

PRIVATE EQUITY'S PATH OF DESTRUCTION IN HEALTH CARE CONTINUES TO SPREAD

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Private Equity Companies Seek Big Profits in Health Care

In general, the private equity industry's business model poses risks to the long-term sustainability of entities that the industry acquires. That is, in large part, because private equity purchases are typically financed with debt that is immediately transferred onto the books of the businesses acquired, thus leaving the acquired entities with debt burdens to manage.

Meanwhile, private equity investors seek outsize returns on an accelerated timeline, generally aiming to exit investments in three-to-five years with returns of 20%-to-30% per year.¹ This objective induces them to take short-sighted steps to supercharge profits or otherwise wring capital out of the assets they acquire.

The risks posed by private equity investments in health care are particularly acute. After all, the services health care providers offer can spell the difference between life and death. Private equity has targeted segments of the health care industry since at least the 1990s, with many predictable outcomes. Among them, shocking lapses in safety have occurred, prices have risen faster than at non-private equity acquired entities and patients have been subjected to price gouging schemes.

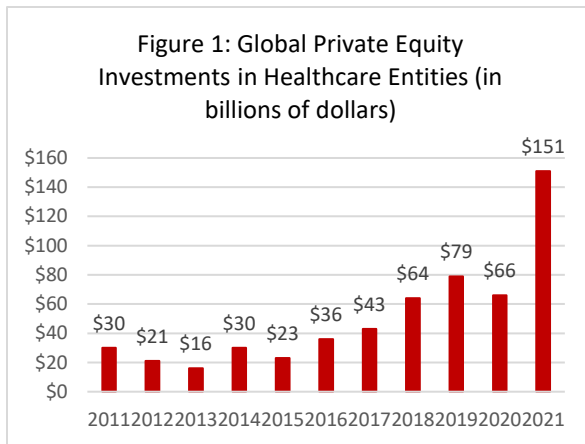
The conflict between providers' obligations to provide the best care and private equity investors' insatiable appetites for maximized provides is clear. "You can't serve two masters," a doctor who previously worked for private equity-owned U.S. Dermatology Partners told *Bloomberg*. "You can't serve patients and investors."²

Private equity continues to move rapidly into health care. Investments rose sharply throughout the first two decades of this century, and continue to rise.³ Since the end of the financial crisis in 2009, acquisitions have steadily climbed, particularly in the last five years, according to figures published by Bain & Co., a private equity firm. [Figure 1]

¹Heather Perlberg, *How Private Equity Is Ruining American Health Care*, BLOOMBERG (May 20, 2020), <https://bloom.bg/3Y04dFw>.

²*Id.*

³BAIN & COMPANY, *GLOBAL HEALTHCARE PRIVATE EQUITY AND M&A REPORT 2022*, 2022, <https://bit.ly/3JfBdFx>.



The particular profitability of health care was also noted by Bain. While the rate of return for private equity in health care was approximately 18% between 2000 and 2009 (compared with 16% for all other industries), returns for 2010-2021 were significantly higher, at around 27% (compared with 21% for all other industries in those years).⁴ Many of the highest profile deals in the past decade have concerned hospitals, but the private

equity industry has been acquiring physician practices and making incursions into other health care sectors at a rapid pace.

Private equity's incursion into the health care sector has helped to drive two ongoing health care trends: increased consolidation and increased for-profit ownership. Researchers using a different data source than collected by Bain found that between 2000 and 2018 private equity investments in health care increased by a factor of 20.⁵ Those investments have only increased since then, with the number of health care deals in 2020 and 2021 being the highest in the past decade.⁶

Unlike acquisitions of hospitals, which typically occur under a public spotlight, the private equity industry's acquisitions of physician practices and other health care business lines often occur with little or no disclosure or public scrutiny. This absence of transparency hinders the ability of regulators and watchdogs to monitor the effects of private equity ownership.

Though not all acquisitions are required to be reported, industry experts and watchdogs are able to piece together a picture of private equity activity through news releases, accounts in the trade press and other sources. More recently, private equity firms have increased their acquisitions so rapidly that the Private Equity Stakeholder Project (PESP), which monitors such activity, began attempting to track acquisitions consistently. Recent months' activities show that private equity firms are increasing their holdings in specialty hospitals and chains, including behavioral health and gastroenterology, as well as buying up more diagnostic imaging and radiology practices.⁷

⁴*Id*

⁵Anaeze C. Offodile II et al., *Private Equity Investments in Health Care: An Overview Of Hospital And Health System Leveraged Buyouts, 2003–17*, 40 HEALTH AFFAIRS 719, 719 (2021).

⁶Ryan Prete, *PE Healthcare Investments Mature in an Uncertain Year for Health*, PITCHBOOK (January 14, 2022), <https://bit.ly/3XCGcEu>.

⁷*Private Equity Health Care Acquisitions – August 2022*, PRIVATE EQUITY STAKEHOLDER PROJECT (January 26, 2023), <https://bit.ly/3HxtYre>.

This report tabulates what we know about the latest incursions of private equity into health care.

I. Private Equity Continues to Expand into New Health Care Sectors

End-of-Life Care

One recent trend in private equity firms' purchase of assets are of entities that provide end-of-life care, including hospice and palliative care facilities. Given the vulnerable nature of patients at the end of their lives—especially with the track record of private equity firms in health care generally—there is legitimate concern being raised by doctors, patients, and advocates.

Over the past decade the pace of private equity acquisitions has increased rapidly. A recent analysis found that for hospice agencies, private equity ownership at least doubled from approximately 3.4% of hospices in 2011 to 7.3% of hospices.⁸ The transition from nonprofit hospice to ownership by profit obsessed private equity firms also creates concern. The researchers found that over 70% of the hospice agencies acquired between 2011 and 2019 were previously nonprofit.⁹ Even before this spending spree, researchers found that for-profit hospice firms targeted patients differently than nonprofit ones, amplifying concerns as more hospice facilities become backed by for-profit private equity firms.¹⁰

Even some private equity backed companies have expressed concern about the penetration of private equity into hospice care. Steve Larkin, CEO of Pharos Capital Group-owned Charter Healthcare recently told Kaiser Health News “It is a little scary. There are people that have no business being in health care” who are investing in hospice facilities.¹¹

Pharos Capital acquired Charter Healthcare in 2018 and Charter Healthcare has since purchased several other providers.¹² Silver Linings Hospice Care, a facility in New

⁸Robert Tyler Braun *et al.*, *Acquisitions of Hospice Agencies by Private Equity Firms and Publicly Traded Corporations*, 181 JAMA INTERNAL MEDICINE 1113, 1113-1114 (2021).

⁹*Id.*

¹⁰Sabina Ohri Gandhi, *Differences Between Non-profit and For-profit Hospices: Patient Selection and Quality*, 12 INTERNATIONAL JOURNAL OF HEALTH CARE FINANCE AND ECONOMICS 107, 107 (2012).

¹¹Markian Hawryluk, *Hospices Have Become Big Business for Private Equity Firms, Raising Concerns About End-of-Life Care*, KAISER HEALTH NEWS (July 29, 2022), <https://bit.ly/3wIhDdn>.

¹²Press Release, Pharos Capital Group, *Charter Health Care Group Acquires Generations Hospice Care* (August 11, 2021), <https://prn.to/3wL1DaP>.

Press Release, Pharos Capital Group, *Pharos Capital's Charter Healthcare Acquires Silver Linings Hospice Care* (November 22, 2021), <https://prn.to/3HnP7Tr>.

Mexico, is one of Charter Healthcare's more recent acquisitions. This facility had a significantly lower quality score compared with the national and New Mexico averages on the three quality metric published by Medicare: whether patients got the appropriate assessments at the beginning of hospice care, the percentage of patients who received visits from a provider in the final days of their life, and on the Hospice Care Index.¹³

And given concerns raised by the U.S. Government Accountability Office about the need to strengthen oversight of nursing homes, it should concern everyone that private equity companies whose bottom line comes first may not be in the best position to provide compassionate care to people in the final stage of life.¹⁴

Home Health Care

Some private equity firms that previously invested in nursing homes are beginning to move and into other—potentially more lucrative—sectors of health care, including home health and private-pay senior housing.¹⁵

Pharos Capital has invested in skilled home health which includes services that will likely be in high demand as the average age of the U.S. population continues to rise and the retirement of baby boomers expands.¹⁶

PESP reported in March 2022 that nearly half of all home health care deals in 2018 and 2019 involved private equity.¹⁷ Further, initial data for 2020 indicated even more investment by private equity firms into home health care companies. The firms also appeared to be using similar tactics as in other medical sectors, such as seeking significant market share. For example, nearly half of the ten largest home health care companies were owned by private equity at the time of their report.¹⁸

In their report, PESP also raised significant concerns about the potential for quality of care to decline after home health care companies are taken over by private equity firms. In addition, they noted that several home health care companies came under increased

¹³*Silver Linings Hospice Care: Quality of Patient Care*, CENTERS FOR MEDICARE AND MEDICAID SERVICES (viewed on February 6, 2023), <https://bit.ly/3lc1zy6>.

