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INSIGHTS

Senate Finance  
Committee  
Tackles Corporate  
Ownership in  
Health Care

# Senate Finance Committee Tackles Corporate Ownership in Health Care

On June 8, 2023, the Senate Finance Committee held a [hearing](#) to discuss consolidation and corporate ownership in health care.

## WITNESSES

- [Zack Cooper](#), Ph.D., Associate Professor Of Public Health and Associate Professor of Economics, Yale University
- [R. Shawn Martin](#), Executive Vice President and Chief Executive Officer, American Academy of Family Physicians
- [Karen Joynt Maddox](#), MD, MPH, Associate Professor of Medicine, Washington University Chris Thomas, FACHE, President and Chief Executive Officer, Community Hospital, Grand Junction, CO
- [Caroline Pearson](#), Executive Director, Peterson Center on Healthcare

## MEMBER OPENING STATEMENTS

Chairman Ron Wyden's (D-OR) opening [statement](#) focused on the need to identify the incentives that lead to consolidation in health care. He was concerned that consolidation is not wiring the health care system to favor mega corporations at the expense of the patients and taxpayers. He cited several examples including the increasing consolidation of the market by pharmacy benefit managers (PBMs) at the expense of the patient and local pharmacies. He also discussed how hospital/physician/insurer consolidation is increasing costs and subsequently lowering quality and outcomes. He was very concerned about private equity groups being involved in the health care market – pointing out that their only incentive was to make a profit. Senator Wyden then focused on the use of artificial intelligence (AI) in the healthcare market as he was concerned it is being used to harm patients through prior authorization denials and he wants to dive into that subject further at a later date.

Ranking Member Mike Crapo (R-ID) [said](#) that competition drives down costs, improves quality, and increases options for consumers. He pointed out that there have been new health care products and delivery models that have transformed the landscape but that regulatory hurdles have constrained the capacity to innovate. He wants to take a broader look at the health care system and examine the drivers of consolidation and its effects on costs and quality of care. He pointed out legislative solutions he favors

including implementing site neutral payments, improving the Medicare physician payment system, and focusing on increasing telehealth and hospital at home programs.

## MEMBER DISCUSSION

### Market Consolidation

Across the board, committee members were concerned about the large amount of vertical and horizontal consolidation in the healthcare market over the past 10 years. Senator Wyden pointed out that market consolidation is hurting American workers and asked witnesses to expand on that theme. Dr. Cooper pointed out that when two hospitals merge, it hurts both internal and external workers. Nurses see their salaries go down with decreasing bargaining power and many hospitals lay off workers after a merger. Externally, workers are impacted by market consolidation through higher prices and higher premiums. Dr. Cooper continued by pointing out that higher premiums also lead to increased costs for businesses which usually respond to those increases by laying off workers. He pointed out that this was a health care problem as well as 1 in 400 workers who are laid off die within a year of that layoff.

A few senators did point out that horizontal consolidation could help with care and costs if it is done in a cooperative way. Sen. Sheldon Whitehouse (D-RI) pointed out that consolidation would have helped in his state if his hospitals had been allowed to merge (they were prevented by the Federal Trade Commission). Senator Thomas Carper (D-DE) said that for small states and hospitals, consolidation might help and asked for positive examples of mergers that bring down costs.

Sen. Bob Menendez (D-NJ) focused on the effects on patients and businesses when insurers consolidate or purchase providers (PBMs, physicians, nursing homes, etc.). He asked about the impact on physicians from insurer consolidation and Dr. Cooper pointed out that his research has found physicians have less negotiating power and face lower reimbursement rates as a result – often much lower than the market value in highly consolidated areas.

### Private Equity Involvement in Health Care

Several senators expressed concern about the increasing role of private equity firms in the health care arena. Senator Wyden pointed out that any time private equity firms buy health care providers, their goal is profit – to restructure and increase profits. This results in increased costs to patients and lower quality of care. Sen. Catherine Cortez Masto (D-NV) walked through a scenario in her state where private equity firms are buying up hospices that are then “churning and burning,” or getting patients, receiving Medicare scrutiny, going bankrupt, and then re-opening again a couple of month later.

Sen. Bill Cassidy (R-LA) pointed out that not all private equity involvement is bad – and that private equity can encourage physicians to save money. Dr. Maddox agreed that as long as the proper incentives are involved, private equity can be a good thing in health care. Dr. Cooper pointed out that private equity has helped the infertility business in health care (lowering costs, improving outcomes) but the other side of the coin are companies that bought emergency physicians and have now been found to lower quality and increase mortality.

## Site Neutral Billing

Senator Crapo first mentioned site neutral payments across sites of care and stated he wanted to use the savings from implementing that policy to help physician pay rates. Dr. Cooper pointed out that some services need to be provided in a hospital and said the Medicare Payment Advisory Commission recommended list of site neutral payments should be the starting point. Many senators felt that implementing site neutral payments would disincentivize consolidations in the industry,

## Pharmacy Benefit Managers (PBMs)

Senator Wyden discussed how PBMs increase drug costs, with PBMs controlling 80 percent of the market. He is concerned that PBMs are pharmacies and insurance companies which will only exacerbate the problem. Sen. Chuck Grassley (R-IA) echoed Senator Wyden's concerns and said he wants the mandated government study from last year finished in the next six months. Senator Menendez was concerned about PBM vertical integration with Part D plans and thinks this integration will cause more harm than good. Sen. Maria Cantwell (D-WA) wanted a larger push for PBMs to publish their prices and rebates. Senator Carper said that PBMs are not passing their savings along to customers.

## Steering Patients and Physicians toward Quality of Care

Sen. John Cornyn (R-TX) pointed out that physicians and other health care providers need to be compensated to keep people healthy, not just get paid for each visit. Senator Wyden agreed saying that the U.S. system was a sick care system, not a wellness system. Dr. Cooper commented that capitated payments were necessary to change care patterns in Medicare – and that if Medicare went down this path, other insurers would follow. Sen. John Thune (R-SD) discussed the lack of value-based care models in rural areas like his state – and wanted to know how to get rural physicians more engaged. Mr. Martin replied that there is not enough rural access to alternative payment models and more resources are needed to assist rural physicians to join APMs.

## Medicare Advantage Plans

Sen. Elizabeth Warren (D-MA) opened with her concerns about “aggressive profiteering” in Medicare Advantage plans. She cited studies and articles saying plans are upcoming to make their patients look sicker and increase their Medicare reimbursements. She also pointed out that insurers are now purchasing physician practices which will raise costs and lower quality. She asked Mr. Martin about the effect on clinical quality if doctors are incentivized to increase profits. Mr. Martin replied that while financial investments in primary care are important, they reduce clinical autonomy which can have a negative effect on quality of care. Senator Cortez Masto was concerned that Medicare Advantage plans are skirting the 80 percent Medical-Loss ratio (MLR) rule by buying up PBMs or nursing homes. Mr. Martin agreed this was a problem and said the MLR provisions of the law needed updating.

Sen. Thune expressed concern about prior authorization impacting physician workloads and rural physicians. Mr. Martin agreed that in Medicare Advantage over 80 percent of prior authorization rejects are approved on appeal.

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