

May 27, 2025

U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington DC 20530

Submitted electronically at:  
Regulations.gov

**RE: Justice Department Launches Anti-Competitive Regulations Task Force**

*Dear Assistant Attorney General Slater,*

On behalf of the 17 undersigned state and national organizations, we appreciate this opportunity to comment in response to the Department of Justice's (DOJ) March 27 notice (the "Notice").<sup>1</sup> In particular, the Notice raises concerns about consolidation and overbilling in healthcare. Dedicated state and federal regulation of consolidation and private equity in healthcare is essential to combat increasing health costs and reduced access to essential care.

As the DOJ, Federal Trade Commission (FTC), and the Supreme Court have recognized: "Federal antitrust law is a central safeguard for the Nation's free market structures," which ensures "the preservation of economic freedom and our free-enterprise system."<sup>2</sup> We encourage this Administration to strengthen and prioritize antitrust enforcement, rather than deregulate in this arena. Strong federal oversight is necessary to protect access to care, ensure healthcare affordability, and allow independent provider practices to survive.

**Consolidation in Health Care Markets**

Healthcare markets have become increasingly consolidated over the last three decades.<sup>3</sup> The healthcare industry is now more concentrated than ever, meaning that a smaller number of firms control the market.<sup>4</sup> By 2022, the vast majority – 97 percent – of all metropolitan areas had hospital markets that were considered "highly concentrated" under federal antitrust standards.<sup>5</sup> In 2024, approximately 75 percent of health insurance markets were considered "highly concentrated."<sup>6</sup> In addition, nearly 78 percent of all physicians are employed by a hospital or other corporate entity, rather than working for a physician-owned practice.<sup>7</sup>

Healthcare consolidation leads to higher prices<sup>8</sup> and medical debt.<sup>9</sup> All too often, healthcare consolidation also decreases access to care – particularly lower-margin but essential services like maternity care. For instance, between 2010 and 2022, the share of hospitals without labor and delivery units increased each year, leaving the majority of rural hospitals and over a third of urban hospitals without an obstetrics unit.<sup>10</sup>

**Private Equity's Growing Footprint**

Private equity has invested over \$1 trillion in the U.S. healthcare sector over the last decade<sup>11</sup> and touches virtually every corner of healthcare. Private equity's growing footprint is

contributing to horizontal consolidation, which is often accompanied by higher prices in various subsectors, including primary care,<sup>12</sup> emergency medicine,<sup>13</sup> eye care,<sup>14</sup> gastroenterology,<sup>15</sup> durable medical equipment,<sup>16</sup> anesthesiology,<sup>17</sup> dental care,<sup>18</sup> fertility clinics,<sup>19</sup> methadone treatment centers,<sup>20</sup> and air ambulances.<sup>21</sup>

Private equity ownership is also associated with lower quality of care, including increases in hospital-acquired conditions,<sup>22</sup> reduced staffing levels,<sup>23</sup> and increases in emergency visits and hospitalizations for nursing home residents.<sup>24</sup> In addition, private equity also threatens the stability of the healthcare system. In 2024, one-fifth (21%) of healthcare bankruptcies involved private equity-owned companies, and seven of the eight largest healthcare bankruptcies (having liabilities over \$500 million) involved private equity.<sup>25</sup>

Moreover, private-equity rollups are also exacerbating vertical integration, because their target buyers at exit are often corporate monopolists like UnitedHealth Group's Optum,<sup>26</sup> the largest physician employer in the country, or wholesale drug distributors.<sup>27</sup>

### **Federal Recognition of the Risks of Health Care Consolidation and Private Equity Involvement**

The FTC, DOJ, and Department of Health and Human Services (HHS) launched a public inquiry in March 2024 into private equity, consolidation, and other corporate involvement in health system transactions.<sup>28</sup> In January 2025, HHS released its report in response to the public inquiry, highlighting the negative impacts of increasing consolidation and private equity acquisitions of healthcare entities, including higher prices, reduced access to care, and lower quality of care.<sup>29</sup>

In May 2024, the FTC and DOJ jointly launched a public inquiry on serial acquisitions and roll-up strategies used by corporate actors, including private equity firms, across a wide array of markets and industries, including health care.<sup>30</sup> Notably, the 2023 FTC and DOJ Merger Guidelines explicitly recognize the anti-competitive concerns related to roll-up acquisitions, undue buyer power over workers, and the potential for collusion through partial ownership stakes and board seats in multiple companies in the same sector.<sup>31</sup> The FTC has announced that these guidelines will remain in effect under the new Administration.<sup>32</sup> We urge this Administration to continue to focus on these issues.