¹⁴U.S. GOVERNMENT ACCOUNTABILITY OFFICE, *MEDICARE HOSPICE CARE: OPPORTUNITIES EXIST TO STRENGTHEN CMS OVERSIGHT OF HOSPICE PROVIDERS* (2019), <https://bit.ly/3x2S72R>.

¹⁵Howard Gleckman, *Are Critics Of Private Equity Nursing Home Ownership Living In The Past?*, FORBES (Apr 27, 2022), <https://bit.ly/3RFxsvk>.

¹⁶Press Release, Pharos Capital Group, *Pharos Capital to Acquire THEMA Health Services, Build New Hospice & Home Health Platform* (October 4, 2021), <https://prn.to/3x0gIFu>.

Catherine Leffert, *Pharos Capital Group Makes Third Investment in Renal Care Company With Latest Fund*, DALLAS BUSINESS JOURNAL (May 17, 2022), <https://bit.ly/3Y9eakk>.

Press Release, Pharos Capital Group, *Pharos Capital Invests in Sanderling Renal Services, Adds Dialysis and Renal Telemedicine Services Platform to Portfolio* (May 16, 2022), <https://prn.to/3JKOEgI>.

¹⁷PRIVATE EQUITY STAKEHOLDER PROJECT, *PRIVATE EQUITY AT HOME: WALL STREET'S INCURSION INTO THE HOME HEALTHCARE AND HOSPICE INDUSTRIES* (March 2022), <https://bit.ly/40vBvhD>.

¹⁸*Id.*

scrutiny on issues of patient safety, inadequate staffing, and failures that required investigation by state regulators.¹⁹

Traveling Nurses

Private equity continues to succeed by finding niches within the health care system that are insufficiently regulated or overseen and exploit them for maximum profit. Private equity firms have been investing in nurse staffing companies that contract with facilities to ensure sufficient nurses at a given facility.

PESP recently released a report looking specifically at nurse staffing and increased private equity investment. They found that while private equity firms were already investing in traveling nurses prior to the COVID-19 crisis, there were a record number of acquisitions in 2021, and that acquisitions in 2022 already matched the previous record year of acquisitions.²⁰

They also noted that nursing shortages, both current and projected, are likely to increase the demand for traveling nurse services and that the traveling nursing industry has already been accused of price gouging, particularly during the COVID-19 pandemic, by members of both parties in Congress.²¹

There are at least 24 health care staffing agencies with some part of their business focused on traveling nursing.²² Some of the major private equity firms involved include Leonard Green and Partners, Apollo Investment Corporation, Ares Management, GridIron Capital, LittleJohn Capital, and Patriot Capital. Some, such as Littlejohn and Patriot, own stakes in multiple health care staffing companies.²³

And these companies appear to be finding the sector lucrative. For example, Leonard Green and Ares owned CHG health care and have already extracted more than \$1.5 billion in dividends while at the same time burying the company in new debt.²⁴ GridIron Capital, which owns Travel Nurse Across America, has recouped at least \$250 million in dividends.²⁵

¹⁹*Id.*

²⁰MARY BUGBEE, PRIVATE EQUITY STAKEHOLDER PROJECT, PROFITING IN CRISIS: EXPLORING PRIVATE EQUITY'S INVESTMENTS IN TRAVEL NURSING AMIDST A CRITICAL NURSING SHORTAGE AND A PANDEMIC (September 2022), <https://bit.ly/3jydYMj>.

Rachel Cohrs, *Private Equity Firms are Cashing in on the Travel Nursing Business that has Boomed During the Pandemic*, STAT+ (February 15, 2022), <https://bit.ly/3jBR5ri>.

²¹*Id.*

²²MARY BUGBEE, PRIVATE EQUITY STAKEHOLDER PROJECT, PROFITING IN CRISIS: EXPLORING PRIVATE EQUITY'S INVESTMENTS IN TRAVEL NURSING AMIDST A CRITICAL NURSING SHORTAGE AND A PANDEMIC (September 2022), <https://bit.ly/3jydYMj>.

²³*Id.*

²⁴*Id.*

²⁵*Id.*

ACO Reach

While it was in office, the Trump administration undertook an effort to further privatize Medicare without seniors' consent or awareness and put for-profit corporations between many patients and their providers. Hundreds of groups came together to fight this backdoor privatization of Medicare and upon the election of President Biden, kept up the drumbeat to end Medicare Direct Contracting in all its forms and machinations.²⁶ While the Biden administration expressed some concerns about the program, it didn't end it. The administration chose to end some parts of it but to also carry some parts forward, and rebranded the whole endeavor as ACO Reach.

Medicare Direct Contracting and ACO Reach share a number of similar and concerning policies that will leave seniors at risk for worse care and at risk of losing access to the provider of their choice.

Some of the major initial concerns about Medicare Direct Contracting came from stakeholders who identified the potential for private equity and other profit-driven investors to profit at the expense of patients. By enrolling providers in Direct Contracting relationships, the incentive would be for providers to limit the care provided to patients in order to ensure maximum return on investment.

Private equity firms moving into the Medicare privatization space creates significant concerns about them putting profit ahead of patients and leading to significantly increased costs.²⁷ One researcher found that Medicare privatization schemes could cost the government as much as an additional \$600 billion over the next ten years.²⁸

In a letter to the United States Department of Health and Human Services (HHS), 54 members of the U.S. House of Representatives expressed concerns about the program, including the potential for companies to place profit ahead of patients' needs.²⁹

In response to these concerns and others, the Biden Administration placed some basic guardrails on ACO Reach, including improving screening of companies applying to participate in the ACO Reach program and requiring more transparency and data sharing from participating companies, but it is unclear whether these will be sufficient to keep out

²⁶ Press Release, Physicians for a National Health Program, *250+ Community and Senior Organizations Reject CMS "Rebranding" of Medicare Direct Contracting, Demand Cancellation of ACO REACH Replacement* (March 8, 2022), <https://bit.ly/3x0SfzW>.

²⁷Richard Gilfillan and Donald M. Berwick, *Medicare Advantage, Direct Contracting, And The Medicare 'Money Machine,' Part 1: The Risk-Score Game*, HEALTH AFFAIRS FOREFRONT (September 29, 2021), <https://bit.ly/3REMS2Y>.

²⁸Fred Schulte, *Researcher: Medicare Advantage Plans Costing Billions More Than They Should*, KAISER HEALTH NEWS (November 11, 2021), <https://bit.ly/3IH2XTI>.

²⁹Tony Pugh, *Curbs on Insurers, Private Equity Sought for Medicare Pay Plan*, BLOOMBERG LAW (February 22, 2022), <https://bit.ly/40BVHi6>.

bad actors.³⁰ And even if bad actors are excluded from the program, it doesn't change the fact that the incentives to underserve seniors when they need health care will remain.

Revenue Cycle Management and Health IT

Another area of growing interest for private equity firms that raises significant concerns is health information technology, including private equity companies rapidly investing in revenue cycle management companies and technologies.³¹ Private equity companies investing in revenue cycle management include Blackstone, Vista Equity, and Waud Capital Partners, among others.³² These companies help private equity firms maximize revenue generated by their other assets by identifying additional billing opportunities and strategies for maximizing payment of medical bills. Revenue cycle management companies have been accused of aggressive tactics in pursuit of medical debt from patients.³³

While private equity has invested in revenue cycle management for decades, private equity firms have increased their investments in recent years in anticipation of significant increases in potential revenue.³⁴ One study found that private equity backed revenue cycle management companies had a higher volume of consumer complaints about companies trying to collect debts that were not owed or had already been paid, among other mistakes.³⁵

In addition to revenue cycle management, private equity firms are also investing in traditional IT systems and data, raising significant concerns about data privacy and violations of laws that protect consumer health data, including HIPAA.³⁶ Given the significant number of recent data breaches in health care, it is worth a closer look as sufficient investment in pre-breach protections and protocols can help protect from

³⁰April Schweitzer and Sarah Swank, *Applications Open for the New Equity-Based Accountable Care Organization Model: ACO REACH*, NIXON PEABODY (March 7, 2022), <https://bit.ly/3JKpejr>.

