



UNITED  
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CARE

**Statement for the Record**  
**United States Senate Committee on Finance**  
Committee Hearing on Consolidation and Corporate Ownership in Health Care: Trends and  
Impacts on Access, Quality, and Costs

Prepared by *United States of Care*  
June 22, 2023

Chairman Wyden and Ranking Member Crapo,

On behalf of United States of Care (USofCare), thank you for holding the June 8 hearing on *Hospital Consolidation and Corporate Ownership in Health Care* to understand the trends in our health care system that are leading to higher costs for patients without creating a corresponding increase in value or quality of care.

USofCare is a nonpartisan nonprofit working to ensure everyone has access to quality, affordable health care regardless of health status, social need, or income. We drive change at the state and federal level in partnership with everyday people, business leaders, health care innovators, fellow advocates, and policymakers. Together, we advocate for new solutions to tackle our shared health care challenges — solutions that people of every demographic tell us will bring them peace of mind and make a positive impact on their lives. Through our work in states, we are able to identify unique perspectives from people on the ground to amplify on both the state and federal levels.

***Research Reveals How The Hospital Pricing Crisis Affects Everyday People***

To build toward a more equitable health care system, we must first learn how people understand and experience inequities in the health care system. From our unique people-centered listening and research, we know that, across demographics, people are concerned about their ability to afford the care they need. **In fact, USofCare’s listening research reveals that affordability is people’s foremost concern with the health care system, and 87% of people support eliminating out-of-pocket costs for receiving basic treatment and services for health care needs.**<sup>1</sup>

People feel the pinch of skyrocketing health care prices, and part of our organization’s charge is to understand what the drivers of those prices are and advocate for durable, common sense policies that bring pricing into alignment with peoples’ needs. Financial incentives in the current health care system have incentivized hospitals to amass market power through consolidation, resulting in highly concentrated markets that hike up prices for consumers – and, indirectly, for everyone – through higher insurance premiums.<sup>2</sup> Even people who are financially secure worry they will not be able to afford the care they need in the future. **As we conduct our policy work on behalf of everyday people, USofCare is concerned about the growing body of research over the last three decades that reinforces how market trends in the hospital sector are the primary driver of increased health prices.**

***Facility Fees are a Standard Practice in Hospital Billing, But They Shouldn’t Be***

Consolidation and concentration of hospital systems across the country have resulted in market distortions that put undue financial burden on people seeking care with no meaningful improvement in quality. **For example, one study showed that when hospitals acquire doctor’s offices, it leads to an average price increase of 14% for the same service.**<sup>3</sup> **As you are aware, hospitals are charging privately-insured patients exorbitant amounts compared to Medicare. Due in large part to hospital market power,**

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<sup>1</sup> United States of Care, *United Solutions for Care: Affordability Overview*. May 2022.

[https://unitedstatesofcare.org/wp-content/uploads/2022/05/USOC\\_PolicyAgenda\\_Affordability\\_v3.pdf](https://unitedstatesofcare.org/wp-content/uploads/2022/05/USOC_PolicyAgenda_Affordability_v3.pdf)

<sup>2</sup> Schwartz, Karyn, et al. *What We Know About Provider Consolidation*, KFF, 2 September 2020.

<https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>.

<sup>3</sup> Avalere-PAI Physician Employment Trends Study, National and Regional Physician Employment Changes, 2012-2018. February 2019.

<https://www.physiciansadvocacyinstitute.org/Portals/0/assets/docs/021919-Avalere-PAI-Physician-Employment-Trends-Study-2018-Update.pdf?ver=2019-02-19-162735-117>.

## **employers and private insurers paid 224% more than what Medicare would have paid for the same hospital inpatient and outpatient services in 2020 alone.<sup>4</sup>**

These price increases are the result of hospital market power and give license for health systems to tack on hidden “facility fees” at newly-acquired off-campus outpatient locations, making health care unaffordable for many people and families. Often these fees come as a surprise to patients, are not covered by insurance, and even billed to patients who seek care in-network to minimize out-of-pocket costs.

