September 12, 2024

The Honorable Bernie Sanders
Chair
Committee on Health, Education, Labor and Pensions (HELP)
United States Senate
Washington, D.C. 20510

The Honorable Bill Cassidy
Ranking Member
Committee on Health, Education, Labor and Pensions (HELP)
United States Senate
Washington, D.C. 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of the undersigned organizations representing families, workers, clinicians, employers, and health care consumers across the United States, we want to thank you for holding this important hearing and investigation into the consumer and patient impacts of unchecked health industry consolidation and the proliferation of corporate greed in health care, specifically through the lens of Steward Health Care's anticompetitive and abusive actions in communities across the country.

This hearing could not come at a more critical time. America's health care consumers, workers, and employers are suffering the effects of a health care affordability and quality crisis that is driven by unchecked industry consolidation and the excessive corporatization of care. More than 100 million Americans face medical debt; a quarter of all Americans forgo needed medical care due to the cost; and a third of Americans indicate that the cost of medical services interferes with their ability to secure basic needs like buying groceries and paying rent.[1] 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 peer countries, the United States has some of the worst health outcomes, including some of the lowest life expectancy and highest infant mortality rates.[2] 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.[3]

America's health care affordability and quality crisis stems from 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 irrational health care prices that have little to do with the quality of the care they provide. This business model and its harmful impacts are particularly problematic when private equity (PE) is involved, as evidenced by the case of Steward Health Care. Private equity firms often apply a very short-term, profit-driven business model to their investment strategy by buying an entity that is struggling financially or that could offer short-term growth potential, investing in it, loading it up with debt, and then extracting value by selling their stake, all within just a few years.[4] This business model is in direct conflict with ensuring that American families have access to high-quality, affordable health care and the health the deserve.[5] However, PE involvement in health care is a symptom of an even larger problem in our health care system: rampant health care industry consolidation. Unchecked consolidation, particularly among hospitals, has led to monopolistic health care prices, reduced access to care, lower wages for workers, and directly threatens the health and financial security of every American.[6]

The bankruptcy of Steward Health Care is just one example of the harmful role that PE firms and the broader trend of the corporatization of health care are playing in our health care system. After the PE firm Cerberus Capital Management purchased what was then a nonprofit Catholic health system in Massachusetts called Caritas Christi, Cerberus immediately stripped assets from the health system,

including its real estate, to turn a quick profit. This resulted in thousands of health care workers being laid off; the elimination of critical lifesaving service lines including obstetrics, behavioral health, and cancer care; and the complete closure of certain facilities – all of which significantly reduced access to needed health care services for the communities the system claimed to serve.[7]

What happened with Steward could happen in more and more communities throughout the country. Over the past decade, private equity firms have become increasingly involved in the U.S. health care system – a symptom of broken payment incentives and a lack of oversight. In 2020, health care became the second largest sector for private equity investment accounting for 18 percent of all reported deals, up from 12 percent in 2010.[8] Private equity firms now own at least 386 hospitals, making up 30% of all for-profit hospitals in the U.S., at least 130 of which are located in rural areas.[9] This trend has potential to devastate these communities: PE firms' acquisitions of health care providers often contribute to higher health care prices, lower quality care, poor health outcomes for patients, and financial instability for facilities in a variety of health settings, including but not limited to hospitals and nursing homes.[10]

Importantly, the impact of health care consolidation on health care affordability, access, and quality goes beyond the involvement of PE, as hospital consolidation in particular has taken place without meaningful regulatory oversight or intervention and is becoming more acute. Far from their roots as charitable and community-centered institutions, hospitals, health systems and other providers have rapidly consolidated, via horizontal and vertical integration, into large health care corporations, amassing outsized market power in order to increase prices for hospital care year after year. In fact, over 1,500 hospital mergers occurred between 1998 and 2017, with an estimated 40% of those mergers taking place from 2010 to 2015.[11] Moreover, between 2013 and 2021, the percentage of physician practices that were hospital-owned rose from 15% to 53%, and the percentage of physicians employed by a hospital rose from 27% to 52%.[12] There are few truly competitive health care markets left, with 95% of metropolitan statistical areas (MSAs) having highly concentrated hospital markets.[13]

This is happening in large part because 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. Increasingly consolidated hospitals and large hospital systems are ratcheting up profits by setting inflated prices that have little to do with the actual cost or quality of the care they offer.[14] In the last 10 years, hospital prices have increased as much as 31% nationally, now accounting for nearly one-third of U.S. health care spending and growing four times faster than workers' paychecks.[15] These high prices are too often hidden away in increasing premium costs, which in turn are stagnating workers' wages,[16] as well as in unexpected and inflated bills families get *after* they receive a service.

