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Before the House Energy and Commerce Health Subcommittee

Lowering Unaffordable Costs: Examining Transparency and Competition in Health Care

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Chairman Guthrie, Ranking Member Eshoo, members of the Committee, thank you for the opportunity to testify today at this critical hearing focused on health care affordability, transparency, and competition. It is an honor to be with you this afternoon. My name is Sophia Tripoli, and I am the director of Families USA's Center on Affordable Whole Person Care. For more than 40 years, Families USA has been a leading national, non-partisan voice for health care consumers 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.

The U.S. Health System in Crisis

Today's hearing is urgently needed. Our health care system is in crisis, evidenced by a lack of affordability and poor quality.[1] And it is going to take all of us working together, across political party and health policy philosophy, from rural and urban communities alike, to fix it.

At its core, our nation's affordability 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.[2]

The good news is that you and your colleagues in Congress have the support of the American people in making needed changes. Ninety-three percent of Americans agree that our

country is paying too much for the quality of health care we receive, and more than half of adults in that same poll said that their most recent health care experience was not worth the cost.[3] Brand new polling released just last week shows that almost 90% of voters say it is important for this Congress to take action to reduce hospital prices, including 95% of Biden voters and 85% of Trump voters.[4]

It is not surprising that Americans are united around the urgent need to address these issues. 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,[5] and over 40 percent of American adults – 100 million people – face medical debt.[6] 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.[7] 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.[8]

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.[9,10,11] 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.[12]

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.[13] 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.[14] These higher prices result in $240 billion annually coming out of workers' paychecks and instead becoming profits for large health care corporations.[15,16,17]

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, including prescription drugs and diagnostic tools such as MRIs and CT scans. For example, the price of Humira — a drug used to treat arthritis — is more than four times as expensive in our country as in the United Kingdom and almost twice as expensive as in Germany.[18] The average price of a hospital-based MRI in the United States is $1,475.[19] That same scan costs $503 in Switzerland and $215 in Australia.[20] 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.[21]

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.[22] This consolidation has taken place without meaningful regulatory oversight or intervention, and is

becoming more acute.[23] 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.[24]

- **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.[25,26] An estimated 40% of those mergers took place from 2010 to 2015.[27]

- **Insurance consolidation:** Insurance markets are not as highly concentrated as providers, but there is evidence of markets with little competition between insurers. Between 2006 and 2014, the four-firm concentration ratio —the extent of market control held by the four largest firms, Aetna, Blue Cross Blue Shield, United and Anthem — for the sale of private insurance increased from 74% to 83%.[28]

- **Vertical Integration:** The number of hospital-acquired physician practices grew from 35,700 in 2012 to more than 80,000 in 2018.[29] Over this same time period, the percentage of physicians employed by a hospital or health system nearly doubled, from 25% to 44%.[30] Recent research found that over 55% of physicians are now employed in hospital-owned practices.[31] 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.[32] 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.[33]

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.[34,35, 36] 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.[37,38]

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 in the public and policymaking community have not realized is how much this has destroyed any real competition in our health care sector; allowing hospitals to dramatically increase their prices every year.[39,40] 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.[41,42,43,44]

These high prices, combined with intentionally opaque billing practices, often hit consumers at their most vulnerable moments. Consider the story of Nicki Pogue:

> *In August 2018, Pogue ran a high-altitude trail race with a chest cold. After returning home she started having difficulty breathing, rapid pulse, tingling in her extremities, dizziness, and had difficulty walking. Her neighbor rushed her to the closest hospital where they ran multiple tests—an EKG, chest X-rays, and blood tests – but they could not pinpoint what was wrong with her. Luckily after four hours she stabilized and was sent home. A month later, a $13,000 bill arrived. When she reviewed her bill, she noticed that the biggest charge was a mysterious line item for "ER EX/TX RM LEVEL V," which came with a fee of more than*

$11,000. She had no idea what this charge was and did not get any transparency or explanation from the hospital. She spent the next five months working to decipher the bill on her own, only to discover the hospital had miscoded her Emergency Severity Index and severely over-charged her.[45]