Market incentives are pushing hospitals to engage in practices that yield higher profits for the hospital through higher costs for the consumer. This imbalance between profit incentives and patient value builds distrust in the health care system. USofCare knows from our facility fee reform advocacy work in Colorado and Maine that states are leading the way with solutions that effectively address increasing prices through transparency and reigning in unfair billing practices. Congress can learn from newly-passed state policies in states to limit facility fees that hospitals can charge patients.

### **State Momentum Proves Facility Fee Legislation is a Popular, Sorely-Needed Reform**

Momentum is growing across state legislatures to reign in these surprise costs. Connecticut<sup>5</sup> has led the way in banning facility fees for telehealth services and many outpatient office visits, and requires hospitals to notify patients of any allowable fees prior to point of service. In December 2022, New York<sup>6</sup> became the first state to ban facility fees specifically for preventive care, while Indiana<sup>7</sup> passed a sweeping ban on facility fees in May 2023 that limits what billing forms providers and institutions can use. Legislation to establish patient notification requirements and limit facility fees for preventive services in Colorado<sup>8</sup> was recently signed into law, and bills have progressed in Massachusetts,<sup>9</sup> North Carolina,<sup>10</sup> and Texas.<sup>11</sup>

State legislatures are making meaningful progress towards limiting facility fees by passing legislation that eliminates these fees or addresses some of the root causes of the market consolidation driving up health care costs. Voters see that the current health care system is incentivizing increasingly higher prices and there is broad bipartisan support among voters for policy intervention. Recent polling demonstrates that voters support policies that states have taken to reduce hospital costs and are more concerned that Congress won't take enough action to limit hospital prices, not that they will go too far. The most widely supported proposals among voters include: requiring hospitals to publicly disclose their prices (87%), limiting outpatient fees to the same price charged by doctors in the community (85%), and preventing hospitals from engaging in business tactics that reduce competition (75%).<sup>12</sup> States' success at

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<sup>4</sup> Whaley, Christopher et al., Report: Prices Paid to Hospitals by Private Health Plans. RAND Corporation. July 2022. [https://www.rand.org/pubs/research\\_reports/RR1144-1.html](https://www.rand.org/pubs/research_reports/RR1144-1.html).

<sup>5</sup> “SB663/Public Act No. 21-129”. State of Connecticut. 2021.

<https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00129-R00SB-00683-PA.PDF>.

<sup>6</sup> “S2521C/A3470”. State of New York. 2021. <https://www.nysenate.gov/legislation/bills/2021/S2521>.

<sup>7</sup> “HB1004”. State of Indiana. 2023. <https://iga.in.gov/legislative/2023/bills/house/1004>.

<sup>8</sup> “HB23-1215”. State of Colorado. 2023. <https://leg.colorado.gov/bills/hb23-1215>.

<sup>9</sup> “H1187”. State of Maine. 2023. <https://malegislature.gov/Bills/193/H1187/BillHistory>.

<sup>10</sup> “SB321/H367”. State of North Carolina. 2023. <https://www.ncleg.gov/BillLookup/2023/S321>.

<sup>11</sup> “HB1692/SB1275”. State of Texas. 2023.

<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=HB1692>.

<sup>12</sup> New Poll: Majority of Voters Support Aggressive Congressional Action to Lower Hospital Prices. Arnold Ventures. March 2023.

<https://www.arnoldventures.org/stories/new-poll-majority-of-voters-support-aggressive-congressional-action-to-lower-hospital-prices>.

passing broadly supported legislation to limit facility fees is proof of one area where Congress can find a bipartisan solution that corrects this pervasive market distortion.

- ***Colorado’s Facility Fee Legislation Includes a Notification Requirement***

Colorado ranks tenth highest<sup>13</sup> in the nation in terms of patients’ out-of-pocket hospital costs. Unexpected medical bills to cover “facility fees” have further increased these costs, forcing some people to delay or forego medical care entirely. What’s more, these fees don’t guarantee any additional quality of care compared to identical services offered at an independent clinic with no facility fees. USofCare testified<sup>14</sup> in support of HB23-1215,<sup>15</sup> which was signed into law by Colorado Lieutenant Governor Dianne Primavera on May 30, 2023. The law will require health care providers to notify patients when they charge a facility fee at the time the appointment is made, prohibits providers from collecting facility fees from patients seeking preventive services, and creates a steering committee to study the impact of facility fees on patients and the Colorado health care system. The results of the study are due by October 2024.