³¹EILEEN APPELBAUM AND ROSEMARY BATT, CENTER FOR ECONOMIC AND POLICY RESEARCH, PRIVATE EQUITY BUYOUTS IN HEALTHCARE: WHO WINS, WHO LOSES? (March 2020), <https://bit.ly/40yN47D>.

³²*Id.*

³³*How Private Equity Profits from Aggressive Medical Debt Collection*, PRIVATE EQUITY STAKEHOLDER PROJECT (August 24, 2021), <https://bit.ly/3DG22yP>.

³⁴*Id.*

EILEEN APPELBAUM AND ROSEMARY BATT, CENTER FOR ECONOMIC AND POLICY RESEARCH, PRIVATE EQUITY BUYOUTS IN HEALTHCARE: WHO WINS, WHO LOSES? (March 2020), <https://bit.ly/40yN47D>.

³⁵GIDEON WEISSMAN *ET AL.*, U.S. PUBLIC RESEARCH INTEREST GROUP EDUCATION FUND, MEDICAL DEBT MALPRACTICE CONSUMER COMPLAINTS ABOUT MEDICAL DEBT COLLECTORS, AND HOW THE CFPB CAN HELP (April 2017), <https://bit.ly/3DMMhqa>.

How Private Equity Profits from Aggressive Medical Debt Collection, PRIVATE EQUITY STAKEHOLDER PROJECT (August 24, 2021), <https://bit.ly/3DG22yP>.

³⁶HIPAA refers to the Health Insurance Portability and Accountability Act of 1996, which enshrined national standards to protect sensitive patient health information from being disclosed without the patient's consent or knowledge.

breaches. Private equity companies' fast and loose acquisition and mergers may not be as conducive to thoughtful protections.³⁷

Recent private equity acquisitions highlight broad interest in controlling stakes in health IT. Bain & Co. reported that many private equity firms are coming out of the pandemic looking to spend big on health care IT, including electronic medical records and similar investments.³⁸

JP Morgan announced an entirely new private equity team that would be focused on therapeutics and technologies in a variety of health care sectors.³⁹ Performant Capital recently acquired DavLong Business Solutions and On Demand Solutions, both of which are focused on health care IT.⁴⁰ Veritas Capital and Elliot Management acquired Athenahealth for nearly \$6 billion. Athenahealth will merge with Virence Health, which Veritas acquired previously.⁴¹ In another acquisition financed by private equity funding, Sympplr, a company focused on credentialing and compliance, acquired API Healthcare, which designs automated workforce management software for health care use.⁴²

Behavioral and Mental Health

Taking advantage of the significant increase in demand for mental and behavioral services in the wake of the COVID-19 crisis and better awareness of autism spectrum therapies, private equity has begun to target all aspects of behavioral and mental health.⁴³

Acquisitions of behavioral health firms have jumped significantly since 2020 and the vast majority have been by PE firms.⁴⁴

³⁷Matt Chevrax et al., *Safeguarding Protected Health Information (PHI): Preparing for the Onslaught*, LEXOLOGY (October 19, 2022), <https://bit.ly/3wXrEne>.

³⁸ERIC BERGER ET AL., BAIN & COMPANY, 2022 HEALTHCARE PROVIDER IT REPORT: POST-PANDEMIC INVESTMENT PRIORITIES (October 2022), <https://bit.ly/3Y9BDld>.

³⁹Press Release, J.P. Morgan Asset Management, *J.P. Morgan Launches New Life Sciences Private Capital Team Targeting Investments in Innovative Healthcare Companies* (November 1, 2022), <https://prn.to/3I2q8GK>.

⁴⁰Press Release, Performant Capital, *Performant Capital Creates Platform Delivering Managed Technology Services and Revenue Cycle Management to the Healthcare Industry* (July 29, 2022), <https://bwnnews.pr/3Z1XPht>.

⁴¹Tamara Mathias and Manas Mishra, *Veritas Capital, Elliott to Buy Athenahealth for \$5.7 Billion*, REUTERS (November 12, 2018), <https://reut.rs/3X7brGS>.

⁴²Press Release, Clearlake Capital Group, *Clearlake Capital-Backed sympplr To Acquire API Healthcare* (February 20, 2019), <https://prn.to/3Y9xmyo>.

⁴³EMILY P. TERLIZZI AND JEANINE S. SCHILLER, CENTER FOR DISEASE CONTROL AND PREVENTION, *MENTAL HEALTH TREATMENT AMONG ADULTS AGED 18–44: UNITED STATES, 2019–2021* (September 2022), <https://bit.ly/3Xe724F>.
Autism Spectrum Disorder: Data & Statistics, CENTER FOR DISEASE CONTROL AND PREVENTION (viewed on February 6, 2023), <https://bit.ly/3x20Xh6>.

Fred Schulte, *Sick Profit: Investigating Private Equity's Stealthy Takeover of Health Care Across Cities and Specialties*, KAISER HEALTH NEWS (November 14, 2022), <https://bit.ly/3YvkmCL>.

⁴⁴Khadeeja Safdar and Gregory Zuckerman, *Millions of Americans Are Turning to Therapy, and Investors See an Opportunity*, WALL STREET JOURNAL (May 9, 2022), <https://on.wsj.com/3IKi66w>.

As with other medical sectors, private equity acquiring behavioral and mental health practices carries risks of higher prices for patients and a focus on profit instead of patient wellbeing.⁴⁵ For example, online mental-health startups, including Cerebral, have been accused—even by their own employees—of overprescribing medication to patients.⁴⁶

Concerns about quality of care have been at the center of private equity firms' acquisition of autism therapy providers. One of the more common types of therapy, applied behavior analysis (ABA), has become a significant target of private equity investment. Providers acquired by private equity have been accused of providing poor quality care in service of their bottom line instead of patient needs.⁴⁷ PESP found that despite terrible conditions at some behavioral health companies, the private equity firms that owned them were still able to reap massive profits.⁴⁸

In addition to concerning findings regarding autism services companies, there have been significant criticisms of private equity-backed companies in the troubled teen industry, for-profit foster care industry, and companies that provide services for young people with intellectual and developmental disabilities.⁴⁹

Within the behavioral treatment and mental health space, private equity firms have invested heavily in addiction treatment, with a focus on opioid treatment.⁵⁰ Investment in recent years has increased significantly. Private equity only invested around \$11 million in addiction treatment back in 2011 but in 2016 invested nearly \$3 billion.⁵¹ Shortages in addiction treatment availability have led some to welcome the investment, though concerns about quality of care have risen with the increase in private equity firm investment.⁵²

Anesthesiology

Private equity acquisition of anesthesiology staffing companies has led to significant concerns. These concerns were heightened by revelations that one hospital staffed by a private equity-owned staffing company had over 280 adverse events in just the first six

⁴⁵*Id.*

⁴⁶Rolfe Winkler and Joseph Walker, *Startups Make It Easier to Get ADHD Drugs. That Made Some Workers Anxious*, WALL STREET JOURNAL (March 26, 2022), <https://on.wsj.com/3Xbkkix>.

Rolfe Winkler, *Cerebral Receives Subpoena from Federal Prosecutors*, WALL STREET JOURNAL (May 7, 2022), <https://on.wsj.com/3x2SGd4>.

⁴⁷Tara Bannow, *Parents and Clinicians Say Private Equity's Profit Fixation is Short-Changing Kids with Autism*, STAT (August 15, 2022), <https://bit.ly/3YuRzyg>.

⁴⁸EILEEN O' GRADY, PRIVATE EQUITY STAKEHOLDER PROJECT, *THE KIDS ARE NOT ALRIGHT: HOW PRIVATE EQUITY PROFITS OFF OF BEHAVIORAL HEALTH SERVICES FOR VULNERABLE AND AT-RISK YOUTH* (February 2022), <https://bit.ly/3HGTvgB>.

⁴⁹*Id.*

⁵⁰Jeanne Whalen and Laura Cooper, *Private-Equity Pours Cash into Opioid-Treatment Sector*, WALL STREET JOURNAL (September 2, 2017), <https://on.wsj.com/3JTaajm>.

