



February 4, 2022

The Honorable Kevin Hern
Member
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Rick Allen
Member
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Victoria Spartz
Member
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives Hern, Allen and Spartz:

On behalf of Physician-Led Healthcare for America (PHA), I am pleased to provide our comments to the Heathy Future Task Force Affordability Subcommittee's Request for Information on "design considerations for legislation to make healthcare more affordable." PHA represents high quality physician-led hospitals dedicated to a healthcare system focused on quality patient care, in which physicians are involved in every aspect of delivery. Our comments primarily address section IV of the RFI, regarding "Increasing Competition and Identifying Anti- Competitive Consolidation."

We agree with your assessment in the RFI that "bold steps" are necessary to lower costs by reducing barriers to competition, increasing transparency and empowering patients in their choice of healthcare providers. PHA member hospitals stand ready to serve as a competitive force in health care delivery, to counteract the ills of market consolidation – in the form of hospital closures, and mergers and acquisitions of physician practices and hospitals – that has threatened quality, cost and transparency in the health care system. Our assessment of the impact of consolidation on health care has been confirmed by researchers from the Medicare Payment Advisory Commission (MedPAC), Congressional Budget Office (CBO) and others.

The ability of PHA member hospitals to improve quality and increase health care savings is limited by Section 6001 of the Affordable Care Act (ACA), which restricts expansion and new development of physician-led hospitals. This limitation has not only deprived patients of deep expertise and advanced care in our facilities, but it also has been a boon for hospital systems to eliminate competition and gain a tight grip on large service regions, physician practices, and insurance companies. Consolidation and lack of competition have resulted in health care services and insurance premiums that are out of control, with diminishing accountability for care quality.

To address these challenges, PHA urges the Task Force to consider supporting legislation to permit immediate expansion of physician-led hospitals, which would improve competition and offer new options for Medicare beneficiaries and other patients. Bipartisan legislation to meet this goal has been introduced in the House of Representatives – H.R. 1330, the Patient Access to Higher Quality Health Care Act of 2021. Expansion of physician-led hospitals would also help address a main challenge facing the public health infrastructure during the COVID-19 pandemic, as hospitals have become overwhelmed during virus surges,

leading to use of crisis standards of care, deployment of the National Guard, and other draconian steps to keep the health care system from collapsing in local communities. Physician-led hospitals were given a limited waiver connected to the public health emergency, and responded by offering significant new services in their communities – details on these initiatives is provided later in our letter.

The following provides additional information on competition, health care consolidation, and the value that physician-led hospitals bring to health care delivery.

The Impact of Hospital Consolidation on Competition

The health care industry has experienced a number of dramatic changes over the past few years, and those catalysts are not limited to the COVID-19 pandemic. Unfortunately, not all of the changes have resulted in greater efficiencies and quality outcomes for patients. Vertical and horizontal hospital mergers, including a rising tide of hospital purchases of physician practices, have greatly reduced health care competition in America. The Physicians Advocacy Institute (PAI) released a study late last year finding that hospitals and other corporate entities acquired 20,900 additional physician practices during 2019 and 2020, a 25% increase. According to the PAI analysis, hospitals acquired 3,200 more physician practices – representing an 8% increase in hospital-owned practices; and corporate entities acquired 17,700 more physician practices – a 32% increase in corporate-owned practices.

A wide range of experts and researchers have concluded that consolidation leads to higher prices and access challenges for patients, while failing to deliver the highest quality of care. For example:

