PRIVATE EQUITY STAKEHOLDER PROJECT

Private Equity Stakeholder Project (PESP) – Statement for the Record

Hearing of the Health, Education, Labor and Pensions Committee's Subcommittee on Primary Health and Retirement Security
April 3, 2024

"When Health Care Becomes Wealth Care: How Corporate Greed Puts Patient Care and Health Workers at Risk"

Chairman Markey, Ranking Member Marshall, and Members of the Subcommittee, thank you for the opportunity to provide a statement regarding the April 3, 2024 hearing "When Health Care Becomes Wealth Care: How Corporate Greed Puts Patient Care and Health Workers at Risk," by the Subcommittee on Primary Health and Retirement Security.

My name is Eileen O'Grady, and I am the Healthcare Research and Campaigns Director for the Private Equity Stakeholder Project. The Private Equity Stakeholder Project is a non-profit organization whose mission is to identify, engage, and connect stakeholders affected by private equity with the goal of engaging investors and empowering communities, working families, and others impacted by private equity investments.

This hearing could not come at a more critical time. The private equity industry has grown dramatically in recent years. Private equity and other private funds firms had less than $1 trillion in assets under management in 2004. They now manage more than $13.1 trillion, and are growing quickly.[1]

Private equity increasingly makes up a substantial portion of investment in U.S. healthcare companies, and reached an all-time high in 2021 of 515 deals valued at $151 billion.[2] These investments touch virtually every aspect of the healthcare industry, including hospitals, physician specialties such as gastroenterology and anesthesiology, emergency medicine, dentistry, travel nursing, durable medical equipment, behavioral health, disability services, and healthcare services for people in prisons and jails.

The growing presence of private equity in healthcare raises concern. The private equity business model, which is characterized by the pursuit of outsized profits over short periods of time and a reliance on high levels of debt, is in many ways incompatible with providing quality affordable healthcare.

Right now, hospitals in Massachusetts owned by Steward Healthcare are facing an existential threat following ownership by private equity firm Cerberus Capital Management. The experience of Steward is unfortunately not unique; there have been many stories of private equity firms looting healthcare companies at the cost of patient care.

Given the backdrop of Steward's acute financial distress, my testimony will focus on the risks of private equity hospital ownership. I will include at the end a list of resources for additional research on the impact of private equity in other aspects of the healthcare industry.

As private equity ownership of healthcare companies grows and continues to benefit from taxpayer funded healthcare spending, it is essential for lawmakers to understand the risks associated with private equity investment in the industry and create policy that protects patients and supports healthcare workers.

The Impacts of Private Equity Investment on Hospitals

Private equity ownership of hospitals has drawn scrutiny in recent years as some private equity hospital acquisitions have produced troubling impacts for patients and workers across the country. We have seen private equity firms aggressively loot safety net hospitals, strip out valuable real estate, cut critical but less profitable services, and exploit government funding programs designed to support and stabilize healthcare access.

The consequences have been borne by healthcare workers and the communities they serve. Private equity's hospital profiteering has resulted in dangerous conditions, closures and reduced access to services, declining quality, and fraud.

Private equity firms often seek to double or triple their investment over 4-7 years. The pursuit of outsized returns over relatively short time horizons can lead to cost-cutting that hurts care. In addition, use of high levels of debt can divert cash from operations to interest payments and dividends paid out to private equity owners.

Below are some financial tactics characteristic of private equity investment:

- High leverage: Private equity firms often utilize significant amounts of debt when buying companies. Firms typically buy companies through leveraged buyouts, whereby a private equity firm finances a substantial portion of an acquisition by taking out a loan secured by the company it is buying. High leverage can divert cash away from operations to paying interest on debt and leave companies more at risk for restructuring or bankruptcy.

- Sale-leaseback of real estate: Private equity firms that own hospitals sometimes conduct sale-leaseback transactions, where the firm will sell the hospital's real estate to a third party and lease it back. While these transactions provide a quick way to monetize real estate and generate cash, they can leave hospitals with fewer assets and higher monthly lease payments.[3]

- Debt-Funded Dividends: Some private equity firms siphon money out of companies they own through dividend recapitalizations, where a private equity firm directs its portfolio company to take on new debt and use the proceeds to pay the private equity owner a cash payout. These transactions can unnecessarily load healthcare providers with debt. While the private equity firm in these situations makes money, the healthcare provider often does not receive proceeds from the loan and still must pay it back, leaving it more vulnerable to market conditions and with fewer resources to support operations as it pays its monthly debt service payments.[4]