⁵¹*Id.*

⁵²Harris Meyer, *Investors Pour Money into Addiction Treatment, but Quality Questions Remain*, MODERN HEALTHCARE (November 24, 2018), <https://bit.ly/3X79daj>.

months of 2022.⁵³ The hospital subsequently sued the staffing company, North American Partners in Anesthesia (NAPA), as did multiple other hospitals. NAPA is the largest anesthesia staffing company and is owned by two large private-equity firms, Leonard Green & Partners and American Securities.⁵⁴

Previous research found that anesthesiology made up the highest percentage of private equity acquisitions for any single specialty between 2013 and 2016 and accounted for nearly 20% of all such acquisitions during that period.⁵⁵ Another study found that prices paid to anesthesiologists were higher when a hospital or clinic used a staffing company and higher still when that staffing company was owned by private equity.⁵⁶ By recruiting a significant number of anesthesiologists in a given city or region, private equity backed staffing companies can demand higher prices because of their larger market share and may threaten to move their physicians out of network to improve their position in negotiation with insurers.⁵⁷ Such price increases are likely to lead to increased insurance premiums for consumers and businesses as well as increased out-of-pocket costs for patients.⁵⁸

While higher prices are likely to hurt patients and may undermine hospitals, understaffing represents a direct threat to patient safety. Their constant drive for profit means they may be less concerned about patient safety than they are about extracting profits well above and beyond their initial investments.⁵⁹ Multiple facilities reported concerns about NAPA both from hospital administrators and from anesthesiologists themselves.⁶⁰

Dentistry

In recent years private equity companies have bought up significant stakes in dentistry, primarily through their acquisitions of dental services organizations (DSOs), which handle much of the administrative work, including marketing, accounting, and financial services.⁶¹ PESP reported that out nine of the top ten DSOs are owned by private equity

⁵³Gretchen Morgenson, *This Won't Hurt a Bit: The Anesthesiologist Who is Putting You Under My Work for a Private-equity Firm*, NBC NEWS (October 10, 2022), <https://nbcnews.to/3X79XMD>.

⁵⁴*Id.*

⁵⁵Jane Zhu et al., *Private Equity Acquisitions of Physician Medical Groups Across Specialties, 2013-2016*, 323 JAMA 663, 664 (2020).

⁵⁶Ambar La Forgia et al., *Association of Physician Management Companies and Private Equity Investment With Commercial Health Care Prices Paid to Anesthesia Practitioners*, 182 JAMA INTERNAL MEDICINE 396, 396 (2022).

⁵⁷Susan Kelly, *Anesthesiology Practices Get Paid More When Backed by Private Equity, Study Finds*, HEALTHCARE DIVE (March 2, 2022), <https://bit.ly/3XdAw2A>.

⁵⁸*Id.*

⁵⁹Gretchen Morgenson, *This Won't Hurt a Bit: The Anesthesiologist Who is Putting You Under My Work for a Private-equity Firm*, NBC NEWS (October 10, 2022), <https://nbcnews.to/3X79XMD>.

⁶⁰*Id.*

⁶¹EILEEN O'GRADY, PRIVATE EQUITY STAKEHOLDER PROJECT, DECEPTIVE MARKETING, MEDICAID FRAUD, AND UNNECESSARY ROOT CANALS ON BABIES: PRIVATE EQUITY DRILLS INTO THE DENTAL CARE INDUSTRY (July 2021), <https://bit.ly/3YaEwCl>.

and that over 80% of practices locations for the top 30 firms are owned by private equity. While private equity acquisition of DSOs began around 2012, investment increased rapidly in subsequent years.⁶²

Allegations against private equity backed DSOs include pushing medically unnecessary services, such as root canals for young children, as well as violations of the federal false claim laws and anti-kickback statutes.⁶³ These allegations have even led to settlements between DSOs and the Justice Department.⁶⁴

A recent study of private equity investment in dental and related practices found significant increase in the number of acquisitions between 2011 and 2019, with dental practices securing the highest proportion of investments among medical specialties. The authors identify that this is likely because of higher potential returns and lower operational costs than other related practices.⁶⁵ Regional market power and potential scalability also appeared to drive private equity investment decisions in DSOs, both of which serve to improve potential profit and rapid recoupment of initial investments.⁶⁶

Ophthalmology

Eye care isn't something that often gets a lot of attention in health care debates, but private equity firms are leaving no stone unturned in search of quick profits. Private equity firms' rapid acquisition of ophthalmology practices has mirrored many other specialties. The president of the American Academy of Ophthalmology noted that just in the past decade private equity penetration of their field has gone from a "handful of practices" to nearly 10% the nation's ophthalmologists.⁶⁷

Similar to nursing homes and end-of-life care, ophthalmology represents a significant opportunity for profit as the U.S. population ages. By increasing market share and driving up fees and out-of-pocket costs as well as pushing trusting seniors to get more expensive services, these private equity backed practices can generate significant additional revenue

⁶²*Id.*

⁶³Fred Schulte, *Sick Profit: Investigating Private Equity's Stealthy Takeover of Health Care Across Cities and Specialties*, KAISER HEALTH NEWS (November 14, 2022), <https://bit.ly/3YvkmCL>.

⁶⁴Press release, Department of Justice, *Dental Management Company Benevis and Its Affiliated Kool Smiles Dental Clinics to Pay \$23.9 Million to Settle False Claims Act Allegations Relating to Medically Unnecessary Pediatric Dental Services* (January 10, 2018), <https://bit.ly/3x0t806>.

⁶⁵Sumun Khetpal, *Trends in Private Equity Deals in Oral and Maxillofacial Surgery and Dentistry*, 79 JOURNAL OF ORAL AND MAXILLOFACIAL SURGERY 513, 513 (2021).

⁶⁶*Id.*

⁶⁷Lauren Weber, *Private Equity Sees the Billions in Eye Care as Firms Target High-Profit Procedures*, KAISER HEALTH NEWS (September 19, 2022), <https://bit.ly/3jLvZa1>.

Alan J. Ruby and George A. Williams, *Private Equity in Ophthalmology: Difference Between Present Versus Past*, 33 CURRENT OPINION IN OPHTHALMOLOGY 342, 342 (2022).

and profit.⁶⁸ As many of the offered service are not covered by insurance (or only offer limited coverage) patients can be left with huge bills.

One study found that private equity acquisition of ophthalmology (as well as gastroenterology and dermatology) led to an average increase in charges of 20% after acquisition.⁶⁹ These practices also rapidly recruited new patients and served higher volumes of returning patients, additional efforts likely to boost revenue.⁷⁰

In more evidence of private equity's significant focus on profitability in their acquisitions, a Kaiser Health News analysis found that private equity firms were more likely to invest in practices that engaged patients in expensive prescriptions and once acquired many practices changed from cheaper versions of key ophthalmology medications to more expensive versions.⁷¹

Reproductive Care

In even more evidence that private equity investors are trying to find ways to squeeze profit out of every possible moment of a person's life—from cradle to grave—now private equity is busy acquiring multiple sectors of reproductive health care. One study found relatively little activity between 2010 and 2016 but there were a significant number of private equity acquisitions across the sector in more recent years, including obstetrics and gynecology clinics, fertility clinics, physician networks, and individual physician practices.⁷²

Private equity companies bought up three of the four major staffing companies for obstetrics emergency departments, emulating some of the profitable tactics they used in other sectors but in a gray area around the standards for defining live births as emergencies.⁷³ They have been accused of classifying even normal births as emergencies, allowing them to charge patients additional fees. Patients have reported confusion at the large bills they received, despite never being notified they were being charged extra for supposed “emergency” care.⁷⁴

⁶⁸Lauren Weber, *Private Equity Sees the Billions in Eye Care as Firms Target High-Profit Procedures*, KAISER HEALTH NEWS (September 19, 2022), <https://bit.ly/3jLvZa1>.

⁶⁹Yashaswini Singh *et al.*, *Association of Private Equity Acquisition of Physician Practices With Changes in Health Care Spending and Utilization*, 3 JAMA HEALTH FORUM 9, 9 (2022).

⁷⁰*Id.*

⁷¹Lauren Weber, *Private Equity Sees the Billions in Eye Care as Firms Target High-Profit Procedures*, KAISER HEALTH NEWS (September 19, 2022), <https://bit.ly/3jLvZa1>.

⁷²Yashaswini Singh *et al.*, *Association of Private Equity Acquisition of Physician Practices With Changes in Health Care Spending and Utilization*, 3 JAMA HEALTH FORUM 9, 9 (2022).

