



Submitted via regulations.gov

**Association of
American Medical Colleges**
655 K Street, N.W., Suite 100, Washington, D.C. 20001-2399
T 202 828 0400
www.aamc.org

June 3, 2024

The Honorable Jonathan Kanter
Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Suite 3337
Washington, DC 20530

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

Secretary Xavier Becerra
Department of Health and Human Services
Hubert Humphrey Building
200 Independence Ave., SW
Washington, DC 20201

Re: [Request for Information on Consolidation in Health Care Markets \(ftc.gov\)](#) (Docket No. ATR 102)

Dear Assistant Attorney General Kanter, Chair Khan, and Secretary Becerra:

On behalf of the Association of American Medical Colleges (AAMC), I am submitting the following comments on the request for information on consolidation in health care markets. The AAMC appreciates the opportunity to share information that would be used to inform further actions and priorities of the Departments.

The AAMC is a nonprofit association dedicated to improving the health of people everywhere through medical education, health care, medical research, and community collaborations. Its members are all 158 U.S. medical schools accredited by the Liaison Committee on Medical Education; 13 accredited Canadian medical schools; approximately 400 academic health systems and teaching hospitals, including Department of Veterans Affairs medical centers; and more than 70 academic societies. Through these institutions and organizations, the AAMC leads and serves America's medical schools, academic health systems and teaching hospitals, and the millions of individuals across academic medicine, including more than 193,000 full-time faculty members, 96,000 medical students, 153,000 resident physicians, and 60,000 graduate students and postdoctoral researchers in the biomedical sciences. Following a 2022 merger, the Alliance of Academic Health Centers and the Alliance of Academic Health Centers International broadened participation in the AAMC by U.S. and international academic health centers.

Private Equity Business Model is Characterized by a Focus on Profits in Short Timeframe and High Reliance on Debt

Increasingly, private equity firms have been acquiring physician practices, hospitals, nursing homes, and other areas of the health care industry. The growing presence of private equity in healthcare raises significant concerns. Specifically, private equity ownership has resulted in closures, negative impacts on quality of care, reduced access to services, and fraud.

The private equity (PE) business model, which is characterized by obtaining profits over a short period of time, and reliance on high levels of debt, can negatively impact health care delivery. Private equity firms often seek to triple their investment over a short time frame, often 4-7 years, and then exit. They use significant amounts of debt when buying companies by financing a substantial portion of an acquisition by taking out a loan secured by the company it is purchasing. PE firms that own hospitals sometimes conduct transactions where the firm will sell the hospital's real estate to a third party and then have the hospital lease back the real estate.

PE firms often conduct "roll-ups" by buying up multiple companies in the same industry and merging them under a corporate umbrella. For example, they may acquire multiple providers in the same physician specialty within a local or regional market, which can lead to higher prices, lower quality, and anticompetitive wages. Most of these practice acquisitions fall below federal antitrust reporting thresholds for minimum transaction size (dollar amount), and therefore authorities have limited oversight. PE acquisitions have been targeting medical specialties with high revenue potential, such as dermatology, ophthalmology, and gastroenterology. One recent study found that a total of 807 physician practices in these three specialties were acquired by PE firms between 2016-2020.¹ These specialties tend to provide more profitable ancillary services.

In private equity, the new owner may replace the vision of the founder of the institution with a new vision and make decisions based on short-term gains. The firms typically provide direct managerial oversight to acquired organizations, often making changes to increase valuation and future profit potential.