- Roll-ups: Private equity companies often conduct "roll-ups" by buying up multiple companies in the same industry segment and merging them under the same corporate umbrella. These transactions can allow firms to take advantage of economies of scale. However, a wide body of research has shown that provider consolidation leads to higher healthcare prices for private insurance and public healthcare programs like Medicare.[5]

- Fees: Private equity firms often charge management or advisory fees to the companies they own, which can cost companies millions of dollars each year. Fees are typically stipulated in a management services agreement between the private equity firm and a company that it controls. In some cases, companies must pay fees to the private equity firm even for services never rendered ("accelerated monitoring fees"). These fees can further drain a company's cash away from hospital operations into the pockets of investors.[6]

The case studies below provide examples of private equity firms employing these financial tactics and others, and will demonstrate how investors' unbridled profit-seeking can harm patient care.

1. Steward Healthcare – Cerberus Capital Management

In 2010, private equity firm Cerberus Capital purchased Caritas Christi Health in a $420 million leveraged buyout through its affiliate Steward Healthcare, converting the nonprofit health system to for-profit.[7] Steward also assumed $475 million of debt and pension liabilities in the transaction, putting the value of the overall deal at $895 million.[8]

Because of the conversion to for-profit status, the deal required approval from the state Attorney General's office, which imposed conditions on the transaction and a five-year monitoring period.[9]

These conditions included a requirement for the new owners to invest $400 million into the system's infrastructure.[10] Despite Cerberus Capitals's deep pockets, these "investments" would come from debt loaded onto Steward as well as sale-leasebacks of some of its medical office buildings.[11] Another condition of the deal was that the system could not take additional debt to pay investor dividends for the first three years following the transaction.[12]

After its five-year monitoring period with the Attorney General expired,[13] Steward Health Care executed a $1.2 billion sale-leaseback transaction in 2016 with real estate investment trust (REIT) Medical Properties Trust (MPT). MPT made an additional $50 million equity investment in Steward.[14] Many Steward hospitals were then on the hook for rent payments and no longer owned their most valuable asset.

This sale-leaseback deal was used to pay nearly $500 million in dividends to investors as well as fund a rapid expansion strategy for Steward that also relied heavily on debt.[15] Steward eventually grew to be the largest private for-profit hospital system in the U.S. in 2017.

During its ownership under Cerberus Capital, Steward also:

- Took on millions more in debt;[16]
- Saw poor financial performance;[17]
- Broke commitments to regulators by failing to share financial information with regulators in a timely manner[18] and attempting to close hospitals or cut services at hospitals it had acquired;[19]
- Cited the pandemic in March 2020 in order to collect $8 million from the Pennsylvania state government to keep an Easton, PA hospital open and then sold it in May 2020.[20]
- Collected $675 million in federal loans and grants money during the pandemic;[21]
- Was sued under the False Claims Act (ultimately the system would reach a $4.7 million settlement with the Department of Justice in 2022).[22]
- Saw higher than average patient hospital-acquired infections, falls, and readmissions at its Massachusetts hospitals.[23]

As Cerberus began its exit in fall of 2020, Steward Health was struggling, reporting a net loss of more than $400 million in 2020. The private equity firm reportedly made $800 million in the decade it owned Steward.[24] Cerberus Capital's exit was made possible by Medical Properties Trust, which provided a $335 million loan to a new set of physician owners.[25]

The role of Medical Properties Trust in the pillaging of Steward cannot be overstated. Without a willing REIT like MPT to abet Steward's asset-stripping, Steward would not have been able to generate so easily the more than a billion dollars it ultimately used to pay millions to investors. The rent payments for those hospitals would ultimately burden the system's finances at the expense of operational costs.

Even though Cerberus exited its investment in 2020, its pillaging continues to have an impact on the system.

