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Why Health Care is Unaffordable: Anticompetitive and Consolidated Markets

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Chairman Buchanan, Ranking Member Doggett, members of the Committee, thank you for the opportunity to testify today at this hearing focused on *Why Health Care is Unaffordable: Anticompetitive and Consolidated Markets*. It is an honor to be with you this afternoon. My name is Frederick Isasi, and I am the executive director of Families USA, a leading national, non-partisan voice for health care consumers. For more than 40 years, Families USA has been working to achieve our vision of a nation where the best health and health care are equally accessible and affordable to all. As part of that work, Families USA launched *People First Care*, a new initiative for transforming health care payment and delivery that delves into key drivers of our nation's health affordability and quality crisis, exploring solutions in a series of papers addressing industry consolidation, hospital pricing, payment reform, health equity, and system transformation. The first two papers in that series, Our Health Care System Has Lost Its Way: Why U.S. Health Care Is Unaffordable and Low Quality[1] and Bleeding Americans Dry: The Role of Big Hospital Corporations in Driving Our Nation's Health Care Affordability and Quality Crisis[2] take particular aim at the key topics under consideration at today's hearing. I urge the Members of the Committee to read them in full, and I submit key excerpts below as part of my testimony.

Every person in the United States should have high-quality, affordable health care that prevents illness, allows them to see a doctor when needed, and helps to keep their families healthy. Yet, our health care system is in crisis, evidenced by a lack of affordability and poor quality.[3] Almost half of all Americans have reported having to forgo medical care due to the cost, a third have indicated that the high cost of medical care is interfering with their ability to secure basic needs like food and housing,[4] and over 40 percent of American adults – 100 million people – face medical debt.[5] Despite spending two or even three times more on health care than other industrialized countries, an astounding $13,000 for every woman, man, and child in our nation,[6] the United States has some of the worst health outcomes including some of the lowest life expectancy and highest infant mortality rates.[7,8]

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 families and the community.[9]

Health Industry Consolidation Driving High Prices

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 irrational and unjustifiable prices are largely due to trends in health care industry consolidation that have eliminated competition and allowed monopolistic pricing to flourish.[10] This consolidation has taken place without meaningful regulatory oversight or intervention, and is becoming more acute.[11] 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.[12]

- **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.[13,14] An estimated 40% of those mergers took place from 2010 to 2015.[15]

- **Insurance consolidation:** Insurance markets are not as highly concentrated as providers in individual markets but much more so as national entities. 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%.[16]

- **Vertical integration:** The number of hospital-acquired physician practices grew from 35,700 in 2012 to more than 80,000 in 2018.[17] Over this same time period, the percentage of physicians employed by a hospital or health system nearly doubled, from 25% to 44%.[18] Recent research found that over

55% of physicians are now employed in hospital-owned practices.[19] 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.[20] 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.[21]

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.[22,23,24] These cost increases have occurred despite lower hospital utilization and are largely due to escalating prices[25,26] 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.[27,28] 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.[29,30,31,32]

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 also should 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.[33] 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.[34]

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 uniform and machine-readable data standard formats, eliminating loopholes, and further increasing penalties to encourage greater compliance by hospitals.

The Committee also should 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.[35] These site payment differentials drive care delivery from physician offices to higher-cost hospital outpatient departments.[36] This shift is a major driver of higher spending on health care services which require lower resources such as office visits and minor procedures.[37] 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.[38] 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.[39] These higher

commercial prices are then passed on to American families and come directly out of workers' paychecks, typically as monthly health insurance premiums.[40]

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.[41] 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.[42] 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.[43]

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.*[44]

This kind of abusive pricing should not be allowed to continue. **We urge the Committee to implement site-neutral payment policies as recommended by MedPAC in 2022** (note MedPAC has recommended some manner of site-neutral payments for at least a decade), [45] and to eliminate site-dependent reimbursement distortions that indirectly incentivize acquisition of non-hospital patient access points.[46] The Congressional Budget Office (CBO) estimates that this policy could save Medicare approximately $140 billion over the next decade.[47] 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.[48]

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.[49] 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[50], impede patient access to preferred providers and care, and lead to higher prices for health care services[51].

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.

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:[52]

- **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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