⁷³Rae Ellen Bichell, *Routine Births are Turning into Moneymaking “Emergency” Events at Hospitals that Work with Private Equity-Backed Staffing Companies*, FORTUNE (October 12, 2022), <https://bit.ly/3YwGCMN>.

⁷⁴*Id.*

Even trying to get pregnant may place a patient in the grips of private equity firms' drive for profit. Because fertility is one of the medical specialties least dependent on Medicare or Medicaid reimbursement, it is deemed a lower risk for government oversight than some other medical specialties.⁷⁵ One study found that a significant portion of fertility clinics in the U.S. are affiliated with private equity.⁷⁶ Further, they found that private equity-backed clinics were more likely to be in wealthier areas and were more likely to provide different types of services than clinics that were not affiliated with private equity.⁷⁷

The general lack of insurance coverage for fertility services means that most patients pay out of pocket, placing patients at increased risk for financially unsound and even medically dubious care.⁷⁸ Pursuing such care can even mean taking on significant medical debt in order to try to have children, particularly later in life.⁷⁹ Couples can expect to pay more than \$50,000 on fertility treatments, particularly if they need more than one cycle.⁸⁰ One couple reported spending around \$70,000 total in an effort have children.⁸¹

Gastroenterology

The aging population in the U.S. is also driving private equity firms' interest in gastroenterology practices. There is significant opportunity for growth in colonoscopies and other services as the U.S. population ages.⁸² In addition, the CDC recently lowered the recommended age of preventive screenings for colon cancer to 45.⁸³ Medicare covers colonoscopies and most other gastroenterological care, while the Affordable Care Act (ACA) required preventive colonoscopies to be covered without out-of-pocket costs to patients.⁸⁴ However, colonoscopies that are not preventive in nature, such as for patients with chronic conditions, lack the ACA protections against out-of-pocket costs.

Similar to other medical specialties, private equity firms seem focused on achieving significant market share and using that to set high prices, allowing them to wring as much

⁷⁵Sarah Pringle, *Cautious Optimism From PE Investors in Fertility Care*, AXIOS (July 23, 2022), <https://bit.ly/3JNSfL6>.

⁷⁶Alexandra Borsa and Joseph Dov Bruch, *Prevalence and Performance of Private Equity-Affiliated Fertility Practices in the United States*, 117 FERTILITY AND STERILITY 124, 124 (2022).

⁷⁷Joseph Bruch and Alex Borsa, *Explainer: Our New Paper Exploring the Implications of Private Equity Acquisitions in Fertility Industry for Patients*, GENDER SCI LAB (October 25, 2021), <https://bit.ly/3Xfwd6W>.

⁷⁸Sharon Begley, *From Assisted Hatching to Embryo Glue, Most IVF 'Add-Ons' Rest on Shaky Science, Studies Find*, STAT (November 5, 2019), <https://bit.ly/3x5mANK>.

⁷⁹Katie Young and Jessica Dickler, *Infertility Treatment is Burying Families in Debt as They Choose to Have Children Later in Life*, CNBC (April 28, 2019), <https://cnb.cx/3X8mgYZ>.

⁸⁰*Id.*

⁸¹*Id.*

⁸²Emily Pisacreta and Emmarie Huetteman, *Betting on 'Golden Age' of Colonoscopies, Private Equity Invests in Gastro Docs*, KAISER HEALTH NEWS (May 27, 2022), <https://bit.ly/3jFvy18>.

⁸³*Id.*

⁸⁴*Id.*

profit as possible, as rapidly as possible.⁸⁵ One analysis found that from 2020 to 2021, acquisition of gastroenterology practices grew by nearly 30%.⁸⁶ Another found that as of fall 2021, nearly 10% of the 14,000 gastroenterologists worked in practices that were either owned or backed by private equity.⁸⁷

One private equity firm moving particularly rapidly in the gastroenterology space is Waud Capital, which acquired GI Alliance in 2018 and has subsequently grown from nearly 160 affiliated physicians to over 670.⁸⁸

Dermatology

Cost cutting efforts to drive profits can occur at private equity-backed physician practices, as well as hospitals. *Bloomberg* in 2020 published an expose based on interviews with employees of 10 large private equity-owned dermatology networks.⁸⁹ Dermatologists described being pressured to see more patients (by as much as double their previous rate) and to perform more surgeries. One researcher reported that of dermatologists who rank in the highest category of biopsies ordered, 25% work for practices that are backed by private equity firms. Meanwhile, only about 15% of all U.S. dermatology practices are private equity-owned.⁹⁰

Doctors described a significantly greater share of services being handled by physician assistants, resulting in missed cancer diagnoses and cases in which physician assistants cut away too much skin from patients, leaving them with scars. Doctors at one private equity backed company, Advanced Dermatology, described being pressured to claim that physician assistants were under their supervision when they were not in the same building or, even, the same city.⁹¹

For its part, an Advanced Dermatology compliance officer said the increased use of physician assistants allowed the practices to “provide access to quality dermatological care to more patients.”⁹²

⁸⁵Emily Pisacreta and Emmarie Huetteman, *Betting on ‘Golden Age’ of Colonoscopies, Private Equity Invests in Gastro Docs*, KAISER HEALTH NEWS (May 27, 2022), <https://bit.ly/3jFvy18>.

⁸⁶SPHERIX GLOBAL INSIGHTS, *THE BUSINESS OF GASTROENTEROLOGY*, 1 (February 2021), <https://bit.ly/3DQ1cOb>.

⁸⁷Emily Pisacreta and Emmarie Huetteman, *Betting on ‘Golden Age’ of Colonoscopies, Private Equity Invests in Gastro Docs*, KAISER HEALTH NEWS (May 27, 2022), <https://bit.ly/3jFvy18>.

⁸⁸Eileen O’Grady, *Private Equity Health Care Acquisitions – May 2022*, PRIVATE EQUITY STAKEHOLDER PROJECT (June 15, 2022), <https://bit.ly/3DPcNip>.

⁸⁹Heather Perlberg, *How Private Equity Is Ruining American Health Care*, BLOOMBERG BUSINESSWEEK (May 20, 2020), <https://bloom.bg/3JKlv5w>.

⁹⁰Gretchen Morgenson, *‘Get that Money!’ Dermatologist Says Patient Care Suffered After Private Equity-Backed Firm Bought Her Practice*, NBC NEWS (December 20, 2021), <https://nbcnews.to/3HKnmEQ>.

⁹¹Heather Perlberg, *How Private Equity Is Ruining American Health Care*, BLOOMBERG BUSINESSWEEK (May 20, 2020), <https://bloom.bg/3JKlv5w>.

⁹²*Id.*

Bloomberg spoke with a dermatologist whose practice was obtained by the California Skin Institute, which was backed by Goldman Sachs. The Institute, she said, was able to negotiate payments from insurers that were \$25 to \$125 higher per visit.

In keeping with the private equity industry's obsession with profits, the CEO of the California Skin Institute counseled the managers of the Institute's practices to maintain business as usual through the pandemic while the rest of the country was quarantining. The Institute besieged patients with calls asking them to come in for nonessential procedures, such as Botox treatments. "Many of us are over-interpreting guidelines," the Institute's CEO said at a virtual conference."⁹³

Biopsy results can lead to doctors' recommendations to remove potentially hazardous growths. But those decisions are subject to interpretation, and the incentive to drive revenue higher can influence decisions. At one office of U.S. Dermatology Partners, which is backed by Abry Partners, surgery recommendations were being made on a basis of thin evidence, employees said.⁹⁴ They mocked the office's rush to recommend surgery as relying on "pre- pre- pre- cancer" diagnoses.