Private Equity Ownership Has Jeopardized Quality, Safety and Access to Care

By overburdening health care companies with debt, prioritizing profits, making management changes, and focusing on only profitable service lines, private equity ownership can jeopardize quality, safety, and access to care. These PE firms do not focus on investing long-term in health care delivery and the workforce that is needed to provide high quality care. In a June 2021 report to Congress on the role that private equity plays in healthcare provided to Medicare beneficiaries, the Medicare Payment Advisory Commission (MedPAC) found that PE-owned hospitals were more inclined to report lower costs and patient satisfaction than other hospitals.² The report also found that PE-owned providers are focusing on

¹ Health Affairs Scholar, Life cycle of private equity investments in physician practices: an overview of private equity exits, Volume 2, Issue 4, April 2024; available at [Life cycle of private equity investments in physician practices: an overview of private equity exits | Health Affairs Scholar | Oxford Academic \(oup.com\)](https://www.oup.com/academic/article/doi/10.1093/ha/szab004)

² Medicare Payment Advisory Commission, "Congressional Request: Private Equity and Medicare," Report to the Congress: Medicare and the Health Care Delivery System, June 2021.

increased revenue, including by expanding the volume of lucrative services, such as cosmetic injections or laser refractive surgery.³ With PE firms targeting high revenue services, nonprofit health systems are finding it more challenging to support many of the types of services that have negative margins, such as behavioral health, pediatrics, and rheumatology. Below are a few examples of the harm caused by private equity ownership.

Hahnemann University Hospital

Hahnemann University Hospital (HUH), established in 1885, was a tertiary care center in Philadelphia and was the teaching hospital for Drexel University College of Medicine. In the early 1990s, HUH was acquired by Allegheny Health Education and Research Foundation (AHERF), a nonprofit academic health system which eventually folded amidst bankruptcy. HUH was then sold in 1998 to Tenet Healthcare Corporation, a multinational investor-owned health care services company. In 2018, Tenet sold both HUH and St. Christopher's Hospital for Children to American Academic Health System, a private equity-backed firm (an affiliate of Paladin Healthcare).

Under American Academic Health System, Hahnemann's financial condition worsened, with the hospital losing millions of dollars each month. Due to these losses, American Academic Health System laid off hundreds of employees throughout 2018 and 2019, closed outpatient offices and eliminated clinical services. While the hospital was in financial turmoil, the hospital leadership went through five CEOs in the course of one year. On June 26, 2019, American Academic Health System announced Hahnemann Hospital would close in September 2019 due to unsustainable financial losses. As a result, Philadelphia and its residents lost a long-standing safety net institution. Over 2,000 physicians, nurses, and staff lost their jobs.

Medical school faculty and 574 residents and fellows were displaced. These residents and fellows had to move quickly to find programs at other institutions that would accept them to continue their training.⁴ Despite the placement of residents and fellows in new positions, there were significant disruptions in their training and in their personal lives, especially for those who had to relocate.⁵ The acquisition of Hahnemann University and its eventual closure demonstrates that the profit driven nature of private equity ownership conflicts with the mission of providing accessible, high quality health care, and training the future physician workforce.

Steward Healthcare- Cerberus Capital Management

The private equity firm, Cerberus Capital purchased Caritas Christi Health (a six facility hospital chain) in 2010 in a buyout, creating Steward Healthcare, and changing the nonprofit health system to for-profit. The Massachusetts Attorney General's office approved the deal but placed conditions on the transaction, including a requirement for the new owners to invest \$400 million in the system's infrastructure. These

³ Id.

⁴ The Hahnemann University Hospital Closure and What Matters: a Department Chair's Perspective, *Academic Medicine* 95(4)p.494-498 (April 2020) https://journals.lww.com/academicmedicine/Fulltext/2020/04000/The_Hahnemann_University_Hospital_Closure_and_What_11.aspx

⁵ Lessons to Learn From Hahnemann University Hospital's Closure, *Academic Medicine* 95(4)p. 509-511 (April 2020) https://journals.lww.com/academicmedicine/Fulltext/2020/04000/Lessons_to_Learn_From_Hahnemann_University.15.aspx

investments came from debt loaded onto Steward and sale-leasebacks of some of its medical office buildings. In 2016, Steward Health care sold its Massachusetts properties for \$1.25 billion to a real estate investment trust (REIT) Medical Properties Trust (MPT), and many Steward hospitals were then responsible for payments to lease the properties back from MPT. Steward used some of the profits from the property sale to expand and purchase hospitals outside of Massachusetts. In 2017 Steward operated 36 hospitals across 10 states. Cerberus began its exit in Fall 2020 by selling its controlling interest in Steward, with Steward reporting a net loss of more than \$400 million in 2020, while the PE firm made \$800 million over the 10 years it owned Steward.⁶