The Senate HELP Committee has a key role to play in both uncovering concerning health industry behavior through bipartisan oversight and hearings such as this one, and in addressing those behaviors through legislation. We urge the Committee, along with your colleagues on other relevant Senate committees, to consider well-vetted, bipartisan, and commonsense legislation that would remedy some of these obvious health system failings, and to take on rising health industry consolidation among hospitals and other health care organizations that harms families and communities.

Specifically, we call on the Senate to advance policies that:

- **Achieve meaningful price transparency in the health care system by requiring all hospitals and health plans to disclose negotiated rates, in dollars and cents, establish standard formats including a machine-readable format, eliminate loopholes, and require hospital executive**

attestation and further increase penalties to encourage greater compliance by hospitals and insurance carriers.[17] These efforts should include codifying strengthened versions of both the Hospital Price Transparency and the Transparency in Coverage regulations.

- **Improve transparency around the ownership interest of health care corporations, particularly when it comes to private equity.** Without insight into how profits from health systems are ultimately being funneled it is very difficult to identify potential abuses, leaving private equity firms free to purchase health systems in order to drive profits through upcoding, surprise billing, and other questionable business practices.

- **Enact certain site neutral payments, such as for drug administration services, to help ensure consumers pay the same price for the same service regardless of where the service is performed.** Site neutral payments will not only protect patients from being overcharged for routine care delivered in a "hospital setting," but will eliminate one of the biggest financial incentives driving big health care corporations to buy up independent doctors' offices.

- **Advance billing transparency reforms so off-campus hospital outpatient departments are required to use a separate identifier when billing to Medicare or commercial insurers.** This can help ensure large hospital systems cannot overcharge for the care they deliver in outpatient settings under the umbrella of "hospital" care.

- **Prohibit anti-competitive contracting terms such as "all-or-nothing", "anti-steering," and "anti-tiering" clauses in provider and insurer contracts that limit patient access and increase costs; and "non-compete" clauses in clinician and health care worker employment arrangements, that, for instance, may interfere with the continuity of the primary care patient-physician relationship.**

- **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 mergers and acquisitions, including examining the impact on patient access to quality care.**

The policies described in bold above would set a critical foundation for reducing inflated spending and reining in corporate abuses throughout the system, promoting healthy competition in health care markets, and making health care more affordable and value-driven for consumers.[18]

Thank you again for holding this hearing and for your leadership in addressing the challenges posed to America's families by our health care system's affordability and quality crisis. Our undersigned organizations look forward to the discussion today and to working with you to enact bipartisan and commonsense improvements to our nation's health care payment and delivery system. We stand ready to support you in this essential and urgently needed work. Please contact Jane Sheehan, Deputy Senior Director of Government Relations at Families USA at JSheehan@familiesusa.org for further information and to let us know how we can best be of service to you.

Sincerely,

Families USA
ACA Consumer Advocacy
American Federation of State, County and Municipal Employees (AFSCME)
Aging Life Care Association
Aimed Alliance
American Federation of Teachers
American Muslim Health Professionals
Asian & Pacific Islanders American Health Forum
Campaign for America's Future
Center for Elder Law & Justice
Center for Independence of the Disabled, New York
Center for Popular Democracy
Colorado Center on Law and Policy
Colorado Consumer Health Initiative
Committee to Protect Healthcare
Community Catalyst
Community Service Society of NY (CSSNY)
Connecticut Citizen Action Group, Hartford
Consumers for Affordable Healthcare, Maine
Consumers for Quality Care
Democratic Disability Caucus of Florida
Doctors for America
Economic Opportunity Institute (WA)
Elephant Circle
Florida Voices for Health
Georgia Watch
Greater Philadelphia Business Coalition on Health
Health Access California
Health Care for All Massachusetts
Health Care Voices
Indiana Employers Forum
Iowa Citizen Action
Kentucky Equal Justice Center
Long Term Care Community Coalition
Metro New York Health Care for All
Massachusetts PIRG
Moms Rising
National Association of Social Workers
National Consumers League
Northwest Health Law Advocates
Pennsylvania Health Access Network
Purchaser Business Group on Health
Rural Organizing
Small Business Majority
Texas Employers for Affordable Healthcare
Tennessee Justice Center
Transgender Awareness Alliance
U.S. PIRG
Utah Health Policy Project
Virginia Organizing
Whole Washington (WA)

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