

May 28, 2024

Secretary Xavier Becerra  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Chair Lina Khan  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington DC 20580

Attorney General Merrick B. Garland  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Re: Request for Information on Consolidation in Health Care Markets (Docket No. ATR 102)

Dear Secretary Becerra, Attorney General Garland, and Chair Khan,

The Alliance for Fair Health Pricing appreciates the opportunity to respond to your joint Request for Information on consolidation in health care markets.

For decades, skyrocketing health care costs have put a squeeze on families' budgets and created downward pressure on wages and income. Many consumers and patients feel trapped under unprecedented levels of medical debt – leading them to delay or forgo care altogether. Rising health care costs also increase federal spending and contribute to our nation's fiscal challenges. In the past several years, it has become abundantly clear that there is a need to advance policies to address the primary driver of high and rising health care costs for the privately insured – high hospital prices.

Substantial evidence shows that high and rising hospital prices are the result of decades of health care consolidation in provider markets that has largely gone unchecked. The lack of competition in health care markets harms everyone paying higher prices for health care without corresponding gains in quality, including patients, consumers, employers, and taxpayers. Record consolidation also harms health care workers and clinicians who are increasingly absorbed into large, consolidated hospitals and health systems, limiting their autonomy and in some cases lowering their wages.

The Alliance for Fair Health Pricing (AFFHP) is a non-partisan coalition representing patients, consumers, employers, and physicians who are working together to make high-quality health care more affordable. We promote action to protect patients and employers from predatory pricing, and advance policies that improve access to care. **Our work is centered around the following four principles:**

1. **Making health care more affordable for consumers, employers, and taxpayers is an economic and societal imperative.** To do this, we must address the central driver of high health care costs for the privately insured – the high prices being charged for care – by increasing choices for consumers and purchasers, and limiting anti-competitive behavior to lower prices.
2. **Market failures must be directly addressed.** There is insufficient competition on price and quality in many health care markets where provider markets are highly consolidated. Dominant providers and health systems have the ability to demand high prices, and there is an imbalance in the information available to consumers. It is essential that action is taken where markets have failed to restore and increase competition and to lower prices.

3. **We need more complete and transparent information on pricing.** In order for families, employers, and policymakers to understand and fix the problem of high health care prices with common-sense solutions that work, we need more complete and transparent information on price, quality, and other aspects of our health care system.
4. **We must address high health care prices in a way that directs resources where they are most needed across the health care system.** A comprehensive solution to address high health care costs must ultimately create a more accessible, equitable, and sustainable system that provides high-quality affordable care.

The AFFHP is supportive of and focused on advancing policies to lower hospital prices to reduce health care costs for patients, consumers, and employers by strengthening price transparency, limiting consolidation, and promoting competition and addressing anticompetitive behavior.

### **Hospital Consolidation and Its Impact on Patients and Consumers, Employers, and Physicians**

Ninety percent of hospital markets are considered highly concentrated.<sup>i</sup> There is clear evidence that this lack of competition in health care markets has led to higher prices for privately-insured patients, without resulting improvements in quality. As large, powerful health care monopolies purchase hospitals and physician practices and drive out competition, they have the leverage to drive up the prices they charge patients and consumers – increasing health care costs.<sup>ii</sup> Reports have found consolidated hospitals charge prices that are 12% higher than hospitals with at least four competitors.<sup>iii</sup> A separate report 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.<sup>iv</sup> Further, when physicians and hospitals merge – one form of vertical consolidation – prices increase by 14%.<sup>v</sup> And while hospitals often argue that consolidation can improve clinical quality, the evidence of that is mixed at best.<sup>vi</sup> Some studies show that horizontal consolidation between hospitals can lead to lower quality and worse patient experiences.<sup>vii</sup>

Hospital consolidation negatively impacts patients and consumers, employers, and health care workers in a variety of ways – and has broad economic implications. More specifically:

- **The high prices stemming from consolidation translate into higher costs for consumers and employers in the form of rising premiums and out-of-pocket costs.** In 2023, the average family premium for private coverage was \$23,968 a year, an increase of 47% over the last decade.<sup>viii</sup> More than 100 million Americans face medical debt, and out-of-pocket costs continue to financially burden families.<sup>ix</sup> Consolidation also limits patient choice and undermines access to care, including in rural communities.<sup>x</sup>
- **Consolidation increases employer costs, and limits business' ability to grow.** High and rising health care costs are one of the largest expenses for a business (about 8% of total compensation) and depress businesses' profitability, ability to grow, hiring and compensation choices, and could even lead to business closures.<sup>xi</sup> A recent survey highlights the impact of these effects, showing that nearly one-quarter (24%) of small businesses dropped health coverage altogether, while 51% of small businesses report increasing employee contributions to health coverage in response to rising health care costs.<sup>xii</sup>
- **Limited competition impacts health care delivery and the health care workforce.** Consolidation often limits physician's employment choices<sup>xiii</sup>, and can depress wages for certain care providers (e.g., nurses<sup>xiv</sup>). Further, in smaller markets, consolidation often shifts resources from independent hospitals to larger consolidated systems.
- **Health care consolidation and resulting health care costs also have widespread economic impact.** Evidence shows that hospital mergers increase prices while simultaneously suppressing