High and Irrational Prices Fueled by a Lack of Transparency

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.[46]
- 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.[47, 48, 49] All the while, the workforce in these concentrated markets suffers - wages for nurses and other health care workers decrease significantly after mergers and acquisitions.[50]
- 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.[51]
    - At one health system in Wisconsin, an MRI costs between $1,093 and $4,029 depending on level of insurance.[52]
    - Across the country, the average price for a knee replacement ranges from $21,976 in Tucson, Arizona to $60,000 in Sacramento California.[53]
    - The price of an MRI at Mass General Hospital in Boston Massachusetts ranged from $830 to $4,200 depending on the insurance carrier.[54]

What's more, consumers and employers, who are the ultimate purchasers of health care, have limited insight into what the prices of health care services are, until after they've received a bill. For the majority of Americans – 66%– who receive health care through private insurance, [55] health care prices are established in closed-door negotiations between large hospital corporations and

health plans based on who has more market power.[56] These health care prices, often referred to as the negotiated rate, are buried in proprietary contracts without insight into or oversight over the price of health care services by the public and policymakers.[57] Health care is one of the only markets in the U.S. economy in which consumers are blinded to the price of a service until they receive a bill after the services is delivered.[58] It is the epitome of a broken market that threatens the financial security of American families and fails to serve their needs.

Congress has the Power to Fix our Broken System

It does not have to be this way. We know what the major drivers of high and irrational health prices are, and we know how to fix them. As federal lawmakers, you have an obligation to carefully steward our national health care resources and taxpayer dollars. We urge the Committee to consider well-vetted, bipartisan, and commonsense legislation that would remedy some of the most obvious health system failings, and to take on rising health industry consolidation among hospitals, insurers, and other health care organizations that enables anticompetitive behaviors, prevents healthy competition in markets and results in monopolies that set outrageous and unjustifiable prices. Policymakers should also ensure there is a great deal more transparency around both the cost of care and health care outcomes, including for vulnerable populations living in rural America, people of color and people living with disabilities.

One crucial way this Committee can address provider consolidation and encourage competition in the health care system is through price transparency. Unveiling prices is a critical step towards achieving truly affordable health care, improved health, and more competitive health care markets across the U.S. health care system. Price transparency pulls back the curtain on prices so that policymakers, researchers, employers, and consumers can see how irrational

health care prices have become and take action to rein in pricing abuses.[59] Further, unveiling prices can specifically inform where the highest and most irrational prices are occurring in the health care system, so policymakers can implement more targeted policy solutions to bring down the cost of health care.[60]

Consumer advocates have long sought transparency in health care prices. Following years of consumer advocacy, the Center for Medicare and Medicaid Services (CMS) finalized the Hospital Price Transparency Rule, which requires hospitals to make public their standard charges for the care they provide including negotiated rates.[61] The rule requires hospitals to publish this information online in a machine-readable format (to allow third parties to analyze these data) and to provide a consumer-friendly online tool to allow consumers to compare prices for at least 300 "shoppable" services.[62] Additionally, in 2020 CMS also finalized another important price transparency regulation – the Transparency in Coverage Rule, which requires health insurers to make similar disclosures and to provide an online tool to allow consumers to estimate out-of-pocket costs.[63]

Yet, more than two years after the Hospital Price Transparency Rule took effect, most hospitals across the country remain out of compliance with the federal rules. Recent estimates suggest that no more than 55% of hospitals are in full compliance with the rule, while other estimates suggest that number is closer to one in five.[64, 65] Clearly more work is needed to achieve meaningful transparency of health care price and quality data. We urge Congress to pass legislation to strengthen the Hospital Price Transparency Rule to push back on the industry gaming by sharpening data requirements and establishing standard formats, eliminating loopholes, and further increasing penalties to encourage greater compliance by hospitals.