Steward's hospitals currently face a dire financial situation. Their financial problems have led to inadequate staffing and supplies in recent months at its facilities, endangering patients. Some of the Steward hospitals in Massachusetts are expected to close, leaving communities without important health care services and placing a burden on other hospitals in Massachusetts.

Distinction Between Private Equity Ownership and Beneficial Health System Partnerships, Mergers, and Joint Ventures

It is important to distinguish private equity ownership from health system partnerships, mergers, and joint ventures, which are voluntary combinations of two health care delivery organizations and offer benefits by improving clinical care while preserving access to care in underserved communities and streamlining administrative processes. In these instances, the health care organization buys another health care entity that it plans to hold for the long term. The purchasing provider organization views it as a good addition to its clinical delivery enterprise and wants to continue the acquired entity's ability to maintain patients' access to high quality care. This is very different from a PE company that finances its purchases by debt, intends to remain in the business for only a short period of time, and has a goal of making a significant profit in that short time frame.

There are many benefits to these types of partnerships and mergers among two health care delivery organizations. In recent years hospitals and health systems have faced major financial challenges. Costs are rapidly increasing due to inflation, increased costs of supplies and equipment, workforce shortages, and increased regulatory requirements, and reimbursement from payers is not keeping up with these increased costs. According to MedPAC, Medicare margins hit a record low in 2022 at negative 12.7% when excluding COVID-19 pandemic relief funds and negative 11.6% when including COVID-19 pandemic relief funds.⁷ Additionally, MedPAC projects 2024 Medicare margins to remain depressed at negative 13%.⁸ Community hospitals, especially those in rural areas, are at risk of closure. Given these challenges, a strategic combination of hospitals and health systems is often the best way to maintain access to quality health care.

⁶ A timeline of Steward health Care, from founding to financial peril, WBUR (January 2024)

<https://www.wbur.org/news/2024/01/31/steward-health-care-timeline>

⁷ Medicare Payment Advisory Commission. Report to Congress: Medicare Payment Policy. Hospital inpatient and outpatient services (March 2024).

https://www.medpac.gov/wpcontent/uploads/2024/03/Mar24_Ch3_MedPAC_Report_To_Congress_SEC.pdf

⁸ Id.

For example, a rural or community hospital, by joining a health system, would be able to remain open and to better recruit and retain clinical staff and personnel, upgrade facilities, offer specialty services, and obtain more advanced technology and equipment. Health system mergers can bring a wider range of services and specialties to new communities, enhancing patient access to care. Quality of care can improve by enabling the acquired hospitals to standardize clinical protocols and to have better analytics to measure outcomes. In addition, mergers can facilitate collaboration between healthcare providers, leading to better coordination of care and improved patient outcomes. Integrated health systems can invest in state-of-the-art IT infrastructure, and these advanced systems can be expanded to the acquired hospitals, enabling improvements in quality of care. Investments in cybersecurity have been financially out of reach for many providers, and these mergers can facilitate updates in the technology needed for cybersecurity.

Studies have shown the benefits of these mergers. For example, one study found that nearly 40% of acquired hospitals added one or more services, and patients at hospitals acquired by academic medical centers gained access to tertiary and quaternary services.⁹ Another study found that rural hospital mergers were associated with better mortality outcomes.¹⁰

Furthermore, policymakers have set a goal of increased provider participation in value-based programs where the health systems are also assuming risk. To assume this risk, the health system needs to have a large enough patient population to balance the impact of any high acuity, high-cost patients.