wage growth.<sup>xv</sup> At the same time, higher premiums and lower wages result in less tax revenue for the government, which negatively impacts the federal budget and limits reinvestment in a higher-quality, more sustainable health care system.

### **Policies to Limit Consolidation, Improve Competition, and Increase Transparency**

There is a range of policies that can limit consolidation and its effect on health care prices to improve health care affordability and access. The AFFHP is supportive of a range of transformative actions that could be taken by the Administration or Congress to limit further health care consolidation and improve market competition, including:

- **Advancing site neutral payment and billing transparency reforms**, 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. The Administration could take steps to address site-based payments that can save consumers, employers, the federal government, and taxpayers billions of dollars, and help limit further consolidation.
- **Banning anticompetitive contracting tactics**. Dominant hospital systems exploit their market power by using anticompetitive practices (e.g., anti-tiering, anti-steering clauses) in their contract negotiations with insurers and employment arrangements with clinicians. These practices stifle choice and competition and drive up prices. We were pleased to see the launch of the new reporting portal to collect information on these practices and encourage the Administration to use data collected to inform robust antitrust enforcement and oversight on such practices. Additionally, banning these types of anticompetitive terms would help restore competition in health care markets.
- **Enhancing 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 Federal Trade Commission and Department of Justice have the necessary resources and legal tools to pursue robust antitrust enforcement, including an ability to conduct appropriate oversight over nonprofit hospitals' anticompetitive behavior.
- **Strengthening price transparency**. 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. We appreciate the Administration's efforts to date on price transparency and encourage work to continue to ensure strong compliance with existing requirements.
- **Improving ownership transparency**. Improving ownership transparency by requiring the disclosure of individuals or entities that have an ownership stake in health care providers would allow policymakers and researchers to better understand and assess the impact of emerging forms of consolidation that often entail more complex and opaque ownership relationships. Collecting data on common owners across the health care system, the types of owners dominating certain markets, and emerging forms of consolidation is an important initial step for enhancing transparency. Current ownership information is generally incomplete and inaccessible – and is important to strengthening policymakers' ability to improve health care competition.

We thank the Departments and the Commission for your efforts to address health care competition. We look forward to working with you on this important issue and would be glad to have further discussions on the above. Please contact Erica Socker, Vice President, Health Care at Arnold Ventures (ESocker@arnoldventures.org), with any questions.

Sincerely,

American Academy of Family Physicians

Families USA

American Benefits Council

The Leukemia & Lymphoma Society

Arnold Ventures

Purchaser Business Group on Health

The ERISA Industry Committee (ERIC)

Small Business Majority

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<sup>i</sup> [Health Care Market Concentration Trends in The United States: Evidence and Policy Responses.](#)

<sup>ii</sup> [What We Know About Provider Consolidation.](#)

<sup>iii</sup> [The Price Ain't Right? Hospital Prices and Health Spending On The Privately Insured.](#)

<sup>iv</sup> [When Hospitals Merge to Save Money, Patients Often Pay More.](#)

<sup>v</sup> [The Effect of Hospital Acquisitions of Physician Practices on Prices and Spending.](#)

<sup>vi</sup> [What We Know About Provider Consolidation.](#)

<sup>vii</sup> [Physician Market Structure, Patient Outcomes, and Spending: An Examination of Medicare Beneficiaries.](#)

<sup>viii</sup> [2023 Employer Health Benefits Survey.](#)

<sup>ix</sup> [100 Million People in America Are Saddled With Health Care Debt.](#)

<sup>x</sup> [Health Care Consolidation: Background, Consequences, and Policy Levers.](#)

<sup>xi</sup> [Health Insurance Costs Are Squeezing Workers and Employers.](#)

<sup>xii</sup> [Opinion poll: Small businesses struggling with rising healthcare costs, support bipartisan policy solutions.](#)

<sup>xiii</sup> [The Impacts of Restricting Mobility of Skilled Service Workers: Evidence from Physicians.](#)

<sup>xiv</sup> [Monopsony in Professional Labor Markets: Hospital System Concentration and Nurse Wages.](#)

<sup>xv</sup> [Who Pays for Health Care Costs?: The Effects of Health Care Prices on Wages.](#)