In September 2023, state and federal officials declared that patients were in immediate jeopardy at Steward's Good Samaritan Medical Center in Brockton, MA. The Massachusetts Nurses Association had been warning state and federal officials since 2021 about major issues in the Emergency Department at Good Samaritan.[26]

In December 2023, the U.S. Attorney's Office filed another False Claims Act lawsuit against Steward regarding allegations spanning from 2012 to 2022.[27] Earlier that month, Steward notified state healthcare officials of its plans to close New England Sinai Acute Long-Term Care and Rehabilitation Hospital, a 182 bed-hospital.[28]

In January 2024, MPT announced that as of December 31, 2023, Steward Health Care was $50 million behind in rent payments.[29]

Steward's hospitals currently face a dire financial situation. Vendors are suing over nonpayment[30] and staffing and patient quality of care issues have been mounting.[31] In January 2024, the *Boston Globe* reported that a new mother died after the embolization coil needed to treat her post-birth bleeding was unavailable. It had been repossessed weeks before by the medical device company that owned it due to Steward's nonpayment.[32]

As of February 2024, Steward had not complied with the Massachusetts Attorney General's office to provide audited financial statements.[33]

2. Prospect Medical Holdings – Leonard Green & Partners

Between 2010 and 2021, private equity firm Leonard Green & Partners owned Prospect Medical Holdings, a safety net hospital company with 17 hospitals in 5 states.[34]

After Leonard Green acquired Prospect in 2010, it used the hospital chain as a platform to raise debt so it could siphon off hundreds of millions of dollars in dividends and fees. According to Prospect's own financial statements, the owners collected at least $658 million from the hospitals—despite dramatic operating challenges, substantially underfunded pensions, and increasing regulatory scrutiny.[35]

The largest dividend that Prospect's owners collected in 2018 directly contradicted a commitment Prospect had made to state regulators. When it bought several hospitals in Rhode Island in 2014, it told regulators It would not pay out any more dividends. Just four years later, it paid the ownership an almost $460 million dividend. That same year, Prospect generated a $244 million net loss.[36]

As a result of that dividend, Prospect ran out of cash by early 2019, forcing the owners to provide emergency cash infusion.

Prospect was eventually able to pay off the existing $1.1 billion in debt it had accrued in part to fund dividends, but only by selling off the bulk of Prospect's real estate to a REIT. The transaction replaced debt with lease liabilities and left Prospect with fewer assets.[37]

Leonard Green's Representations to Members of Congress, Regulators

Leonard Green and Prospect misrepresented the financial condition of some of the hospitals when lawmakers and other stakeholders raised concerns.

Members of Congress with Prospect hospitals in their districts have written to Leonard Green twice raising concern about the firm's treatment of the safety net hospital company and asking it to return the fees and dividends it collected.[38] Leonard Green dismissed the lawmakers' concerns, writing: "We can assure you with firm, empirical confidence that Prospect remains well-capitalized with adequate liquidity and resources for its staff to address the current COVID-19 epidemic."[39]

In response to a letter my organization wrote to Rhode Island regulators, Prospect wrote: "Contrary to PESP's assertions, Prospect today remains extraordinarily well capitalized, faces no material financial challenges, and is at no risk of financial failure."

Hospitals Suffered While the Owners Lined Their Pockets

Here is what was happening at the hospitals while Leonard Green was siphoning money from the company:

- Prospect's hospitals had some of the lowest quality ratings from the Centers for Medicare and Medicaid Services—all but one had received one or two stars, the lowest quality ratings from CMS.[40]

- In Connecticut, state regulators placed Prospect's three hospitals under review in 2019 for deteriorating conditions that placed patients in "immediate jeopardy."[41]

- Prospect completely shut down all of its facilities in San Antonio in 2019—laying off nearly 1,000 workers[42]-- and sold its hospital building to a hotel developer.[43]

- The California Attorney General formally charged Prospect executives with "gross negligence" related to persistent mold contamination of a hospital pharmacy, including in equipment used to mix patient medications. In March 2021, the California Attorney General and State Pharmacy

Board entered into a settlement with Prospect's Southern California subsidiary, placing its hospital pharmacy permit and sterile compounding on probation for two years.[44]

- In Rhode Island, poor infection control led to COVID-19 infection of 19 of the 21 geriatric psychiatric ward residents: six of them died. Six housekeeping staff also got COVID due to limited access to PPE. The head of the department died.[45]

- Workers have complained of inadequate staffing. When Leonard Green first tried to sell Prospect in 2015, the company's prospectus touted its "cost-effective care" model, daily "flex" management of hospital staffing, and use of low-cost sources for medical supplies. In Pennsylvania, workers reported in September 2020 that staffing shortages forced scheduling delays for medical procedures.[46]

Despite what happened to Prospect and its hospitals, Leonard Green is off the hook – in June 2021 Leonard Green sold its majority stake in Prospect to the minority shareholders after a contentious year-long investigation by state regulators into the company's finances.[47]

For more on Prospect Medical Holdings, see our report: "How Private Equity Raided Safety Net Hospitals and Left Communities Holding the Bag" (November 2022) and here for a November 2023 update.