Insurer Consolidation Raises Concerns

In recent years there has been a significant increase in insurer consolidation, which can lead to the exercise of market power, harming consumers and providers. A recent study found that 73 percent of the MSA-level markets were considered highly concentrated according to federal guidelines, 90% of MSA-level markets had at least one insurer with a commercial share of 30% or greater, and in 48% of markets, a single insurer's share was at least 50%.¹¹ Another recent study showed that the top three large-group insurers hold an average of 82.2% of the market share in each state, far exceeding the market share of health systems.¹² Mergers and acquisitions involving health insurers raises antitrust concerns. With so much market share, insurers have the ability to increase health insurance premiums above competitive levels. In addition, it enables them to reduce reimbursement rates to physicians, hospitals, and other providers below competitive levels, ultimately harming consumers.¹³ This lower reimbursement may result in a reduction in the type of services offered by physician practices and hospitals, or even closure.

⁹ Kaufman Hall, Partners, Mergers, and Acquisitions Can Provide Benefits to Certain Hospitals and Communities (Oct .2021), <https://www.aha.org/system/files/media/file/2021/10/KH-AHA-Benefits-of-Hospital-Mergers-Acquisitions-2021-10-08.pdf>

¹⁰ Joanna Jiang et al. Quality of Care Before and After Mergers and Acquisitions of Rural Hospitals (Sept. 20, 2021) (JAMA). <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2784342>

¹¹ American Medical Association. [Competition in health insurance: A comprehensive study of U.S. markets, 2023. \(ama-assn.org\). https://www.ama-assn.org/system/files/competition-health-insurance-us-markets.pdf](https://www.ama-assn.org/system/files/competition-health-insurance-us-markets.pdf)

¹² Association of American Medical Colleges Research and Action Institute. Why Market Power Matters for Patients, Insurers, and Hospitals (May 1, 2024). <https://www.aamcresearchinstitute.org/our-work/data-snapshot/why-market-power-matters>

¹³ Id.

In addition to insurer-to-insurer horizontal consolidation, increasingly insurers have been vertically integrating with pharmacies and pharmacy benefit managers (PBMs), which leads to anticompetitive practices. One key function of PBMs is to negotiate discounts with drug manufacturers to reduce the costs for payers and consumers. Having the plan, the PBM and the pharmacy consolidated under one entity may raise health spending by driving patients to use higher-priced drugs in exchange for discounts from the drug manufacturers and preferred placement on the plan's formulary. Additionally, PBMs and payers often will steer patients to their own pharmacies in their network, which in turn limits patient access and could lead to higher out of pocket costs. These networks often exclude hospital-operated retail and specialty pharmacies, restricting the ability of patients to have their prescriptions filled at convenient and accessible locations.

Policy Recommendations

As private equity ownership of health care companies is continuing to grow, it is important for policymakers to better understand the risks associated with private equity investment and create policies that protect patients, the health care workforce, and other health care providers to ensure access to high quality care. As a starting point, policies that require more transparency on the ownership and investment in the healthcare space by private equity investors would be helpful to get a better understanding of the concerns that need to be addressed. In addition, policy levers to address private equity could include modifying antitrust guidance and enforcement to address some of the problematic practices of these private equity firms, including the roll-ups that are anticompetitive. Increasing fraud and abuse enforcement could be helpful as well, particularly inappropriate referral practices, upcoding and revenue generating tactics that may violate fraud and abuse laws.

Approaches to policies and regulations should distinguish between private equity investment ownership as compared to partnerships, mergers, and acquisitions of existing health care providers. Policymakers should avoid establishing policies that deter health system mergers and acquisitions between health care providers that offer significant benefits to providers and the communities they serve. Any further regulation of health system consolidation should take into consideration the impact of consolidation in the insurer market, which may impact the availability of services and providers, and quality of care.

Conclusion

Thank you for the opportunity to comment. If you have questions regarding our comments, please feel free to contact Gayle Lee at galee@aamc.org.

Sincerely,



Jonathan Jaffery, M.D., M.S., M.M.M., F.A.C.P.
Chief Health Care Officer