nation's families to the brink of financial ruin.³

Almost half of all Americans have reported having to forgo medical care due to the cost, and almost a third have indicated that the high cost of medical care is interfering with their ability to secure basic needs like food and housing,⁴ and over 40 percent of American adults – 100 million people – face medical debt.⁵ High and rising health care costs are a critical problem for national and state governments, and affect the economic vitality of middle-class and working families – crippling the ability of working people to earn a living wage. Today's real wages – wages after accounting for inflation – are roughly the same as four decades ago, while employer health insurance premiums have risen dramatically.⁶ At the same time, nearly 90% of large employers say that rising health care costs will threaten their ability to provide health care benefits to employees over the next five to 10 years if costs are not lowered.⁷

Notably, the excessive cost of health care does not generally buy Americans higher-quality care or even higher volumes of care. In fact, the opposite is true. Despite spending two to three times more on health care than other industrialized countries, the United States has some of the worst health outcomes,

including some of the lowest life expectancy and highest infant mortality rates.^{8,9,10} These health outcomes are even worse for people of color who experience higher rates of illness and death across a range of health conditions compared with their white counterparts.¹¹

These abysmal health outcomes and extraordinarily high prices are the product of broken financial incentives within the U.S. health care system. Our current system rewards building local monopolies and price gouging instead of rewarding success in promoting the health, well-being and financial security of the community.¹² And hospital prices in particular 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 the patients they serve.¹³ These higher prices result in \$240 billion annually coming out of workers' paychecks and instead becoming profits for large health care corporations.^{14,15,16}

Health Industry Consolidation Driving High Prices

America's health care affordability crisis stems from high, rising, and variable prices across a wide range of health care goods and services. For example, the average price of a hospital-based MRI in the United States is \$1,475.¹⁷ That same scan costs \$503 in Switzerland and \$215 in Australia.¹⁸ These higher prices for an identical service are the main driver of the dramatic increase in per capita health care spending in our country, where health care accounted for nearly 20% of the nation's GDP in 2020, far exceeding health care spending by any other industrialized country.¹⁹

These irrational and unjustifiable prices are largely due to trends in health care industry consolidation that have eliminated competition and allowed monopolistic pricing to flourish.²⁰ This consolidation has taken place without meaningful regulatory oversight or intervention, and is becoming more acute.²¹ In fact, there are few truly competitive health care markets left, with 95% of metropolitan statistical areas (MSAs) having highly concentrated hospital markets, nearly 80% of MSAs having highly concentrated specialist physician markets, and 58% of MSAs having highly concentrated insurer markets.²²

- **Hospital consolidation:** Hospital mergers are occurring more frequently both within and across health care markets, leading to higher prices in both cases. According to the American Hospital Association, there were 1,577 hospital mergers from 1998 to 2017.^{23,24} An estimated 40% of those mergers took place from 2010 to 2015.²⁵
- **Vertical Integration:** The number of hospital-acquired physician practices grew from 35,700 in 2012 to more than 80,000 in 2018.²⁶ Over this same time period, the percentage of physicians employed by a hospital or health system nearly doubled, from 25% to 44%.²⁷ Recent research found that over 55% of physicians are now employed in hospital-owned practices.²⁸ This trend was accelerated by the COVID-19 pandemic, which exacerbated the financial vulnerabilities of independent and smaller physician practices and threatened the near collapse of entire sectors of the health care system — particularly primary care.²⁹ Nearly 23,000 physicians left independent practice to work for a hospital or other corporate entity after the onset of the COVID-19 pandemic, while hospitals and other corporate entities acquired nearly 21,000 additional physician practices from 2019 to 2020, representing a 25% increase in corporate-owned practices.³⁰

Hospital Pricing Abuses

Nowhere is the negative impact of consolidation more evident than the rising cost of hospital stays and services, which have increased dramatically in the last decade and make up a large portion of increasing health care costs overall.^{31,32,33} These cost increases have occurred despite lower hospital utilization and are largely due to escalating prices, which are the result of hospitals buying other hospitals and community doctors to eliminate competition and form big health care corporations and medical monopolies.^{34,35}

Americans in many communities have watched as their local hospitals became health systems, and those health systems were bought by large health care corporations. What most people in the public and policymaking community have not realized is how much this trend has destroyed any real competition in our health care sector, allowing hospitals to dramatically increase their prices every year.^{36,37} Between 1990 and 2023, hospital prices have increased 600% – and just since 2015, hospital prices have increased as much as 31% nationally, now accounting for nearly one-third of U.S. health care spending, and growing more than four times faster than workers' paychecks.^{38,39,40,41}