- ***Maine As A Case Study: Rural States Where Consolidation Allows Facility Fees to Take Hold***

More than one third<sup>16</sup> of Mainers have reported delaying medical care due to the cost of health care, which remains some of the most expensive<sup>17</sup> in the country. One of the main drivers of increasing health care costs can be traced to health care consolidation<sup>18</sup> in Maine and nationwide, which has led to less competition and higher prices for patients, usually with no corresponding increase in quality of care. In Maine, patients have reported<sup>19</sup> seeking critical low-cost care that became unaffordable with the inclusion of hundreds of dollars in unexpected facility fees. USofCare submitted testimony<sup>20</sup> in support of LD 1795,<sup>21</sup> common sense legislation that would establish reasonable limits on facility fees charged to patients by hospitals and health systems. An amended version of this legislation would authorize a taskforce to collect data and make recommendations to understand how to limit facility fees and make billing more transparent for Mainers. This is an important step towards understanding how pervasive facility fees are across

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<sup>13</sup> Colorado Department of Health Care Policy & Financing. “Hospital Insights Report 2022.” *HCPF*, 5 March 2022. <https://hcpf.colorado.gov/sites/hcpf/files/HospitalInsightsReport-032822.pdf>.

<sup>14</sup> United States of Care. Colorado House Health & Insurance Committee: 3/24/23 *Public Hearing and United States of Care’s Support*.” *United States of Care*, 24 March 2023. <https://unitedstatesofcare.org/wp-content/uploads/2023/03/CO-Facility-Fees-Testimony-website.pdf>.

<sup>15</sup> “HB23-1215.” State of Colorado. 2023. <https://leg.colorado.gov/bills/hb23-1215>.

<sup>16</sup> “Maine Residents Struggle to Afford High Healthcare Costs; COVID Fears Add to Support for a Range of Government Solutions Across Party Lines. *Healthcare Value Hub*, January 2022. <https://www.healthcarevaluehub.org/advocate-resources/publications/maine-residents-struggle-afford-high-healthcare-costs-covid-fears-add-support-range-government-solutions-across-party-lines>.

<sup>17</sup> Masterson, Les. “Most and Least Expensive States for Health Care, Ranked.” *Forbes*, 8 November 2022. <https://www.forbes.com/advisor/health-insurance/most-and-least-expensive-states-for-health-care-ranked/>.

<sup>18</sup> Medicare Payment Advisory Commission. “Report to Congress: Medicare Payment Policy.” *MedPAC*, 13 March 2020. [https://www.medpac.gov/wp-content/uploads/import\\_data/scrape\\_files/docs/default-source/reports/mar20\\_entire-report\\_sec.pdf](https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/mar20_entire-report_sec.pdf).

<sup>19</sup> Lawlor, Joe. “Hidden charges, denied claims: Medical bills leave patients confused, frustrated, helpless.” *The Portland Press Herald*, 21 August 2022. <https://www.pressherald.com/2022/08/21/hidden-charges-denied-claims-medical-bills-leave-patients-confused-frustrated-helpless>.

<sup>20</sup> United States of Care. “Public Hearing and United States of Care’s Support for LD 1795, 9 May 2023. <https://unitedstatesofcare.org/wp-content/uploads/2023/05/USofCare-Maine-Testimony-LD1795-facility-fees-FINAL.pdf>.

<sup>21</sup> “LD1795.” State of Maine. 2023. <https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0720&item=1&num=131>.

Maine's hospital system. Limits on facility fees lower people's out-of-pocket costs, while also serving as a tool to disincentivize hospital acquisitions of outpatient facilities that do little to improve families' access to care.