3. Lifepoint Health, ScionHealth – Apollo Global Management

Lifepoint Health and ScionHealth are two of the largest hospital systems in the US.[48] They are both owned by private equity firm Apollo Global Management.[49]

The two companies are the result of a series of hospital acquisitions by Apollo, which in 2018 bought Lifepoint and merged it with another hospital chain, RegionalCare Hospital Partners.[50] Then, in December 2021 Lifepoint acquired the large long term acute care hospital chain Kindred Healthcare. As part of the transaction, Lifepoint shifted some of the acquired facilities and some of its existing hospitals into a new company called ScionHealth,[51] which is also controlled by Apollo.[52]

Through Lifepoint and Scion together, Apollo has an extensive hospital footprint, owning approximately 220 hospitals across 36 states.[53] As of December 2021, Lifepoint employed 50,000 workers,[54] and Scion reportedly employs approximately 25,000 workers as of 2023.[55]

As healthcare consolidation continues to accelerate and drive up healthcare costs,[56] Apollo's merger of Lifepoint and Kindred and creation of ScionHealth merits scrutiny for potentially anti-competitive impacts. Though Lifepoint and Scion now position themselves as entirely separate businesses, they are both owned and controlled by Apollo.[57]

Press reports and regulatory investigations describe operating challenges that pose a threat to quality care and access to medical services at Apollo's Lifepoint and ScionHealth hospitals around the country.

- Lifepoint's Wilson Medical Center in North Carolina faced regulatory scrutiny in 2022 and 2023, including threats by CMS to revoke its Medicare payments and an investigation by the state's attorney general. On three separate occasions in under a year, compliance surveys by state regulators found that quality deficiencies warranted an "immediate jeopardy" designation for the hospital. Wilson is the only hospital in Wilson County, located about an hour east of Raleigh.[58]

- In 2020 the *Wall Street Journal* reported on how in Wyoming Lifepoint chipped away at staffing and services at its hospital in working-class Riverton until most services were transferred to another Lifepoint hospital in Lander, 30 miles away. Riverton residents reported that the consolidation severely reduced access to medical services and the transfer led to increased utilization of air ambulances, from 155 in 2014 to 937 in 2019.[59]

- According to The Lown Institute Hospital Index, which ranks hospitals and health systems based on health equity, value, and outcomes, multiple Lifepoint facilities rank among the worst hospitals in their states., including in Virginia, New Mexico, and North Carolina.[60]

- Lifepoint hospitals have notably high readmission rates; in 2022 Lifepoint's North Alabama Medical Center, National Park Medical Center in Arkansas, and Fauquier Hospital in Virginia each had the highest readmission rate in their respective states.[61] Fauquier Hospital and Lifepoint's Nason Hospital in Pennsylvania each faced the maximum Medicare payment cut for FY 2022 as a penalty for their high readmission rates.[62]

For more on Apollo's ownership of Lifepoint Health and ScionHealth, see our report: "Apollo's Stranglehold on Hospitals Harms Patients and Healthcare Workers" (January 2024)

4. Pipeline Health – Stanton Road Capital, Davidson Kempner Capital Management, and Deerfield Management

Pipeline Health is an operator of safety net hospitals in California and Texas, and previously in Illinois. It is backed by private equity and investment firms Stanton Road Capital, Davidson Kempner Capital Management, and Deerfield Management.

In 2019, Pipeline broke promises to state regulators when it purchased, and then promptly moved to close, a safety net hospital that served a predominantly Black and Latino population near Chicago. The hospital chain purchased Westlake Hospital in Melrose Park, IL before announcing its intentions of shutting down the hospital mere weeks after its acquisition. Pipeline and its private equity owners bought Westlake, alongside two other Chicago-area hospitals in 2019 for a mere $5 million. After the

bankruptcy and closure of Westlake, they were able to then sell the remaining two hospitals for a monumental $92 million - over 18 times what they paid for all three hospitals.

In regulatory filings before the purchase of Westlake, Pipeline had committed to keeping the hospital open for at least two years. The local community fought back with a legal challenge to save Westlake after Pipeline received regulatory approval to close it, but Pipeline was able to close the hospital by having the hospital's holding company declare bankruptcy. In the following bankruptcy proceedings, it was revealed that the hospital's closure had been a condition of Pipeline's acquisition agreement with the seller.