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% of what Medicare pays for the same services.⁴²
- Prices at hospitals in concentrated markets are 12% higher than those in markets with four or more rivals, without any demonstrated improvement in the quality or access to care.^{43,44,45} All the while, the workforce in these concentrated markets suffers – wages for nurses and other health care workers decrease significantly after mergers and acquisitions.⁴⁶
- Prices for the exact same service vary widely, sometimes even within a single hospital system:
 - A colonoscopy at a single medical center in Mississippi can range from \$782 to \$2,144 depending on insurance.⁴⁷
 - At one health system in Wisconsin, an MRI costs between \$1,093 and \$4,029 depending on level of insurance.⁴⁸
 - Across the country, the average price for a knee replacement ranges from \$21,976 in Tucson, Arizona to \$60,000 in Sacramento California.⁴⁹
 - The price of an MRI at Mass General Hospital in Boston Massachusetts ranged from \$830 to \$4,200 depending on the insurance carrier.⁵⁰

Impact on Pennsylvania

As Americans across the United States experience a severe health care affordability and quality crisis, so too do those who live in Pennsylvania. Over half of all Pennsylvania residents reported delaying or foregoing needed medical care due to cost, and more than four in five Pennsylvania residents reported high levels of worry about affording the health care they may need in the future.⁵¹ Of those who did seek needed medical care, nearly one in eight have their medical bills in collections.⁵²

As described above, high and rising hospital prices resulting from unchecked health care industry consolidation are a leading driver of this affordability crisis.⁵³ These irrational hospital prices and high health care costs have caused millions of Americans to go into debt and are a major contributor to stagnant workers' wages and rising health care premiums.⁵⁴ In Pennsylvania, spending on hospital care increased a staggering 240% over the past two decades, increasing from \$15.7 billion in 1991 to \$53.7

billion in 2020.⁵⁵ It has consistently made up the largest source of health care spending in the Commonwealth.⁵⁶ At the same time, hospital utilization largely stayed the same and even at times decreased in the past decade, suggesting that increases in health care spending are largely driven by rising hospital prices.⁵⁷

Large health care corporations in the state continue to consolidate and become large medical monopolies so they can increase their market power and price gouge Pennsylvanians, all while paying exorbitant compensation to their executives and closing critical medical services that patients and families truly need, as evidenced by UPMC downsizing and closing critical care and intensive care units as well as the sole maternity ward in McKeesport.^{58,59,60,61,62}

The vast majority of hospital markets in Pennsylvania are now highly concentrated, including those in Pittsburgh, Allentown, Scranton, and Harrisburg, with only one or two major health systems serving a given geographic area.^{63,64} At the same time, Pennsylvanians living in these localities are experiencing significant increases in health care costs. In East Stroudsburg, PA, for instance, spending on inpatient hospital care rose 37% since 2017, driven by increases in hospital prices, despite inpatient volume going down 6% at the same time.⁶⁵

While Pennsylvania families are struggling to pay their medical bills or foregoing needed medical care entirely, hospital executives in Pennsylvania are enjoying millions of dollars in executive compensation and hundreds of millions of dollars in local, state, and federal tax breaks.⁶⁶ For example, the president of Tower Health made more than \$2 million in 2019, while many other high-level executives made more than \$1 million each, with a significant proportion of their compensation (in the form of bonuses) linked to the financial performance of their organization rather than the quality of health care they delivered to the community.⁶⁷ Moreover, at least 40 non-profit hospital CEOs in Pennsylvania made at least \$1 million in 2019, with ten of them making \$2 million or more.⁶⁸

These salaries are particularly egregious given that Pennsylvania's non-profit hospitals receive hundreds of millions of dollars in local, state, and federal tax breaks, yet some of them provide very little community benefit as is required under federal tax law.⁶⁹ Under federal tax law, non-profit hospitals are granted tax exempt status in return for providing a community benefit and a public good, which includes ensuring low-income consumers receive medical care for free or at significantly reduced rates (i.e., charity care).⁷⁰ Yet, these hospitals spend less on charity care and community investment compared to the amount of tax breaks they receive. In fact, four Pennsylvania hospitals that are nationally ranked in the top 25 non-profit hospital systems are taking in more taxpayer money than they spend on helping their communities.⁷¹