### **Congress Can Secure Lower Hospital Prices through Federal Reforms on Site Neutrality**

USofCare is an instrumental partner to many state advocacy organizations pushing health care reforms that deliver affordable, dependable, and quality health coverage for people. Through our state advocacy, USofCare sees states passing innovative policy solutions to effectively address increasing hospital prices through transparency and reigning in unfair billing practices. **We are excited to have recently endorsed the SITE Act** and see it as a federal extension of our state policy advocacy, building on the success that several states have recently taken up to address rising hospital prices and **a necessary realignment of economic incentives that stops placing an undue cost burden on people.**

**Provisions within the SITE Act make meaningful reforms that will lower costs for people through preventing off-campus emergency departments from charging higher rates than on-campus emergency departments when standalone emergency facilities are located in close proximity to a hospital campus including the parent hospital of such emergency department. This will directly address the consolidation of hospitals through mergers and acquisitions of competing entities to justify the addition of surprise fees like facility fees.**

As you know, Indiana now has a law that prohibits the practice of using facility fees in a manner that is similar to the SITE Act. Connecticut passed a law in 2021 prohibiting facility fees for most services provided outside of the hospital.<sup>22</sup> Last month, Colorado passed a bill limiting these hidden costs for preventive services.<sup>23</sup> States are tackling this issue,<sup>24</sup> **and with the introduction of the SITE Act, Congress is poised to scale up the impact state reforms have on people by driving change in how hospitals do business nationwide.** We hope to see the Committee work to pass the SITE Act to ensure that health care is affordable for people.

### **In Addition to the SITE Act, Congress can Go Further to Reign in Hospital Prices**

Federal legislation can go further to limit facility fees, and we know that people support strong action to reign in these out of control prices. According to a 2023 survey, 89% of voters say it is important for Congress to take action to reduce hospital prices; 60% say it is very important.<sup>25</sup> Given the market incentives that exist for the hospital sector today, policymakers must intervene at the federal and state levels to reform the hospital and provider reimbursement system to align fair pricing for people seeking medical services, regardless of where those services are provided. Federal policy solutions ought to ensure that people are insulated from exorbitant costs and aim for transparency in pricing and costs of hospital prices. Policies must also require compliance across all provider types through enforcement - some states do this through prohibiting

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<sup>22</sup> Connecticut Law: Chapter 368v-HealthCareInstitutions. August 2021.

[https://www.cga.ct.gov/current/pub/chap\\_368v.htm#sec\\_19a-508c](https://www.cga.ct.gov/current/pub/chap_368v.htm#sec_19a-508c).

<sup>23</sup> Colorado Law: Signed, HB 23-1215. May 2023.

[https://leg.colorado.gov/sites/default/files/2023a\\_1215\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2023a_1215_signed.pdf).

<sup>24</sup> United States of Care, 2023 State Action on Facility Fees. June 2023.

<https://unitedstatesofcare.org/wp-content/uploads/2023/05/2023-State-Action-Facility-Fees.pdf>.

<sup>25</sup> New Poll: Majority of Voters Support Aggressive Congressional Action to Lower Hospital Prices. Arnold Ventures. March 2023.

<https://www.arnoldventures.org/stories/new-poll-majority-of-voters-support-aggressive-congressional-action-to-lower-hospital-prices>.

collections process for patient medical debt for providers not in compliance with facility fee disclosure notices.

- **Price transparency policies must include patient notification of facility fees.** so that upon booking an appointment with a provider, patients are made aware of additional fees not related to a medical service. In January 2021, the Hospital Price Transparency Rule went into effect, requiring hospitals in the United States to make publicly available the price for items and services they charge. As hospitals comply with the 2021 Hospital Price Transparency Rule, facility fees should be included and clearly defined in the total price estimate as being a facility fee.<sup>26</sup> The lack of transparent information on prices makes it challenging for consumers to shop for services and limits competition. Maryland<sup>27</sup> has enacted Facility Fee Right-to-Know Act, also known as Facility Fee Disclosure, effective July 1, 2021, requires hospitals to provide certain formal notifications and disclosures to patients, both oral and written, related to hospital outpatient clinic charges or facility fees. A transparency provision would require that those providers notify patients that they charge the fee and include it on an itemized bill.
- **Price transparency policies must prevent providers from adding facility fees to telehealth services.** Since January 2021, the federal No Surprises Act has protected patients from unexpected medical bills. However, patients are unexpectedly seeing facility fees included in their telehealth visits. One Colorado family<sup>28</sup> shared how in 2021, they attended a telehealth appointment for which they received a \$700 medical bill and an additional nearly \$850 bill for the facility fee. States like Colorado have discussed policy solutions to prohibit facility fees for primary care visits, telehealth appointments, and preventive care services that are exempted from cost sharing. Connecticut has gone the furthest, banning facility fees for basic off-campus doctor visits and for telehealth appointments through June 2024.
- **Price transparency policies must enforce hospital facility fee disclosure.** Medical debt is the most aggressively collected form of consumer debt in the United States; Americans face an estimated \$81 billion to \$140 billion<sup>29</sup> in medical debt. More than 100 million adults have medical or dental bills they are paying off over time or that are past due and nearly three in four adults with past-due medical debt (72.9%) reported owing at least some of that debt to hospitals.<sup>30</sup> Hospital consolidation and unexpected fees are undoubtedly driving up hospital prices and costs for patients. Hospitals must face consequences for not limiting facility fees in line with federal legislation. Pending