Even surgeries can be structured to enhance revenue. *Bloomberg* reported that doctors in multiple dermatology practices said they were pressured to divide surgical procedures that could be completed in one day into two days to allow the practices to bill for a separate visit.⁹⁵

Hospitals and Hospital Chains

Hospitals are one of the fundamental pieces of a local health care system. Private equity firms know this and have targeted them consistently for acquisition. Their efforts in this area highlight how private equity firms achieve dominance and turn it toward profit, by any means necessary. Private equity firms have been active in the hospital space longer than some other sectors, with a number buying up hospitals around 2010.⁹⁶

One tactic private equity firms use is to sell off the real estate of the hospitals, which can leave individual hospitals owing millions of dollars in rent on a building they no longer

⁹³*Id.*

⁹⁴*Id.*

⁹⁵*Id.*

⁹⁶Donna Goodison, *Cerberus Completes \$895M Purchase of Caritas*, BOSTON HERALD (November 8, 2010), <https://bit.ly/3HLuuk2>.
From California to Rhode Island: Our Hospitals Provide Quality Care Close to Home, PROSPECT MEDICAL HOLDINGS, INC. (viewed on February 7, 2023), <https://bit.ly/3RW76Fz>.

own.⁹⁷ Private equity firms have also found success by threatening to cease hospital operations if states won't bail out struggling hospitals.⁹⁸

A related and more recent tactic is that private equity companies have worked to transfer control of some hospital networks to the doctors who work for them – though with significant debt obligations – leaving the hospitals on the hook for potentially hundreds of millions of dollars. At the same time, such arrangements protect debt holders investments because they enjoy privileged status if bankruptcy occurs.⁹⁹

Private equity backed hospitals are also accused of stripping staffing to unsafe levels.¹⁰⁰ These staff shortages can have dangerous consequences, including patient falls that result in injuries that led to federal investigations.¹⁰¹ For example, all but one of Prospect Medical Holdings, a private equity-backed company, hospitals received the lowest or second-lowest possible quality score from Medicare, with many facing allegations of placing patients' health in jeopardy.¹⁰²

In addition, some private equity-backed companies are accused of running shortages of necessary supplies, failing to maintain crucial medical equipment, and of intentionally postponing payments to hospital vendors, sometimes in the realm of hundreds of billions of dollars, creating challenges for hospitals in maintaining and acquiring necessary supplies.¹⁰³ Similarly, even when firms made promises about stabilizing pension funds or

⁹⁷Brian Spegele and Laura Cooper, *As Coronavirus Cases Climbed, Private-Equity-Owned Hospital Demanded Bailout*, WALL STREET JOURNAL (April 26, 2020), <https://on.wsj.com/3RlrZni>.

John Hechinger and Sabrina Willmer, *Life and Debt at a Private Equity Hospital*, BLOOMBERG BUSINESSWEEK (August 6, 2020), <https://bloom.bg/3XgTkhq>.

John George, *Crozer-Keystone Owner Gets \$1.55 Billion Cash Infusion*, PHILADELPHIA BUSINESS JOURNAL (July 16, 2019), <https://bit.ly/3IQISvi>.

⁹⁸Brian Spegele and Laura Cooper, *As Coronavirus Cases Climbed, Private-Equity-Owned Hospital Demanded Bailout*, WALL STREET JOURNAL (April 26, 2020), <https://on.wsj.com/3RlrZni>.

Kurt Bresswein, *Easton Hospital Owner to 'Proceed Immediately' on Closure Without State Takeover by Midnight*, LEHIGH VALLEY LIVE (March 27, 2020), <https://bit.ly/3la9mw>.

Ted Nesi, *'A Focus on Wealth': AG Paints Owners of Roger Williams, Fatima Hospitals as Greedy and Irresponsible*, WPRI (June 2, 2021), <https://bit.ly/3l8ct0Q>.

Laura Cooper, *Rhode Island Regulator Approves Hospital Sale*, WALL STREET JOURNAL (June 1, 2021), <https://on.wsj.com/40D7lJn>.

⁹⁹John Hechinger and Sabrina Willmer, *Life and Debt at a Private Equity Hospital*, BLOOMBERG BUSINESSWEEK (August 6, 2020), <https://bloom.bg/3XgTkhq>.

¹⁰⁰*Id.*

¹⁰¹*Id.*

¹⁰²Peter Elkind and Doris Burke, *Investors Extracted \$400 Million From a Hospital Chain That Sometimes Couldn't Pay for Medical Supplies or Gas for Ambulances*, PROPUBLICA (September 30, 2020), <https://bit.ly/3RQXFab>.

¹⁰³John Hechinger and Sabrina Willmer, *Life and Debt at a Private Equity Hospital*, BLOOMBERG BUSINESSWEEK (August 6, 2020), <https://bloom.bg/3XgTkhq>.

Peter Elkind and Doris Burke, *Investors Extracted \$400 Million From a Hospital Chain That Sometimes Couldn't Pay for Medical Supplies or Gas for Ambulances*, PROPUBLICA (September 30, 2020), <https://bit.ly/3RQXFab>.

investing in the community, they failed to keep those promises, leading to court cases and allegations of fraud—including Medicare fraud.¹⁰⁴

Despite reported losses, private equity companies were often somehow able to pay their owners and shareholders significant sums while the hospitals they owned struggled.¹⁰⁵

Rural Hospitals

Rural hospitals have also become a common target for private equity investment, posing significant dangers to these hospitals, their providers, and, especially, their patients and the communities that depend on them. If a private equity company undermines the solvency of a rural hospital, it may close. Such closures can impact communities in a number of ways, including patients needing to travel longer for inpatient and emergency care, challenges accessing treatment for substance use disorders, and fewer well-paying jobs in the community.¹⁰⁶

This is particularly a problem in the states that refused to expand Medicaid. Researchers found that states that expanded Medicaid expansion had fewer hospital closures and better financial performance, particularly in rural areas and in counties with significant numbers of uninsured adults.¹⁰⁷

When a health care system is built on driving profit into the hands of the wealthy instead of serving the health care needs of Americans, it is no wonder that we end up with rural hospitals selling themselves for \$100 as they desperately seek investors to keep their doors open.¹⁰⁸

Recent private equity firm actions in this space raise significant concerns about who is being served by these acquisitions. Kaiser Health News reported on two rural hospitals in Missouri that had been purchased by Noble Health in late 2020 and early 2021 that were

¹⁰⁴Peter Elkind and Doris Burke, *Investors Extracted \$400 Million From a Hospital Chain That Sometimes Couldn't Pay for Medical Supplies or Gas for Ambulances*, PROPUBLICA (September 30, 2020), <https://bit.ly/3ROXFab>.

Katie Mulvaney, *Judge Oks \$12M Settlement in Pension Case*, PROVIDENCE JOURNAL (June 7, 2019), <https://bit.ly/3HHMgVz>.

¹⁰⁵Brian Spegele and Laura Cooper, *PE-Backed Hospital Chain Got Help From Major Landlord as Losses Mounted*, WALL STREET JOURNAL (June 18, 2021), <https://on.wsj.com/3lmNmyA>.

Peter Elkind and Doris Burke, *Investors Extracted \$400 Million From a Hospital Chain That Sometimes Couldn't Pay for Medical Supplies or Gas for Ambulances*, PROPUBLICA (September 30, 2020), <https://bit.ly/3ROXFab>.

Lauren Coleman-Lochner and Jeremy Hill, *PE-Owned Hospitals Paid Owners Millions and Got Low Care Ratings*, BLOOMBERG (June 11, 2020), <https://bloom.bg/3HHNTCF>.

¹⁰⁶U.S. GOVERNMENT ACCOUNTABILITY OFFICE, *RURAL HOSPITAL CLOSURES: AFFECTED RESIDENTS HAD REDUCED ACCESS TO HEALTH CARE SERVICES* (January 2021), <https://bit.ly/3jJrfle>.

¹⁰⁷Richard C. Lindrooth *et al.*, *Understanding the Relationship Between Medicaid Expansions And Hospital Closures*, 37 HEALTH AFFAIRS 111, 111 (2018).

¹⁰⁸Blake Farmer, *Buy a Rural Hospital for \$100? Investors Pick Up Struggling Institutions for Pennies*, NPR (August 16, 2022), <https://n.pr/3DUJ0ie>.

subsequently closed in March 2022 with little notice to the communities affected.¹⁰⁹ While Noble Health claimed financial viability as the reason, there were significant injections of resources into the company, including nearly \$20 million in federal COVID-19 relief money, in the 18 months prior to the closures.¹¹⁰ As with many private equity acquisitions, the directors of Noble Health lacked adequate health care experience and one director was even previously charged with Medicare fraud.¹¹¹

The Private Equity Stakeholder group also recently profiled another hospital, Santa Cruz Valley Regional Hospital, which had been purchased by Lateral Investment Management in early 2018.¹¹² After being purchased by Lateral, staff reported that conditions at the hospital declined.¹¹³ And despite receiving over \$15 million in pandemic relief funds, the hospital closed in June 2022, leaving the rural community without a hospital, and putting more than 300 employees out of a job.¹¹⁴ This closure came only after Lateral sold the hospital's valuable real estate for \$60 million. The sales of such real estate are a common method for private equity profiteers to bleed profit from their acquisitions.¹¹⁵

Nursing Homes

Nursing homes have been another major area of investment for private equity. Similar to their nefarious work in hospitals, nursing homes often have significant physical assets that can be raided for profit. Private equity companies may sell off the physical assets and bank the revenue while reducing staffing levels and lowering the quality of care.

