

September 11, 2024

The Honorable Bernie Sanders Chair Committee on Health, Education, Labor, and Pensions 428 Dirksen Senate Office Building Washington, DC 20510 The Honorable Bill Cassidy, M.D. Ranking Member Committee on Health, Education, Labor, and Pensions 428 Dirksen Senate Office Building Washington, DC 20510

Dear Chair Sanders and Ranking Member Cassidy:

On behalf of the American Speech-Language-Hearing Association (ASHA), I write to provide comments related to the Senate Health, Education, Labor, and Pensions (HELP) Committee hearing, "Examining the Bankruptcy of Steward Health Care: How Management Decisions Have Impacted Patient Care." ASHA appreciates the opportunity to provide feedback to the Committee and supports the goal of ensuring health care industry consolidation does not harm patients and providers.

ASHA is the national professional, scientific, and credentialing association for 234,000 members, certificate holders, and affiliates who are audiologists; speech-language pathologists (SLPs); speech, language, and hearing scientists; audiology and speech-language pathology assistants; and students. Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. SLPs identify, assess, and treat speech, language, swallowing, and cognitive communication disorders.

Our members provide critical health care services to patients across the lifespan in a variety of practice settings, including hospitals, skilled nursing facilities (SNFs), home health, and private practices. They have experienced a variety of impacts associated with consolidation in health care markets, including challenges accessing insurer provider networks, lower payment rates, and administrative mandates that dictate care delivery decisions and worsen the quality and outcomes of care for their patients.

The bankruptcy of Steward Health Care is one example of the often-negative consequences of private equity (PE) acquisition of health care companies. The Medicare Payment Advisory Commission (MedPAC) has outlined serious concerns regarding the impact of PE in health care, particularly in the SNF industry. According to a June 2021 MedPAC Report, approximately 11% of nursing homes are owned by PE firms. The report noted that many PE firms use management strategies designed to improve profitability, often to the detriment of the Medicare program and patients, such as cherry-picking patients (e.g., excluding Medicaid patients and limiting certain diagnoses) and reducing staff or changing the composition of staff (e.g., using assistants or aides rather than a therapist or nurse).¹

SNF-based SLPs have reported examples to ASHA that support MedPAC's findings. Clinician productivity standards often prioritize reimbursable activities over quality patient care. These standards frequently exclude essential tasks like documentation and multidisciplinary care planning, which help prevent adverse events. There are also ASHA Comments Page 2

pressures to discharge patients prematurely or perform unnecessary services. Some SNFs restrict the number of treatment sessions or dictate which clinical specialty may treat a particular patient, undermining clinicians' professional judgment. According to MedPAC, the impact of PE ownership can be mixed but correlates with increased mortality, worsening mobility, elevated use of antipsychotic medications, declines in nurse availability per patient, and reduced compliance with federal and state standards of care.²

Based on our members' experiences, ASHA remains concerned that a consolidated health care market jeopardizes professional autonomy and patient care. ASHA is concerned that consolidation—which is being driven in part by profit-focused PE firms—could further shrink health plan provider networks. We routinely hear that our members are rejected from networks because the networks are closed. PE firms might use narrow networks to tightly manage how and when care is provided, thereby jeopardizing access to care for patients. ASHA urges the Committee to help ensure patients have robust provider networks and timely and appropriate access to care.

Providers choosing to remain in independent private practice cite frustrations with the dramatic difference between their reimbursement rates and facility-based rates. Their negotiating power is minimal in comparison to the larger health care entities, which has resulted in stagnant and diminishing reimbursement rates for private practice owners. This could drive more independent private practices to consider merging with larger health care entities, even if that reduces competition, increases health care costs, and decreases patient satisfaction.

Consolidation has presented both benefits and drawbacks as the health care delivery system shifts away from fee-for-service and toward a value-based care paradigm. Current and emerging value-based care models require significant investment in electronic health records technology, data analytics, and population health management tools—a capital-intensive process that may favor larger health care companies. They also require the funding and analytical power of a finance team to support cashflow changes and increased financial risk while transitioning from one payment model to another. This presents challenges to small independent practices who are functionally left out of these payment models unless they merge with larger health care entities.

To facilitate a smooth transition from fee-for-service to value-based care without forcing providers and practices into consolidation, ASHA urges the Committee to support providers who wish to participate in these emerging models, particularly nonphysicians who have had considerable difficulty participating in quality payment programs established by the Medicare Access and CHIP Reauthorization Act (Public Law 114-10).

While consolidation often leads to dictated changes to clinical practice that are not always in the best interest of patients, its impact does not stop there. The increased workload and undermining of providers' judgment leads to increased stress and burnout. Administrative mandates also place providers in difficult positions where they must either violate their clinical and ethical obligations or lose their jobs. Providers should never be put in a situation where they are forced to decide between 1) doing what is right and what they are ethically and legally bound to do for their patients or 2) following their employer's mandates to keep their job.

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ASHA urges the Committee to closely examine how prevailing trends in market consolidation affect patient outcomes, provider well-being, and the overall cost of care. Further scrutiny and oversight are needed to ensure that these market forces do not undermine patient safety and quality of care. We appreciate the Senate HELP Committee's attention to this important issue. If you have any questions or want additional information, please contact Josh Krantz, ASHA's director of federal affairs for health care, at <u>ikrantz@asha.org</u>.

Sincerely,

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Tena L. McNamara, AuD, CCC-A/SLP 2024 ASHA President

¹ Medicare Payment Advisory Commission. (2021). *Chapter 3: Congressional request: Private equity and Medicare*. <u>https://www.medpac.gov/document/http-www-medpac-gov-docs-default-source-default-document-library-jun21_ch3_medpac_report_to_congress_sec-pdf/</u> ² Ibid