April 29, 2021

The Honorable Jerry Nadler
Chairman, House Judiciary Committee
U.S. House of Representatives
2132 Rayburn HOB 1504
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member, House Judiciary Committee
U.S. House of Representatives
2056 Rayburn HOB
Washington, DC 20515

The Honorable David Cicilline
Chairman, Subcommittee on Antitrust, Commercial and Administrative Law
U.S. House of Representatives
2233 Rayburn HOB
Washington, DC 20515

The Honorable Ken Buck
Ranking Member, Subcommittee on Antitrust, Commercial and Administrative Law
U.S. House of Representatives
2455 Rayburn HOB
Washington, DC 20515

RE: Statement from independent doctors for the hearing on "Treating the Problem: Addressing Anticompetitive Conduct and Consolidation in Health Care Markets."

Dear Rep. Nadler, Jordan, Cicilline, and Buck:

The growing number of health-care consolidations is a worrisome trend for which Americans are paying a heavy price. Hospital mergers — whether among hospitals or between hospitals and independent medical practices — are not only a leading driver behind our nation's rising health-care costs, but they are also destroying competition, which reduces quality.

The Association of Independent Doctors[1] is a national, nonprofit trade association with members in 44 states. We work to educate lawmakers, employers, patients and taxpayers about why preserving our nation's independent doctors is so essential to lowering costs, improving access, and restoring the doctor-patient relationship.

One way to achieve that goal is to remove the current financial incentives that drive health-care consolidations.

To that end, AID has pursued the following mission since we were established in 2013:

- We strive to achieve systemwide price transparency, which would introduce competition into our price-opaque health-care system, and deter consolidation.
- We aim to achieve site-neutral payments, so the same medical service costs the same regardless of whether that service is performed in an independent doctor's office, or a hospital outpatient setting, which again, would reduce hospitals' financial incentives for buying medical groups.
- We work to stop the consolidation in health care, specifically the employment of physicians by hospitals, and private equity groups, which drives up costs.
- Finally, we work to expose and end the abuse of the tax-exempt status by nonprofit hospitals.

As the executive director of AID, and on behalf of our members, I would like to thank the Subcommittee for addressing the problem of health-care consolidation, and offer some suggested remedies.

Consolidation is on the rise.

Despite the pandemic, the fourth quarter of 2020 showed a marked increase[2] in health-care mergers and acquisitions. Healthcare Financial Management Association noted 177 transactions[3] in health care in the last quarter of 2020, a 21 percent increase over the same period in 2019. Total transactions numbered 642 for the year; 10 more than in 2019.

Most worrisome to us is the nationwide trend of hospitals buying up medical practices. Between July 2016 and January 2018, hospitals acquired 8,000 medical practices, according to a report from Avalere Health and the Physicians Advocacy Institute.[4] PAI also found that the while 25 percent of physicians were employed by hospitals or health systems in 2012, by 2018, 44 percent were.[5]

It's no coincidence that health-care costs have soared alongside increasing consolidation. At nearly 18 percent of our nation's gross national product,[6] Americans spend nearly one out of every five dollars they earn to pay for health care. Since the ACA went into effect, national health spending has gone from $2.6 trillion in 2010 to over $3.7 trillion.[7] The cost is financially crippling families and hurting businesses.

Consolidation hurts patients, doctors and communities.

Regardless of what the merging parties say about streamlining care and greater efficiencies, when healthcare entities merge, costs only go one way: up. When hospitals merge, price increases of 20 percent to 30 percent are common, and can exceed 50 percent, said Carnegie Mellon economist Martin Gaynor.[8] What's more, many studies have found that patient health outcomes are substantially worse at hospitals in concentrated markets that have less competition.

When the hospital acquiring the medical practice is a nonprofit hospital or health system, as 62 percent of the hospitals in this country are, communities suffer further financial harm.[9] Nonprofit hospitals pay no taxes. They pay no income tax, no sales tax, and no property tax. When they buy

medical practices that were operating as small business and paying taxes into their communities, those taxes come off the tax rolls.

In exchange for paying taxes, these tax-exempt hospitals are supposed to plough what they would have paid back into the community in the way of free medical care, but that's not what happens. Instead they use their financial advantage to pay their executives seven-figure salaries, and to buy more medical practices. Their growing size decreases market competition and increases their market power, allowing them to negotiate higher payments from insurers, and add facility fees, which independent doctors don't charge.

In fact, a recent study[10] out of Johns Hopkins University found that for profit hospitals provide more charitable care than their nonprofit counterparts. This is hurting America, and must stop.

As to how consolidation further harms patients and doctors, consider these current examples:

- A 72-year-old seamstress in Cleveland, who gets steroid injections in her fingers once a year to ease her arthritis, was stunned to find her bill jump from $30 to $300,[11] after her doctor had become a hospital-employed physician.

- A medical group of 14 independent heart and vascular doctors had their hospital privileges revoked[12] when a large health system in St. Louis, where the group had been on staff for three decades, employed an outside group of physicians to bring all the heart and vascular services in house. Imagine how many patients will be displaced because the hospital wants to increase its profits.

When health-care entities merge, the only parties who benefit are the executives at the top. Meanwhile, consumers foot the bill in the way of higher medical bills, higher premiums, higher copays, and more tax dollars going to pay for health care.

The path toward lowering costs, increasing competition and stopping consolidation, which is this Subcommittee's focus, begins with systemwide health-care price transparency.