Pipeline's activities in Chicago resulted in the bankruptcy and closure of a safety net hospital, mass layoffs of over 500 workers, and the sale of property zoned for hospital use to be converted into luxury housing despite heavy opposition. Through its use of over two dozen subsidiaries and holding companies, Pipeline's investors were able to hide in the shadows and protect their assets from losses.

Pipeline continues to own and operate five hospitals in Texas and California. Pipeline's investors also have faced, to date, few consequences for their business practices that shuttered a safety net hospital and harmed communities.

For more information on Pipeline Health, see our report: "How private equity raided safety net hospitals: Volume 2—Pipeline Health" (July 2023).

Additional Information

Private equity in wheelchairs and other DME

Private equity firms have increasingly bought up durable medical equipment (DME) manufacturers and suppliers and consolidated them. DME includes wheelchairs and other mobility aids, respiratory equipment, infusion pumps and supplies, and other equipment used to manage disabilities.

Through aggressive debt-funded growth strategies, a handful of private equity-owned DME companies have grown from nonexistence to industry giants over the last decade. The resulting companies are highly indebted, and are now seeking ways to cut costs to achieve the outsized returns demanded by their private equity owners.

This profit seeking has been linked to cuts to staffing that exacerbates long delays for repairs and billing practices that have resulted in federal lawsuits.

The two largest suppliers of customized (manual and motorized) wheelchairs are owned by private equity firms. Cost cutting at these companies has been linked to slow response times for repairs that harm wheelchair users.

For more information, see the report we co-authored with the National Disability Rights Network: "How Private Equity Profits Off of Disabled and Chronically Ill Americans" (November 2023)

Private equity and healthcare fraud

There is substantial overlap between the risks associated with private equity ownership of healthcare companies and the activities targeted by the False Claims Act (FCA), a federal law that establishes liability for individuals or companies that defraud governmental programs.

The FCA is commonly used to prosecute healthcare companies that defraud Medicaid, Medicare, and related programs by submitting false claims for a variety of activities. Fraudulent activities may include providing substandard care, providing medically unnecessary services, receiving kick-backs for services provided, filing claims for services not provided, and providing services by unlicensed or improperly licensed providers.

In an effort to achieve the high returns often expected by private equity investors, companies' aggressive profit-seeking may result in fraudulent activity.

See our report "Money for Nothing: How private equity has defrauded government health programs" (February 2021)

Private equity in behavioral health and disability services

Private equity firms made significant investments in the behavioral health and disability services industries, including mental health, addiction treatment, services for people with intellectual and developmental disabilities, and therapeutic foster care.

See our reports:
"The Kids Are Not Alright: How Private Equity Profits Off of Behavioral Health Services for Vulnerable and At-Risk Youth" (February 2022)

"Understaffed, Unlicensed, and Untrained: Behavioral Health Under Private Equity" (September 2020)

Private equity in dentistry

In recent years, private equity has increasingly carved out a substantial portion of the US dental industry, primarily through ownership of Dental Services Organizations (DSOs). DSOs are companies

that handle the business side of dental practices, such as administrative, marketing, bookkeeping, and financial services.

While DSO-affiliated practices currently make up a relatively small portion of the broader dental industry, the number is rapidly increasing. As of 2021, private equity firms have near-complete control of the DSO market. Nine of the top 10 DSOs are owned by private equity firms, and 27 of the top 30 DSOs are private-equity-owned. This amounts to approximately 84% of practice locations that contract with the top 30 DSOs.

See our report "Deceptive Marketing, Medicaid Fraud, and Unnecessary Root Canals on Babies: Private Equity Drills into the Dental Care Industry" (July 2021)

Conclusion

Many of the tactics used to strip wealth out of the hospital systems profiled above are common among private equity ownership of healthcare providers: high levels of debt, extracting dividends and fees, and selling off the real estate to lease it back all come straight from the typical private equity playbook. There are no laws prohibiting these kinds of financial maneuvers, even in a sector as critical as healthcare.

It is thus essential to pursue policies at the state and federal level that prevent this kind of looting of healthcare companies from occurring again—through expanding regulatory oversight of for-profit hospital mergers and acquisitions, prevention of exploitative real estate plays and extractive fees and dividends, and protections for workers against mass layoffs.

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ENDNOTES

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