- MedPAC, in its March 2020 [report](#) on health care consolidation found that most hospital markets are dominated by a single hospital system that had more than a 50% share of inpatient admissions. MedPAC added that hospital consolidation “permits hospitals to leverage higher prices from commercial payers,” and emphasized that “commercially insured patients appear to pay higher prices for care and higher prices for insurance in consolidated markets.” The Commission also found that hospital acquisition of physician practices “has caused an increase in Medicare spending and beneficiary cost sharing,” adding that “taxpayer and beneficiary costs can double when certain services are provided in a physician office that is deemed part of a hospital outpatient department.”
- Similarly, the CBO issued an [analysis](#) on January 20, 2022 concluding that most of the studies it reviewed “suggest that consolidation increases prices in the markets for both hospitals and physicians, as does vertical integration among hospitals and physicians’ groups.”
- A recent *Health Affairs* article authored by experts, including physician members of the American Medical Association, American Academy of Orthopaedic Surgeons and American College of Cardiology, described the lack of competition in hospital markets, and cited the “well-documented, specific harms of provider consolidation.” The authors warned that consolidation leads to a “lack of quality benefits,” worse patient experiences, “physician burnout due to a loss of control over the practice environment, and higher hospital prices driving rising insurance premiums and ultimately rising costs to consumers.”

Consolidation Impact on Referral Practices and Quality

Hospital-physician practice consolidation has led to contractually mandated self-referral and increased utilization of healthcare services by practitioners within the systems that purchase their practices. This is one of the primary reasons that prices for certain medical procedures and services have greatly increased over the course of the last few years, outpacing other economic factors and conditions, as well as inflation. There has been little if any research to suggest that this market consolidation has helped with quality of care or cost reductions in health care. In fact, there have been more questions about these mergers and acquisitions on quality and cost of care, and transparency of medical information. For example, a Stanford University [study](#) found that “a hospital's ownership of a physician dramatically increases the probability that the physician's patients will choose the owning hospital,” and further, that “patients are more likely to choose a high-cost, low-quality hospital when their physician is owned by that hospital.” In addition, Martin Gaynor of Carnegie Mellon University, a leading expert on health care consolidation, concluded in testimony before the Senate in 2021 that “the strongest scientific studies find that quality is lower where there's less competition.”

Hospital Capacity Has Been Overwhelmed During the COVID-19 Public Health Emergency

Finally, the lack of competition from providers such as physician-led hospitals has diminished patient access to care during the COVID-19 pandemic. Since the start of the pandemic, ICUs and hospital beds in many hospitals in many parts of the country have been filled to capacity, with very little option for patients who need both routine and urgent surgical services. Many hospitals have had to delay or cancel medical procedures and surgical services for months because of the lack of bed and surgical capacity. The federal government has been forced to step in, deploying significant resources across the U.S. In mid-January, the President confirmed that “over 800 military and other federal emergency personnel have been deployed to 24 states, Tribes, and territories, including over 350 military doctors, nurses, and medics helping staff the hospitals who are in short supply.” He added that this is in addition to “the more than 14,000 National Guard members” that have been activated in 49 states.

The Solution: Immediate Expansion of Physician-Led Hospitals

PHA urges the Subcommittee to consider advancing legislation that would immediately inject competition into healthcare markets: by allowing immediate expansion for physician-led hospitals. With growing consolidation in hospital markets, competition from physician-led hospitals could offer communities and patients a market-based solution to address rising costs while advancing high quality services.

Physician-led hospitals offer higher quality and lower or equivalent cost services compared to other comparable hospitals, with general surgical physician-led hospitals demonstrating higher quality, as suggested in a 2021 [study](#) published by the Mercatus Center at George Mason University. Further, a study published in the peer-reviewed BMJ medical trade journal by independent researchers and funded with internal resources from the Harvard School of Public Health showed that, compared with patients from other facilities, those in physician-led hospitals are equally likely to use Medicaid, and had similar numbers of chronic diseases and predicted mortality scores. Over 30 years of research suggested that general acute care physician-led hospitals had similar cost and quality to their non-profit and for-profit competitors.

