

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Subcommittee on Oversight, Investigations, and Regulations

FROM: Committee Majority Staff

DATE: July 17, 2023

RE: Subcommittee Hearing Titled: “Burdensome Red Tape: Overregulation in Health Care and the Impact on Small Businesses”

On **July 19, 2023 at 9:30 A.M. ET**, the Subcommittee on Oversight, Investigations, and Regulations will hold a hearing titled “**Burdensome Red Tape: Overregulation in Health Care and the Impact on Small Businesses.**” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the impact of overregulation and health care consolidation on small health providers and sole practitioners.

I. Witnesses

- **Dr. Henry Anthony Punzi, MD, FCP, FASH**, Medical Director, Trinity Hypertension & Metabolic Research Institute, Punzi Medical Center
- **Dr. Brian Miller, MD, MBA, MPH**, Nonresident Fellow, American Enterprise Institute, Assistant Professor, Johns Hopkins School of Medicine
- **Mr. Matthew Fielder**, Senior Fellow, Schaeffer Initiative for Health Policy, Economic Studies Program, Brookings Institution

II. Background

Today’s small health care providers face immense, sometimes insurmountable, challenges. The current regulatory landscape, burdensome reporting requirements, rising compliance costs, and increasing trends towards consolidation have led to the elimination of many small health care providers. When small providers close their doors, the value of and access to patient care decreases and costs increase.¹

¹ *How Hospital Consolidation Hurts Americans*, AHIP (Aug. 26, 2021).

The Center for Medicare and Medicaid Services (CMS), within the Department of Health and Human Services (HHS), is responsible for administering both Medicare and Medicaid. CMS is one of four main agencies which promulgate regulations on health care providers. In 2017, the American Hospital Association (AHA) issued a Regulatory Overload Report which stated that across agencies, “health systems, hospitals, and PAC (post-acute care) providers must comply with 629 discrete regulatory requirements across nine domains.”²

As of 2017, these purely administrative activities cost providers \$39 billion each year. Breaking down this number, an average community hospital with around 160 beds would spend \$7.6 million each year on compliance with these requirements—or \$1,200 on each admitted patient.³ The report also found that the constantly changing regulatory environment for providers hampers compliance, leads to duplicative efforts, and harms patient care.⁴

Since then, the burdens of regulatory compliance have only grown. The Medical Group Management Association’s (MGMA) Annual Regulatory Burden Report released in October 2022 reported that 89 percent of respondents believe their regulatory burden has increased in the past 12 months.⁵ In their report, the MGMA found that 90 percent of respondents agreed that health care consolidation is increasing. 78 percent said that this consolidation has a negative impact on the U.S. health care system and 76 percent said that increased regulatory requirements were a significant driver of consolidation.⁶ Experts also attribute this to the increased cost of goods, increased cost of labor, and pressures from the COVID-19 pandemic.⁷

These costs have caused mergers and acquisitions in the health care sector to increase in recent years as well. Proponents of consolidation argue that the merging of health care entities can be beneficial in lowering health care costs and improved quality and access to health care. They argue that the consolidation of small entities with larger ones provides additional resources to comply with burdensome regulatory requirements and economic pressures such as inflation, labor shortages, and supply expenses.⁸ The reality is, however, that too often consolidation decreases quality of care, eliminates competition which increases cost, limits physician-patient connections, and eliminates the opportunity for physicians to own their own businesses in pursuit of the American dream.⁹

² AM. HOSPITAL ASSOC., REGULATORY OVERLOAD: ASSESSING THE REGULATORY BURDEN ON HEALTH SYSTEMS, HOSPITALS & POST-ACUTE CARE PROVIDERS, 3 (Oct. 2017).

³ *Id.* at 4.

⁴ *Id.*

⁵ MEDICAL GROUP MGMT. ASSOC., ANNUAL REGULATORY BURDEN REPORT, 11 (Oct. 2022).

⁶ *Id.* at 10.

⁷ Avalere Health, *COVID-19’s Impact On Acquisitions of Physician Practices and Physician Employment 2019-2020*, PAI (Jun. 2021).

⁸ *Why Health Care is Unaffordable: Anticompetitive and Consolidated Markets*, Hearing before H. Comm. on Ways and Means Subcomm. on the Health, 118th Cong. 2 (statement of American Hospital Association); *The Financial Stability of America’s Hospitals and Health Systems Is at Risk as the Costs of Caring Continue to Rise*, AM. HOSPITAL ASSOC. (Apr. 2023).

⁹ *How Hospital Consolidation Hurts Americans*, AHIP (Aug. 26, 2021).

Nearly half of U.S. physicians were employed by hospitals or health systems by the end of 2020.¹⁰ The increase in physicians joining larger health systems can be in part attributed to the COVID-19 pandemic. Between 2019 and 2020, 48,400 physicians left independent practice to join corporate entities, 22,700 of which occurred after the onset of COVID-19. Over the same period, hospitals and other corporate health systems acquired 20,900 additional physician practices which contributed to a 25 percent increase in corporate-owned practices.¹¹

III. Conclusion

Small providers bear a disproportionate amount of the regulatory burden and administrative costs associated with health care compliance. This has led to rising costs, increased administrative burdens, and the consolidation and elimination of many small providers. This hearing will highlight the challenges faced by small health care providers and discuss potential solutions for how to lessen these challenges to provide better and more affordable patient care.

¹⁰ *Hospital Acquisition of Physician Practices Drives up Cost*, AHIP (Aug. 20, 2021).

¹¹ Avalere Health, *COVID-19's Impact On Acquisitions of Physician Practices and Physician Employment 2019-2020*, PAI (Jun. 2021).