### **Benefits of State Oversight in Health Care Markets**

As healthcare markets become more consolidated, states are increasingly requiring additional transparency and oversight of healthcare transactions. State regulation is important because the threshold for federal pre-merger review is over \$126 million,<sup>33</sup> which allows many healthcare transactions to proceed without prior federal review. States may establish lower thresholds for pre-merger review that are appropriate for local healthcare markets. In addition, unlike federal antitrust laws, some state laws explicitly consider the impact of health care transactions on access to care.

State and federal antitrust authorities should work together on tackling anti-competitive practices, and they often do. For example, the FTC urged Indiana state regulators to deny a

proposed hospital merger due to “substantial anticompetitive risks such as higher healthcare costs for patients and lower wages for hospital workers.”<sup>34</sup>

We urge this Administration to encourage, rather than deter, state regulation of healthcare transactions to ensure that health care markets remain competitive and that residents have access to essential care.

### **Overbilling and Consolidation**

The Notice states that laws and regulations in healthcare markets may encourage overbilling and consolidation. We urge this Administration to work with Congress to address the root causes of these issues. For instance, policymakers should address incentives for consolidation such as higher reimbursement for care provided in hospitals that could be safely provided in lower-cost settings<sup>35</sup> and facility fees that are often added when hospitals acquire previously independent practices.<sup>36</sup> In addition, policymakers must address the underlying issues that lead health care entities to consolidate, such as the financial struggles of many rural hospitals<sup>37</sup> and the burden of increasing prior authorization requirements and insurance denials.<sup>38</sup>

Finally, the Administration should continue to use its existing authority to crack down on illegal behavior by corporate healthcare monopolies. For instance, the DOJ is investigating UnitedHealth Group for possible criminal Medicare Advantage fraud, in addition to ongoing civil and antitrust probes of the company’s Medicare billing practices.<sup>39</sup>

### **Conclusion**

Consolidation and private equity investment in the healthcare sector contribute to rising costs and declining access to quality care. Strong federal and state oversight of such transactions is crucial to safeguarding patients, communities, and the financial stability of our nation’s health systems. Deregulation is not the answer to addressing consolidation in healthcare - instead, we urge the Administration to prioritize and strengthen antitrust enforcement, and to ensure states have the right to pursue state-specific regulations to promote competition and prevent anti-competitive transactions while ensuring taxpayer dollars are not used to subsidize corporate monopolies.

Sincerely,

AFT: Education, Healthcare, Public Services  
American Economic Liberties Project  
Americans for Financial Reform Education Fund  
Center for Economic and Policy Research  
Colorado Consumer Health Initiative  
Community Catalyst  
Institute for Local Self-Reliance

Legal Action Center  
National Consumer Law Center (on behalf of its low-income clients)  
NHMH - No Health without Mental Health  
Partners for Dignity and Rights  
People's Action Institute  
Private Equity Stakeholder Project  
Public Citizen  
Serving at-risk families everywhere, Inc  
Tennessee Justice Center  
Voices of Health Care Action

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<sup>1</sup> U.S. Dep’t of Justice, “Justice Department Launches Anticompetitive Regulations Task Force,” Mar. 27 2025, <https://www.justice.gov/opa/pr/justice-department-launches-anticompetitive-regulations-task-force>.

<sup>2</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, Merger Guidelines at 1 (Dec. 18, 2023) (citing *North Carolina State Bd. of Dental Examiners v. FTC*, 574 U.S. 494, 502 (2015)).

<sup>3</sup> U.S. Dep’t of Health and Human Svs., “HHS Consolidation in Health Care Markets RFI Response,” at 3 (Jan. 15, 2025), <https://www.hhs.gov/sites/default/files/hhs-consolidation-health-care-markets-rfi-response-report.pdf>.

<sup>4</sup> *Id.* at n.c.