Even prior to private equity's recent activities in long-term care, more than two-thirds of nursing homes were for-profit and over half owned by large nursing home chains.¹¹⁶ For-profit nursing homes as well as those owned by chains were already offering poorer quality care than nonprofit institutions, but private equity has further lowered the bar for care for the most vulnerable.¹¹⁷ For example, one study, which reviewed data from 2005

¹⁰⁹Sarah Jane Tribble, *Buy and Bust: When Private Equity Comes for Rural Hospitals*, KAISER HEALTH NEWS (June 15, 2022), <https://bit.ly/3lQthBa>.

¹¹⁰*Id.*

¹¹¹*Id.*

¹¹²*Private Equity-Owned Rural Hospital Shuttters After Collecting Millions of Dollars in Federal Aid*, PRIVATE EQUITY STAKEHOLDER PROJECT (viewed on February 6, 2023), <https://bit.ly/3YsqbBi>.

¹¹³Kim Smith, CEO, *Employees Differ on GV Hospitals' Financial Status*, GREEN VALLEY NEWS (January 21, 2019), <https://bit.ly/3RN2Vvp>.

¹¹⁴*Private Equity-Owned Rural Hospital Shuttters After Collecting Millions of Dollars in Federal Aid*, PRIVATE EQUITY STAKEHOLDER PROJECT (viewed on February 6, 2023), <https://bit.ly/3YsqbBi>.

¹¹⁵*Id.*

¹¹⁶CENTERS FOR DISEASE CONTROL AND PREVENTION, *LONG-TERM CARE PROVIDERS AND SERVICES USERS IN THE UNITED STATES, 2015–2016* (2019), <https://bit.ly/2EnBtz9>.

¹¹⁷Vikram R. Comondore *et al.*, *Quality of Care in For-Profit and Not-For-Profit Nursing Homes: Systematic Review and Meta-Analysis*, 339 BRITISH MEDICAL JOURNAL 381, 381-382 (2009).

Robert Tyler Braun *et al.*, *Association of Private Equity Investment in US Nursing Homes With the Quality and Cost of Care for Long-Stay Residents*, 2 JAMA HEALTH FORUM 1, 1-13 (2021).

to 2017, found that residents of private equity-owned facilities were 10% more likely to die when compared with any other type of facility.¹¹⁸

Portopiccolo, which Public Citizen focused on in our recent report on the inadequacies of private equity ownership data in nursing home filings, was also recently profiled by *The New Yorker*. *The New Yorker* identified a number of concerning allegations, including dangerous staffing cuts, inappropriate medication dispensing, and failures to provide adequate care.¹¹⁹ Our report included accounts of safety failures and threats to resident health at a number of other facilities.¹²⁰

For example, one Portopiccolo-owned facility was found to have threatened resident health and safety due to “systematic failure” when it came to the spread of COVID-19.¹²¹ Things became so bad that the federal government even terminated this facility from receiving Medicare payments.¹²² Others had significant levels of COVID-19 infections and death, including one facility where 78 out of 81 residents tested positive in April 2020.¹²³

II. Congress Has Already Fought Back Against Private Equity on Surprise Billing

Private equity companies sought to maximize revenue by severing connections with health insurance networks to enable its providers to ambush their patients with astronomical out-of-network bills. Abuse of surprise billing was one of the earliest examples of private equity taking advantage of the health care system in service of profit, with ownership of some health care staffing firms as far back as 2005.¹²⁴

Public outcry over surprise billing grew so intense that Congress was forced to take action and passed the No Surprises Act in December 2020, which banned providers from billing patients out-of-network rates under most circumstances and forced insurers and

¹¹⁸ATUL GUPTA ET AL., NBER WORKING PAPERS, DOES PRIVATE EQUITY INVESTMENT IN HEALTHCARE BENEFIT PATIENTS? EVIDENCE FROM NURSING HOMES (February 2021), <https://bit.ly/3Yw1HHa>.

¹¹⁹TAYLOR LINCOLN, PUBLIC CITIZEN, IS IT PRIVATE EQUITY? WE CAN'T SEE FEDERAL DATABASE ON OWNERS OF NURSING HOMES IS INCOMPLETE AND OUT-OF-COMPLIANCE WITH THE LAW (September 2022), <https://bit.ly/3l9zuaD>.

Yasmin Rafiei, *When Private Equity Takes Over a Nursing Home*, THE NEW YORKER (August 25, 2022), <https://bit.ly/40H8WY0>.

¹²⁰TAYLOR LINCOLN, PUBLIC CITIZEN, IS IT PRIVATE EQUITY? WE CAN'T SEE FEDERAL DATABASE ON OWNERS OF NURSING HOMES IS INCOMPLETE AND OUT-OF-COMPLIANCE WITH THE LAW (September 2022), <https://bit.ly/3l9zuaD>.

¹²¹Michael Gordon, *Nursing Home Put Residents in 'Immediate Jeopardy' of COVID-19, State Says. 18 died*, CHARLOTTE OBSERVER (June 26, 2020), <https://bit.ly/3lVS7lx>.

¹²²Notice to Public of the Citadel Salisbury Involuntary Termination, CENTERS FOR MEDICARE & MEDICAID SERVICES (May 4, 2022), <https://go.cms.gov/3JRDzuD>.

¹²³Eleanor Laise, *The Deadly Combination of Private Equity and Nursing Homes During a Pandemic*, BARRON'S (Aug. 6, 2020), <https://bit.ly/3YfhPx1>.

¹²⁴Eileen Appelbaum, *Private Equity is a Driving Force Behind Devious Surprise Billing*, THE HILL (May 16, 2019), <https://bit.ly/3DTN9sZ>.

providers to deal with each other, instead of patients, to determine payment levels for out-of-network care.¹²⁵

Passage of the bill was not without a fight, with private equity working hard to protect its ability to reap massive profits as the expense of unsuspecting patients. In 2019, amid rising public outrage over surprise billing, Congress began contemplating legislation that would set benchmark prices tied to providers' actual costs to bills for out-of-network care. In response, fear-mongering advertisements began appearing across the country from an anonymous group called Doctor Patient Unity warning the public of horrors if hospital bills were subject to "government rate setting."¹²⁶ In one commercial, a patient arrived via ambulance to a hospital only to find the lights turned off and the hospital empty.

The largest funders of Doctor Patient Unity were TeamHealth and Envision Healthcare, two private equity backed firms.¹²⁷ Doctor Patient Unity invoked the coronavirus to bolster its case against surprise billing legislation. "Doctors are stepping up to face the coronavirus crisis," an ad run in April 2020 said. "During this crisis, Congress needs to ensure they have the resources they need to continue saving lives."¹²⁸ The ads omitted the fact that private equity-owned emergency room staffing firms – including TeamHealth and Envision – quickly cut doctors' pay and sought to furlough some clinicians soon after the pandemic struck.¹²⁹

While these companies tried to take down surprise billing legislation, its successful passage highlights that collective action can close at least one of the gaping loopholes through which private equity reaps huge profits, though it's important to note that no such protections were passed for surprise bills for ground ambulances. The legislation only included the requirement to create a federal advisory committee to recommend options for protecting patients from ground ambulance surprise bills.¹³⁰ The Advisory

¹²⁵Katie Keith *et al.*, *Recent Guidance To Implement The No Surprises Act*, HEALTH AFFAIRS FOREFRONT (February 18, 2022), <https://bit.ly/3HFaBv8>.

¹²⁶Wendi C. Thomas *et al.*, *This Doctors Group Is Owned by a Private Equity Firm and Repeatedly Sued the Poor Until We Called Them*, PROPUBLICA (November 27, 2019), <https://bit.ly/3JT03eO>.

¹²⁷Margot Sanger-Katz *et al.*, *Mystery Solved: Private-Equity-Backed Firms Are Behind Ad Blitz on 'Surprise Billing'*, NEW YORK TIMES (September 13, 2019), <https://nyti.ms/2mhI2Ox>.

¹²⁸Isaac Arnsdorf, *Overwhelmed Hospitals Face a New Crisis: Staffing Firms Are Cutting Their Doctors' Hours and Pay*, PROPUBLICA (April 3, 2020), <https://bit.ly/3RKUSPQ>.