Evidence from this recent research, cited above, and extensive market consolidation, including of physician practices and physicians, demonstrates that there is a role for both physician-led specialty and community hospitals to improve competition and direly needed bed and service capacities in hospital markets, and this could result in lower health care costs and higher quality of patient care as well as improved price transparency. PHA urges the Task Force to consider advancing a policy to lift the ban on new and expanded physician-led hospitals from participating in the Medicare program. The benefits of physician-led hospital expansion would include:

- **Improved transparency** – Recent information from the Centers for Medicare & Medicaid Services (CMS) and other sources suggests that a large number of hospitals and health systems are not complying with the federal transparency requirements. For example, CMS warned hospitals in a July 2021 [press release](#) that the agency “takes seriously concerns it has heard from consumers that hospitals are not making clear, accessible pricing information available online, as they have been required to do since January 1, 2021.” In contrast, physician-led hospitals have embraced hospital price transparency. In fact, PHA Member hospitals also stand ready to work with CMS to advance a demonstration offering price and quality transparency, with guaranteed across-the-board payment cuts if we do not meet defined parameters and goals for this demonstration.
- **Medicare Savings** – In addition, physician-led hospitals have engaged in and positively impacted value-based care programs designed by the Center for Medicare & Medicaid Innovation (CMMI) for Medicare beneficiaries. For example, physician-led hospitals participated in one of the DRGs for the CMMI joint replacement demonstration. Strikingly, 72% of participating physician-led hospitals produced savings – much more than the 52% of other hospitals achieving this goal. In addition, more than 44% of participating physician-led hospitals received an “excellent” quality score, higher than the 16.4% rate for other facilities, a stark contrast. Further, PHA estimated that the Medicare program would have saved \$5 million – based on the savings from physician-led hospitals participating in a **single** DRG, in just **five** regions of the U.S., if all hospitals produced the same savings as physician-led facilities.

- ***Surge Capacity and Preparedness Benefits*** – Furthermore, physician-led hospitals have nimbly and effectively stepped up during the COVID-19 pandemic, demonstrating their value to patients and the health care system. Patients are facing dangerous shortages of ICU beds across the country, raising serious concerns that physicians are being forced to make life or death decisions about which critically ill patients should get an ICU bed, and which will be denied access to surgical or other treatment. Recent surges in COVID-19 infections show the unpredictable nature of the threats our country faces and clearly demonstrate the need for action to enhance our public health infrastructure and provide patients a choice of high quality, physician-led hospital providers:
 - ***Support for Health Care Providers*** – Allowing physician-led hospitals to expand would help take the pressure off of an overworked and overwhelmed hospital workforce – easing the burdens on frontline health professionals quickly, and providing assurances to these workers that they will be less likely to face unmanageable patient surges in the future. This would build in a “pressure release” mechanism for healthcare workers, alleviating some of the stress and burnout that has led many highly experienced professionals to leave the practice of medicine - thus preventing future causes for staffing shortages as many communities are experiencing now.
 - ***Community and Patient Benefits*** – With limited waivers available during the COVID-19 public health emergency, PHA member hospitals provided surge capacity, staffing, surgical services, trauma services, treatment for COVID-19 patients and other services to their communities. For example, one PHA member facility accepted overflow surgery from surrounding hospitals, helping to plug gaps in care for patients needing surgery while shoring up the hospital sector in the community. Another PHA member hospital rapidly stood up dedicated Covid-19 units, eventually converting a rehabilitation hospital into a dedicated COVID-19 hospital with over 100 beds in less than 10 days. As these examples demonstrate, our member hospitals are willing to take further steps to meet patient needs – and are fully capable of doing so if offered the ability to expand on a permanent basis.

Conclusion

In light of unprecedented hospital consolidation that may result in lower quality of care, higher prices and fewer choices, Americans face challenges in accessing high quality, affordable hospital care. As research suggests, physician-led hospitals are engaging in health care delivery on par with traditional hospitals, but are leaders in quality and value-based care, cost reduction and transparency. The ability of physicians to lead, administer and deliver healthcare in hospitals is essential to advancement of quality, cost and patient choice and offers a much-needed injection of competition into the healthcare system. In addition, with the backdrop of the COVID-19 pandemic, it has been made clear that monolithic hospital systems have inadequate capacity to meet the needs of all facets of healthcare for Americans in crisis time. Now is the time to allow for the expansion of physician-led hospitals to serve as part of the solution to advance competition, increase high quality patient care and improve health care efficiencies.

Sincerely,



Frederic Liss, MD
President, Physician-Led Healthcare for America