<sup>5</sup> KFF, “One or Two Health Systems controlled the Entire Market for Inpatient Hospital Care in Nearly Half of Metropolitan Areas in 2022,” Oct. 1, 2024, <https://www.kff.org/health-costs/issue-brief/one-or-two-health-systems-controlled-the-entire-market-for-inpatient-hospital-care-in-nearly-half-of-metropolitan-areas-in-2022/>.

<sup>6</sup> U.S. Dep’t of Health and Human Svs., *supra* note 3, at 4.

<sup>7</sup> Physician Advocacy Institute, “Updated Report: Hospital and Corporate Acquisition of Physician Practices and Employment, 2019 – 2023,” at 13, updated April 2024, <https://www.physiciansadvocacyinstitute.org/Portals/0/assets/docs/PAI-Research/PAI-Avalere%20Physician%20Employment%20Trends%20Study%202019-2023%20Final.pdf>.

<sup>8</sup> KFF, “Ten Things to Know About Consolidation in Health Care Provider Markets,” Apr. 19, 2024, <https://www.kff.org/health-costs/issue-brief/ten-things-to-know-about-consolidation-in-health-care-provider-markets/>.

<sup>9</sup> Johnson, Noah, et al., “Is Hospital Market Concentration Related to Medical Debt?” Oct. 16, 2024, <https://www.urban.org/urban-wire/hospital-market-concentration-related-medical-debt>.

<sup>10</sup> Kliff, Sarah, “Many Rural Hospitals Have Closed Their Maternity Wards, Study Finds,” N.Y. Times (Dec. 4, 2024), <https://www.nytimes.com/2024/12/04/health/maternity-wards-closing.html>.

<sup>11</sup> Blumenthal, David. Private Equity’s Role in Health Care, Commonwealth Fund, 17 Nov. 2023, [www.commonwealthfund.org/publications/explainer/2023/nov/private-equity-role-health-care](http://www.commonwealthfund.org/publications/explainer/2023/nov/private-equity-role-health-care).

<sup>12</sup> Singh, Yashaswini, et al. “Growth of Private Equity and Hospital Consolidation in Primary Care and Price Implications.” *JAMA Network*, JAMA Health Forum, 17 Jan. 2025, [jamanetwork.com/journals/jama-health-forum/fullarticle/2829224](http://jamanetwork.com/journals/jama-health-forum/fullarticle/2829224). (The study found that an increasing share of primary care physicians (PCPs) are affiliated with hospitals and private equity firms, and that such affiliated PCPs on average charge higher prices for the same services relative to independent PCPs).

<sup>13</sup> Adler, Loren, et al. “Measuring Private Equity Penetration and Consolidation in Emergency Medicine and Anesthesiology.” *Oxford Academic*, Health Affairs Scholar, Volume 1, Issue 1,

July 2023. Published online 20 June 2023, [academic.oup.com/healthaffairsscholar/article/1/1/qxad008/7203733](https://academic.oup.com/healthaffairsscholar/article/1/1/qxad008/7203733). (The study found that, from 2009 to 2019, there were substantial increases in local market concentration in emergency medicine practices and that physician groups owned by private equity or publicly traded companies grew from 8.6% of the national emergency medicine market to 22.0%).

<sup>14</sup> Weber, Lauren. “Private Equity Sees the Billions in Eye Care as Firms Target High-Profit Procedures.” *KFF Health News*, 19 Sept. 2022, [kffhealthnews.org/news/article/private-equity-ophthalmology-eye-care-high-profit-procedures/](https://kffhealthnews.org/news/article/private-equity-ophthalmology-eye-care-high-profit-procedures/).

<sup>15</sup> Busam, Jonathan A., and Eric D. Shah. “The Rise of Private Equity in Gastroenterology Practices.” *NCBI, Gastroenterology & Hepatology*, 19 May 2023, [pmc.ncbi.nlm.nih.gov/articles/PMC10548246/](https://pubmed.ncbi.nlm.nih.gov/articles/PMC10548246/).

<sup>16</sup> O’Grady, Eileen, and David Card. *Private Equity in Durable Medical Equipment: How Private Equity Profits Off of Disabled and Chronically Ill Americans*, PESP & NDRN, Nov. 2023, [pestakeholder.org/wp-content/uploads/2023/11/PESP\\_Report\\_DME\\_2023.pdf](https://pestakeholder.org/wp-content/uploads/2023/11/PESP_Report_DME_2023.pdf). (Explaining that the risk of fraud in private equity-owned durable medical equipment companies is evident, as such companies have paid millions of dollars in recent years to settle lawsuits alleging fraud that occurred while under private equity ownership).