¹²⁹*Id.*

Isaac Arnsdorf, *Medical Staffing Companies Cut Doctors' Pay While Spending Millions on Political Ads*, PROPUBLICA (April 20, 2020), <https://bit.ly/40ENOs0>.

¹³⁰Krutika Amin *et al.*, *Ground Ambulance Rides and Potential for Surprise Billing*, KAISER FAMILY FOUNDATION (June 24, 2021), <https://bit.ly/3Xor9O0>.

Committee on Ground Ambulance and Patient Billing has only recently begun its work, including selecting appointees and scheduling its first meeting.¹³¹

III. Congress and the Biden Administration Must Increase Oversight and Accountability for Private Equity Firms in Health Care

As the above examples show, our fragmented health care system creates perverse incentives and loopholes where profit-driven companies can reap fortunes at the expense of patients and providers.

Constructing a comprehensive picture of the private equity industry's health care assets is a vital step to assessing what role they are playing in health care. The body of evidence doesn't offer a lot of comfort, and it is incumbent upon regulators to look especially closely at private equity owned facilities because of the firms' track records of funneling every free dollar into the pockets of the firms' owners and investors.

"Policy makers should monitor for fraud and abuse, irregular financial handlings, and poor quality of care, as well as investigate potential offenses," Harvard researchers wrote in March 2021. "A comprehensive list of private equity-owned organizations in the U.S. is critical so that regulators and the public can evaluate the full scope of private equity activity."

Just as with the recent surprise billing legislation, there is likely an important role for Congress to play as well in demystifying private equity ownership of health care resources as well as holding companies accountable for their misdeeds.

One piece of legislation, which goes beyond just health care, is the **Stop Wall Street Looting Act**. This legislation would significantly increase accountability for private equity companies across industries and would reduce their ability to profiteer without consequences.¹³² Among other things, the legislation would require private equity firms to share responsibility for the liabilities of the companies under their control. This would require private equity owners to shoulder responsibility for debt and pensions. This requirement would limit their ability to load debt onto an acquired entity and then

¹³¹Advisory Committee on Ground Ambulance and Patient Billing (GAPB), CENTERS FOR MEDICARE AND MEDICAID SERVICES (viewed on February 6, 2023), <https://go.cms.gov/3loPuph>.

¹³²Press Release, Senator Elizabeth Warren, Warren, Baldwin, Brown, Pocan, Jayapal, Colleagues Reintroduce Bold Legislation to Fundamentally Reform the Private Equity Industry (October 20, 2021), <https://bit.ly/3HO6OeS>.

abandon it to go bankrupt. This would also better protect workers and consumers in the event an acquisition does declare bankruptcy.¹³³

There are also additional steps the federal government can take to better ensure that health reporting requirements improve transparency and accountability. We recently reported on this for nursing homes.¹³⁴ The Biden administration has already begun to implement additional requirements that would improve transparency of ownership. The Biden administration also recently published the ownership information of thousands of hospitals, which better allows researchers and the public to understand who owns these crucial institutions.¹³⁵ Similar efforts in other areas of health care would be a positive step in the direction of oversight and accountability for private equity firms in health care. In a related effort, Rep. Pramila Jayapal (D-Wash.) proposed the **Healthcare Ownership Transparency Act** last year. This would require private equity firms and other investors to better disclose ownership of health facilities, including nursing homes.¹³⁶ Under this legislation, corporations would have to disclose a number of specific things, including assets, debts, and financial transactions for the previous 10 years in order to take part in the Medicare program.¹³⁷ It also requires the Department of Health and Human Services to create a taskforce on private equity and health care consolidation.¹³⁸

While the Federal Trade Commission and the Department of Justice have announced that they plan to increase oversight of private equity deals, details at this point are scarce.¹³⁹ It is important for the Biden Administration to follow through on proposed efforts to crack down on private equity abuses in health care, including nursing homes.¹⁴⁰ In addition, bipartisan legislation that would help the FTC better oversee the health care system by expanding its ability to oversee consolidation beyond their current purview – including nonprofit hospital consolidation – has been introduced.¹⁴¹

And it isn't just private equity that is raising concerns in health care. Often other investors see the profits being made by private equity firms and follow in their footsteps. Just the

¹³³*Id.*

¹³⁴TAYLOR LINCOLN, PUBLIC CITIZEN, IS IT PRIVATE EQUITY? WE CAN'T SEE FEDERAL DATABASE ON OWNERS OF NURSING HOMES IS INCOMPLETE AND OUT-OF-COMPLIANCE WITH THE LAW (September 2022), <https://bit.ly/319zuaD>.

¹³⁵Tara Bannow, *Biden Admin Shares Ownership Data for Thousands of Hospitals, Improving Transparency About Private Equity's Stake*, STAT+ (December 20, 2022), <https://bit.ly/3YjHzs4>.

¹³⁶Press Release, Rep. Pramila Jayapal, *Jayapal Introduces Legislation to Protect Seniors in Nursing Homes from Corporate Greed* (March 1, 2022), <https://bit.ly/3JMZpiO>.

¹³⁷H.R.6885 - *Healthcare Ownership Transparency Act*, LIBRARY OF CONGRESS (viewed on February 6, 2022), <https://bit.ly/3RMMAak>.

¹³⁸*Id.*

¹³⁹Anastassia Gliadkovskaya, *The FTC and DOJ Have Vowed to Scrutinize Private Equity Deals. Here's What it Means for Healthcare*, FIERCE HEALTHCARE (October 21, 2022), <https://bit.ly/3RHxgGU>.

¹⁴⁰Victoria Knight, *Private Equity Ownership of Nursing Homes Triggers Capitol Hill Questions — And a GAO Probe*, KAISER HEALTH NEWS (April 13, 2022), <https://bit.ly/3x7Unpx>.

¹⁴¹Press Release, Rep. Pramila Jayapal, *Jayapal and Spartz Introduce Bill to Stop Hospital Anticompetitive Behavior* (December 13, 2022), <https://bit.ly/3Xav9RW>.

recent high-profile case of Amazon moving into health care by purchasing PillPack and One Medical underscores that the threat of profit in health care isn't just being driven by private equity.¹⁴² But private equity has proven to be nimble and ruthless in profiting off health care without regard to patients.

One important step in the right direction, especially as private equity firms invest in companies that would profit off Medicare, would be the **Medicare Advantage Consumer Protection and Transparency Act** put forward by Rep. Katie Porter (D-Calif.), which would significantly increase the information available on Medicare Advantage plans, including providing information on claims, denials of care, and coverage policies to both federal oversight agencies as well as the public.¹⁴³ Patients would be able to make better decisions about plans they are considering signing for and would allow for relevant agencies to conduct more thorough oversight and better information to hold bad actors accountable.

Sen. Elizabeth Warren (D-Mass.) has also introduced the **Health and Location Data Protection Act**, which would ban the sale of health and location data, especially important for Americans seeking access to reproductive health, to better protect patients from a crucial gap in current privacy statutes and prevent unscrupulous companies, including private equity-backed firms, from profiting and placing personal information at risk.¹⁴⁴

The dangerous role of profit in health care isn't going away anytime soon, given the grinding pace of health reform in this country, but that doesn't mean substantial steps can't be taken to protect patients. It is incumbent upon all of us to push for reforms that help remove the profit motive from health care, especially **Medicare for All**. Medicare for All would end the profit motive in U.S. health care by banning the use of Medicare dollars in the service of profit. In addition, it would guarantee everyone in the U.S. can get the care they need when they need it without profiteers getting in the way or leaving them with huge medical bills. We have seen what happens when profit is put ahead of patient needs and it will only get worse unless we fight back.

¹⁴²Press Release, Public Citizen, *Amazon Acquisition of One Medical Should Be Rejected Without Robust, Legally Binding Safeguards* (August 4, 2022), <https://bit.ly/3x8QmRO>.

¹⁴³Press Release, Rep. Katie Porter, *Rep. Katie Porter Introduces Bill to Protect Patients and Give Watchdogs More Transparency into Medicare-Funded Private Insurance* (September 28, 2022), <https://bit.ly/3HKRrEi>.

¹⁴⁴Press Release, Senator Elizabeth Warren, *Warren, Wyden, Murray, Whitehouse, Sanders Introduce Legislation to Ban Data Brokers from Selling Americans' Location and Health Data* (June 15, 2022), <https://bit.ly/3RYQLjr>.