These behaviors are all part of a larger pattern in Pennsylvania and across the nation where hospitals that once were truly charitable institutions serving their local communities have become large health care corporations focused on maximizing revenues and profits to the detriment of the health and well-being of patients and their communities.⁷²

HB 2344 and the Role of Pennsylvania's Attorney General

In the context of this ongoing health care affordability and quality crisis, State Attorneys General play a critical role in overseeing health care markets, promoting healthy competition, and serving as a backstop against widespread industry consolidation and anti-competitive practices that are too often employed by large health care corporations and hospital systems. In particular, the Pennsylvania Office of Attorney

General (i.e., the State AG) plays an important oversight role in the Commonwealth by reviewing hospital-related transactions and practices.⁷³ Its authority and jurisdiction are multi-faceted and grounded in the Commonwealth's *parens patriae* responsibility to protect the health, safety and welfare of the people.⁷⁴

Yet, there are significant gaps in its statutory authority to oversee health care-related transactions, including mergers and acquisitions, and to ensure such transactions serve the best interests of Pennsylvanians and guarantee their access to high quality and affordable health care.⁷⁵ For instance, under current law, the State AG does not have statutory authority to require all health care-related entities to notify the State AG of a proposed merger.⁷⁶ Pre-merger notification is a critical mechanism for State Attorneys General to effectively monitor and oversee health care markets. Pre-merger notifications of an impending transaction allow State Attorneys General to proactively review and challenge any proposed transactions that may be harmful to patients and their communities before the merger is approved.⁷⁷ Currently, the Pennsylvania State AG relies on sub-regulatory guidance to require such pre-merger notification, but this sub-regulatory guidance only applies to a subset of health care related entities, including non-profit health care entities.⁷⁸ Because this sub-regulatory guidance has not been codified in law, the State AG does not have the necessary authority to effectively require pre-merger notifications from all health care entities proposing to engage in mergers.⁷⁹ As a result, too many health care-related mergers and acquisitions in the Commonwealth have been approved without the necessary review to determine if those mergers will have a negative impact on a specific health care market or the communities they serve. For example, the Pennsylvania State AG has indicated that over the last 20 years there have been a number of hospital mergers and affiliations, as well as physician acquisitions, which have occurred without AG review or even knowledge of the transactions.⁸⁰

As Pennsylvanians and Americans across the United States experience a severe health care affordability and quality crisis driven by unchecked health care industry consolidation and anti-competitive behavior, it is critical that the State AG has the necessary tools and authority to prevent harmful transactions and effectively oversee health care markets to promote healthy competition to the benefit of Pennsylvanians across the Commonwealth.

To that end, we strongly support Pennsylvania House Bill 2344 as it is being considered by the House Health Committee. HB 2344 marks a significant step in efforts to ensure health care-related mergers and acquisitions are conducted in the best interest of Pennsylvania residents.⁸¹ This legislation codifies into statute critical authorities that would empower the State AG to ensure any proposed transaction involving health care-related entities would not harm Pennsylvanians' ability to access the affordable, high quality and equitable care they need and deserve. Importantly, this legislation puts in place 1) strong pre-merger notification requirements, so the State AG is notified of *any* proposed health care transaction, involving both for-profit and non-profit health care entities alike, before they move forward; 2) explicit requirements and authorities for the State AG to approve said transaction, and if necessary to block transactions via judicial action; and 3) meaningful enforcement measures, including a significant monetary fine for non-compliance with any of the provisions as outlined above.⁸²

We urge this committee to advance HB2344 without delay.

Conclusion

The American people, including Pennsylvanians, are clear about their concerns regarding further hospital consolidation and its negative effects on health care affordability. Recent national polling shows voters from both sides of the aisle broadly support:^{83,84}

- **Preventing hospitals from engaging in business tactics that reduce competition (75%)**
- **Limiting mergers and acquisitions (74%)**
- Requiring all health care organizations to publicly disclose their prices (87%)
- Limiting outpatient fees to the same price charged by doctors in the community (85%)

Thank you again for your work to improve health and health care for families across your state. The journey to fully transform our health care system is long, but states such as Pennsylvania hold essential power to take significant steps. Families USA stands ready to support you in this vital and urgently needed work. For further information, please contact Aaron Plotke, Senior Policy Analyst at Families USA, at APlotke@familiesusa.org.

Sincerely,



Sophia Tripoli
Senior Director of Health Policy
Families USA

¹ The General Assembly of Pennsylvania, House Bill No. 2344, Session of 2024.

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billType=B&billNbr=2344&pn=3177>

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