<sup>17</sup> See Adler, et al., *supra* note 12. (The study also found that, from 2009 to 2019, there were substantial increases in local market concentration in anesthesiology practices and that physician groups owned by private equity or publicly traded companies grew from 3.2% of the national anesthesiology market to 18.8%).

<sup>18</sup> Timmerman, Anna M., et al. “Pushing Upmarket: Consolidation of DSOs and Secondary Private Equity Sales.” *McGuireWoods*, 5 May 2023, [www.mcguirewoods.com/client-resources/alerts/2023/5/consolidation-dsos-secondary-private-equity-sales/](https://www.mcguirewoods.com/client-resources/alerts/2023/5/consolidation-dsos-secondary-private-equity-sales/).

<sup>19</sup> Stevenson, David. “Private Equity Drives Consolidation in Maturing Fertility Market.” *PitchBook*, 16 Nov. 2023, [pitchbook.com/news/articles/private-equity-buyouts-fertility-consolidation](https://pitchbook.com/news/articles/private-equity-buyouts-fertility-consolidation).

<sup>20</sup> Facher, Lev. “The Methadone Clinic Monopoly: Opioid Treatment Chains Backed by Private Equity Are Fighting Calls for Reform.” *STAT*, 19 Mar. 2024, [www.statnews.com/2024/03/19/methadone-clinics-opioid-addiction-private-equity/](https://www.statnews.com/2024/03/19/methadone-clinics-opioid-addiction-private-equity/).

<sup>21</sup> Stanton, Chris. “The Air-Ambulance Vultures.” *NY Magazine, Intelligencer*, 20 Apr. 2022, [nymag.com/intelligencer/2022/04/how-private-equity-took-over-air-ambulances.html](https://nymag.com/intelligencer/2022/04/how-private-equity-took-over-air-ambulances.html).

<sup>22</sup> Kannan, Sneha, et al. “Changes in Hospital Adverse Events and Patient Outcomes Associated with Private Equity Acquisition.” *JAMA Network, JAMA*, 26 Dec. 2023, [jamanetwork.com/journals/jama/fullarticle/2813379](https://jamanetwork.com/journals/jama/fullarticle/2813379).

<sup>23</sup> Borsa, Alexander, et al. “Evaluating Trends in Private Equity Ownership and Impacts on Health Outcomes, Costs, and Quality: Systematic Review.” *BMJ, British Medical Journal*, 11 June 2023, [www.bmj.com/content/382/bmj-2023-075244](https://www.bmj.com/content/382/bmj-2023-075244).

<sup>24</sup> Braun, Robert Tyler, et al. “Association of Private Equity Investment in US Nursing Homes With the Quality and Cost of Care for Long-Stay Residents.” *JAMA Network, JAMA Health Forum*, 19 Nov. 2021, [jamanetwork.com/journals/jama-health-forum/fullarticle/2786442](https://jamanetwork.com/journals/jama-health-forum/fullarticle/2786442).

<sup>25</sup> Dabos, Valentina. *Private Equity Bankruptcy Tracker*, PESP, 12 Feb. 2025, [pestakeholder.org/reports/private-equity-bankruptcy-tracker/](https://pestakeholder.org/reports/private-equity-bankruptcy-tracker/).

<sup>26</sup> Vogel, Susanna. “Steward to Sell Physician Group to UnitedHealth’s Optum Care.” *Healthcare Dive*, 27 Mar. 2024, [www.healthcaredive.com/news/steward-unitedhealth-optum-care-proposed-deal/711458/](https://www.healthcaredive.com/news/steward-unitedhealth-optum-care-proposed-deal/711458/).

<sup>27</sup> “TPG and AmerisourceBergen to Acquire Leading Specialty Practice Network OneOncology From General Atlantic.” *Cencora*, Business Wire, 20 Apr. 2023, [investor.amerisourcebergen.com/news/news-details/2023/TPG-and-AmerisourceBergen-to-Acquire-Leading-Specialty-Practice-Network-OneOncology-From-General-Atlantic/default.aspx](https://investor.amerisourcebergen.com/news/news-details/2023/TPG-and-AmerisourceBergen-to-Acquire-Leading-Specialty-Practice-Network-OneOncology-From-General-Atlantic/default.aspx).