Hospitals and insurance companies profit excessively from keeping their prices and their patients in the dark. However, if consumers could see the price of their care before they get their bill, and shop and compare prices, more would choose lower-priced providers.

Price transparency would usher competition into the market, causing prices to come down and quality to go up. When patients can see, for instance, that a colonoscopy[13] by an independent doctor in a freestanding clinic in Virginia costs $775, and the same procedure performed by the same doctor across the street in an outpatient hospital setting costs $4,000, they will steer the market toward the lower cost provider. When hospitals can no longer get away with their excessive prices, they will be less inclined to acquire medical practices and employ doctors.

Price transparency would also move us toward site-neutrality[14] by exposing facility fees, which hospitals tack onto their employed doctors' services that add zero value, yet that can drive up costs three to five times.[15] When hospitals can no longer get away with these extra charges, they will lose much of their financial incentive for hiring doctors. Then we can slow, if not unwind, the rampant consolidation trend in health care.

Where the Subcommittee can help.

In January, the Dept. of Health and Human Services' Hospital Price Transparency Rule[16] went into effect, requiring hospitals to show all their prices online. Hospitals are not complying. In fact, *Wall Street Journal* reporters[15] have found hospitals are actually imbedding software that prevents Google search engines from finding prices. We need Congress to act to require hospitals (and next year insurers) to follow the rule as it is written and to stiffen the penalties if they don't.

This is a golden moment for the Biden Administration and the 117th Congress to build on the price transparency initiative, which has its roots in the ACA, and which puts consumers in charge of their health-care spending.

A recent national Marist survey found that 91% of Americans[17] believe that hospitals should be legally required to post all their prices in an easy-to-access format. Clearly, price transparency is not a red or blue issue. It's an American issue. It's a unifying issue. And it would cost taxpayers nothing.[19]

The Subcommittee can further help by pushing for legislation that either revokes the tax-exempt status of nonprofit hospitals and health systems that behave like for profits and abuse their tax-exempt status, or by holding them to a far higher charitable care benefit standard.

In closing, I urge this Subcommittee to work to enact legislation that would reinforce systemwide price transparency, which would encourage competition, and both discourage and unwind health-care consolidation.[20,21] Until that happens, hospitals and health systems will just continue to merge, grow, gain market share, increase their bargaining power with payers, drive up prices and squash competition.

On behalf of my members and other independent doctors nationwide, I would like to thank the Subcommittee for addressing this problem, and for your service to our country.

Most Sincerely,

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1. www.aid-us.org
2. Nick Hut, Healthcare M&A activity gained steam in Q4 2020, Healthcare Financial Management Association, Feb. 2, 2021.
3. H2C Industry Insights 2020 in Review, Healthcare M&A Transactions Database
4. Updated Physician Practice Acquisition Study: National and Regional Changes in Physician Employment 2012-2018, February 2019.
5. Allison Inserro, Hospital Acquisitions of Physician Practices Continue, American Journal of Managed Care. Feb. 26, 2019.
6. CMS.gov https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsHistorical
7. Joseph R. Antos, James C. Capretta. The ACA: Trillions? Yes. A Revolution? No. Health Affairs, April 10, 2020.
8. Martin Gaynor, Examining the Impact of Health Care Consolidation, statement before the Committee on Energy and Commerce Oversight and Investigations Subcommittee, U.S. House of Representatives, Feb. 14, 2018.
9. Marni Jameson Carey, How Nonprofit Hospitals Get Away with the Biggest Ripoff in America, Medical Economics, Jan. 17, 2020.
10. Ge Bai and David A. Hyman. Tax exemptions for nonprofit hospitals: It's time taxpayers get their money's worth, Stat News, April 5, 2021
11. Lauren Weber, Her Doctor's Office Moved 1 Floor Up. Why Did Her Treatment Cost 10 Times More? NPR, March 26, 2021.
12. Jennifer Henderson, Stripped of Hospital Privileges, St. Louis Cardiologists Go to Court, MedPage Today, April 2, 2021.
13. Keith Berger, MD. Opinion: Make health care pricing more transparent. Daily Press/Virginian Pilot. Aug. 9, 2020.
14. MedPAC Staff. MedPAC recommends site neutral payment for IRFs and SNFs. MedPAC Blog. May 07, 2015
15. Robert King. MedPAC: Lack of site-neutral payments driving physician-hospital mergers. Fierce Healthcare. Nov. 7, 2019
16. HHS.gov Hospital Price Transparency Rule
17. Anna Wilde Mathews, Tom McGinty. Coding to Hide Health Prices from Web Searches Is Barred by Regulators, Wall Street Journal. April 14, 2021.
18. Patient Rights Advocate, Inc. National Survey Conducted by The Marist Poll. Jan. 2021
19. Newt Gingrich, Joe Desantis. Here's a Multi-Trillion Dollar Stimulus That Won't Cost Taxpayers a Penny. Newsweek. May 22, 2020.
20. Karyn Schwartz, Eric Lopez, Matthew Rae, Tricia Neuman. What We Know About Provider Consolidation. Henry J. Kaiser Family Foundation. Sept. 2, 2020
21. Emily Gee, Ethan Gurwitz. Provider Consolidation Drives up Health Care Costs: Policy Recommendations to Curb Abuses of Market Power and Protect Patients. Center for American Progress. Dec. 5, 2018.
22. Accenture Newsroom. Many U.S. Doctors will Leave Private Practice for Hospital Employment, Accenture Reports. July 2015.