We also encourage the Committee to address payment differentials across sites of service that incentivize further consolidation and are a major driver of unaffordable care for America's families. Market inefficiencies that come from site-specific payment rates are a significant problem and if addressed could save American families and payers billions of dollars.[66] These site payment differentials drive care delivery from physician offices to higher-cost hospital outpatient departments.[67] This shift is a major driver of higher spending on health care services which require lower resources such as office visits and minor procedures.[68] Additionally, these payment differentials create a financial incentive for hospitals to consolidate by buying physician offices and rebranding them as off-campus outpatient hospital departments (HOPDs) and facilities in order to receive higher payments.[69] This type of consolidation – vertical integration between hospitals and physicians – leads to a growingly anticompetitive market where hospitals increase market power to demand even higher prices from commercial payers.[70] These higher commercial prices are then passed on to American families and come directly out of workers' paychecks, typically as monthly health insurance premiums.[71]

Currently, hospitals that own doctors' offices that have been rebranded as off-campus HOPDs are allowed to charge a "facility fee" in addition to the higher fees they bill for the physician services they provide.[72] The result is that consumers not only receive a bill for the visit with the physician but also for the use of the hospital facility where the visit occurred.[73] These bills together (the physician fee and the facility fee) amount to a higher total cost for the consumer than if the service was just provided in the physician's office.[74]

To understand what this looks like for patients, here is the story of Kyunghee Lee:

> *Kyunghee Lee has arthritis and once a year she would go to a rheumatologist for a steroid injection in her hand to relieve pain in her knuckles. For a few years, each round of*

injections cost her $30. In 2021, she arrived at her usual office and the rheumatologist she regularly saw had moved to a new floor of the building - just one floor up. She didn't think anything of it, as the rest of the appointment went as usual, until she received a bill for $1,394. The infusion clinic that Lee went to had been moved from an office-based practice to a hospital-based setting, and as a result the price of the same service she had been relying upon increased a staggering 4,546%. Lee's bill had a $1,262 facility fee attached, making up the majority of the increase in cost, even though she saw the same doctor and received the same treatment as the years prior. Lee and her family didn't know what they would do about the shot in the following year when the story was reported.[75]

This is patently ridiculous, and this kind of abusive pricing should not be allowed to continue. We urge the Committee to consider implementing site-neutral payment policies as recommended by MedPAC in 2022, [76] and to eliminate site-dependent reimbursement distortions that indirectly incentivize acquisition of non-hospital patient access points.[77] The Congressional Budget Office (CBO) estimates that this policy could save Medicare approximately $140 billion over the next decade.[78] And, the Committee for a Responsible Budget projects that these policies could reduce health care spending by $153 billion over the next decade including lowering premiums and cost-sharing for Medicare beneficiaries by $94 billion and for those in the commercial market by $140 - $466 billion.[79]

We also urge the Committee to take a close look at anticompetitive practices and clauses in health care contracting agreements, which occur in a variety of places including between providers and insurers and in clinician and health care worker employment arrangements.[80] In contracts between provider entities and insurers, large entities in highly consolidated markets have the upper hand in contract negotiations to build networks and set prices. As a result, many of these contracts include terms that limit access to higher-quality, lower-cost care. When anticompetitive

terms are present in health care clinician and worker employment contracts, they can further stifle competition, lead to burnout exacerbating workforce shortages[81], impede patient access to preferred providers and care, and lead to higher prices for health care services[82].

Beyond these immediate steps, policymakers should focus on a broader redesign of the economic incentives of the health care sector to align with consumers and families. Ultimately, policy solutions should reorient health care payment and delivery to the goal that we all have — improved health for ourselves and our families that is affordable and economically sustainable.

Once again, the American people want action. Large majorities of voters support a range of policies to lower prices. Voters from both sides of the aisle broadly support:[83]

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

Thank you again for holding this hearing today. Congress should seize this momentum to immediately implement commonsense policies that rein in abusive health care prices and make health care more affordable for everyone. The journey to fully transform our health care system is long, but Congress holds the power to take the next critical steps. Families USA stands ready to support you in this essential and urgently needed work.

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