<sup>28</sup> Fed. Trade Comm’n, “Federal Trade Commission, the Department of Justice and the Department of Health and Human Services Launch Cross-Government Inquiry on Impact of Corporate Greed in Health Care,” (Mar. 5, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/03/federal-trade-commission-department-justice-department-health-human-services-launch-cross-government>.

<sup>29</sup> U.S. Dep’t of Health and Human Svs., *supra* note 3.

<sup>30</sup> Fed. Trade Comm’n, “FTC and DOJ Seek Info on Serial Acquisitions, Roll-Up Strategies Across U.S. Economy,” (May 23, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/05/ftc-doj-seek-info-serial-acquisitions-roll-strategies-across-us-economy>.

<sup>31</sup> Merger Guidelines U.S. Dep’t of Justice and Fed. Trade Comm’n at 23 (Dec. 18, 2023), <https://www.ftc.gov/reports/merger-guidelines-2023>.

<sup>32</sup> Fed. Trade Comm’n, “FTC Chairman Andrew N. Ferguson Announces that the FTC and DOJ’s Joint 2023 Merger Guidelines Are in Effect,” (Feb. 18, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-chairman-andrew-n-ferguson-announces-ftc-doj-joint-2023-merger-guidelines-are-effect>.

<sup>33</sup> Fed. Trade Comm’n, “FTC Announces 2025 Update of Size of Transaction Thresholds for Premerger Notification Filings,” (Jan. 10, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-announces-2025-update-size-transaction-thresholds-premerger-notification-filings>.

<sup>34</sup> “FTC Staff Reaffirm Opposition to Proposed Indiana Hospital Merger.” Fed. Trade Comm’n, 17 Mar. 2025, [www.ftc.gov/news-events/news/press-releases/2025/03/ftc-staff-reaffirm-opposition-proposed-indiana-hospital-merger](https://www.ftc.gov/news-events/news/press-releases/2025/03/ftc-staff-reaffirm-opposition-proposed-indiana-hospital-merger).

<sup>35</sup> Peter G. Peterson Foundation, “What Is Site Neutrality and Could It Help Reduce Healthcare Costs?” (Aug. 26, 2024), <https://www.pgpf.org/article/what-is-site-neutrality-and-could-it-help-reduce-healthcare-costs/>.

<sup>36</sup> Health Care Cost Institute, “Facility Fees and How They Affect Health Care Prices,” (June 2023), [https://healthcostinstitute.org/images/pdfs/HCCI\\_FacilityFeeExplainer.pdf](https://healthcostinstitute.org/images/pdfs/HCCI_FacilityFeeExplainer.pdf).

<sup>37</sup> U.S. Economic Research Svs., “146 Rural Hospitals Closed or Stopped Providing Inpatient Services from 2005 to 2023 in the United States,” (Feb. 18, 2025), <https://ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=110927#:~>.

<sup>38</sup> KFF, “Medicare Advantage Insurers Made Nearly 50 Million Prior Authorization Determinations in 2023,” (Jan. 28, 2025), <https://www.kff.org/medicare/issue-brief/nearly-50-million-prior-authorization-requests-were-sent-to-medicare-advantage-insurers-in-2023/>; see also CSNBC, “How Rising Health Care Claims Denials Are Hurting Americans,” (Feb. 22, 2025), <https://www.cnbc.com/2025/02/22/why-so-many-health-insurance-claims-are-denied-in-the-us.html>.

<sup>39</sup> Weaver, Christopher, and Anna Wilde Mathews. *UnitedHealth Group Is Under Criminal Investigation for Possible Medicare Fraud*, Wall Street Journal, 15 May 2025, [www.wsj.com/us-news/unitedhealth-medicare-fraud-investigation-df80667f?st=8busy9&reflink=desktopwebshare\\_permalink](https://www.wsj.com/us-news/unitedhealth-medicare-fraud-investigation-df80667f?st=8busy9&reflink=desktopwebshare_permalink)