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<sup>26</sup> Kurani, Nisha, et al. "Early results from federal price transparency rule show difficulty in estimating the cost of care." *Peterson-KFF Health System Tracker*, 9 April 2021. <https://www.healthsystemtracker.org/brief/early-results-from-federal-price-transparency-rule-show-difficulty-in-estimating-the-cost-of-care/>.

<sup>27</sup> "SB632/CH0366." State of Maryland. 2020. <https://mgaleg.maryland.gov/mgaweb/legislation/Details/sb0632?ys=2020rs>.

<sup>28</sup> Low, Rob. "Colorado hospital charges \$847 'facility fee' for telehealth visit." *FOX21 News Colorado*, 24 January 2022. <https://www.fox21news.com/top-stories/colorado-hospital-charges-847-facility-fee-for-telehealth-visit/>.

<sup>29</sup> Consumer Financial Protection Bureau. "Medical Debt Burden in the United States." *files.consumerfinance.gov.*, February 2022. [https://files.consumerfinance.gov/f/documents/cfpb\\_medical-debt-burden-in-the-united-states\\_report\\_2022-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf).

<sup>30</sup> Karpman, Michael. "Most Adults with Past-Due Medical Debt Owe Money to Hospitals." *Urban Institute*, March 2023. <https://www.urban.org/sites/default/files/2023-03/Most%20Adults%20with%20Past-Due%20Medical%20Debt%20Owe%20Money%20to%20Hospitals.pdf>.

legislation in Texas<sup>31</sup> would allow the state to audit a provider for compliance and establish penalties for noncompliance. As Congress passes legislation to limit facility fees, there must be a strong enforcement of regulations such as by preventing non-compliant hospitals from processing outstanding medical debt.

### **Conclusion**

Addressing the underlying forces that drive up prices for people is key to delivering a more affordable health care system. Over the last three decades, people have navigated an increasingly complex and costly health care landscape, punctuated by large industry players from across the sector consolidating with one another to generate market share and power.<sup>32</sup> While these mergers aspired to create greater care coordination, efficiencies, and economies of scale, the end result is a lack of competition, which people experience in the form of increased hospital prices and decreased access to services without a clear improvement in quality of care. States have demonstrated effective strategies and policies to advance legislation to enact site-neutral payment reform and limit facility fees.

**USofCare will continue to work with state partners to advance policy that promotes affordable health care for people, and we stand ready to engage with Congress as it navigates these policy solutions for federal uptake. It is critical that Congress advance policy solutions that meaningfully deliver on affordable health care for people.**

Please contact Lezah Calvin, Senior Manager of Federal Affairs, at [LCalvin@usofcare.org](mailto:LCalvin@usofcare.org) for further information and to let us know how we can best be of service to you.

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<sup>31</sup> "SB1275." State of Texas. 2023. <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB01275I.pdf#navpanes=0>.

<sup>32</sup> Levins, Hoag, "Hospital Consolidation Continues to Boost Costs, Narrow Access, and Impact Care Quality: A Penn LDI Virtual Seminar Unpacks the Challenging Contradictions of This Continuing Trend," University of Pennsylvania Leonard Davis Institute of Health Economics, January 2023. <https://ldi.upenn.edu/our-work/research-updates/hospital-consolidation-continues-to-boost-costs-narrow-access-and-impact-care-quality>