Health Care Consolidation
Harms & Remedies
October 25, 2023
Charles Miller, Senior Policy Advisor

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@CharlesTXPolicy
Data tells us Texas faces significant challenges, requiring state policy action now and into the future so that Texas is the best place to live and work.
Assessing Texas’ performance against competitors

Peer states identified based on index including **15 factors** across 3 domains

- Competing for Business
- Competing for Talent
- Similar Size

Together, Texas and its peers account for **58% of the total U.S. population** and **62% of total U.S. GDP**
The Prices are Too Damn High
Average Family Premium: $22,463...

Average Annual Worker and Employer Contributions to Premiums and Total Premiums for Family Coverage, 1999-2022

Employer Contribution  Worker Contribution

1999: $4,247  $1,543  $5,791
2000: $4,819  $1,619  $6,438
2001: $5,274  $1,787  $7,061
2002: $5,866  $2,137  $8,003
2003: $6,857  $2,412  $9,269
2004: $7,289  $2,661  $9,950
2005: $8,167  $2,713  $10,880
2006: $8,508  $2,973  $11,480
2007: $8,824  $3,261  $12,085
2008: $9,325  $3,354  $12,679
2009: $9,680  $3,515  $13,375
2010: $9,773  $3,967  $13,770
2011: $10,944  $4,129  $15,073
2012: $11,439  $4,316  $15,745
2013: $11,786  $4,565  $16,351
2014: $12,011  $4,823  $16,834
2015: $12,591  $4,955  $17,546
2016: $12,865  $5,277  $18,142
2017: $13,049  $5,714  $18,763
2018: $13,406  $5,547  $19,613
2019: $14,561  $6,015  $20,576
2020: $15,754  $5,588  $21,342
2021: $16,253  $5,969  $22,221
2022: $16,357  $6,106  $22,463

Nearly 1/3 of the 2022 Median Household Income of $74,580
Audience Poll Question

If you have received next year’s premium increase, how much will it be (% increase)?
ANSWERS
Employers Anticipate 7% Rise in Health Care Costs for 2024

Health Insurance Premiums Are Set to Surge in 2024

By Kathryn Mayer
August 17, 2023

US employers to see biggest healthcare cost jump in a decade in 2024
By Leroy Leo and Khushi Mandalwara
September 21, 2023 11:07 AM CDT · Updated a month ago

*WSJ NEWS EXCLUSIVE*

**Health-Insurance Costs Are Taking Biggest Jumps in Years**

Employers and workers are expected to see an increase of about 6.5% or higher in health-plan costs next year.

**Median 7.0%**
HEALTH CARE IS ERODING U.S. LIVING STANDARDS

U.S. median household income, 2006–2020 (2021 dollars)

Source: Analysis of Avik Roy & FREOPP.org
Expenditures, Revenues & Cost Pressure
Hospital Prices are Increasing Exceptionally Quickly
Market Background: Why Are Prices High?
Cost Shifting?

Commercial vs. Breakeven

Operating Profit by Payer Type

Source: NASHP Hospital Cost Tool
Audience Poll Questions

1) For St. Louis area hospitals (Missouri only), what is the median hospital receiving from commercial payers, as a % of Medicare?

2) For St. Louis area hospitals (Missouri only), what is the median hospital’s profit margin (%) on commercial payers?

Source: NASHP Hospital Cost Tool
ANSWERS
St. Louis Area Hospitals

Operating Profit by Payor Type

Commercial vs. Breakeven

Source: NASHP Hospital Cost Tool
Hospital Market Consolidation

Among peer states, Texas has the highest percentage of its population in Highly or Very Highly Concentrated Markets.
Inpatient Hospital Market Concentration in U.S. Metros, 2021

Source: Health Care Cost Institute
Consolidation = Higher Prices

**HOSPITAL CONCENTRATION = 44% HIGHER PRICES**

- **Prices charged to insurer**
  - Angioplasty: Competitive $21,626, Consolidated $32,411
  - Pacemaker Insertion: Competitive $30,399, Consolidated $47,477
  - Knee Replacement: Competitive $18,337, Consolidated $26,713
  - Hip Replacement: Competitive $19,534, Consolidated $20,140
  - Lumbar Fusion: Competitive $39,568, Consolidated $51,998
  - Cervical Fusion: Competitive $18,370, Consolidated $23,756

- **Costs to hospital**
  - Angioplasty: Competitive $11,014, Consolidated $12,238
  - Pacemaker Insertion: Competitive $19,343, Consolidated $23,605
  - Knee Replacement: Competitive $11,870, Consolidated $12,096
  - Hip Replacement: Competitive $12,484, Consolidated $12,728
  - Lumbar Fusion: Competitive $25,157, Consolidated $23,987
  - Cervical Fusion: Competitive $11,220, Consolidated $12,044

Source: Robinson, AJMC 2011
## Impacts on Quality?

### NO EVIDENCE THAT MERGERS INCREASE QUALITY

<table>
<thead>
<tr>
<th>Author</th>
<th>Geographic Scope</th>
<th>Patients</th>
<th>Type of data analyzed</th>
<th>Quality measure</th>
<th>Effect of Increasing concentration on quality</th>
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</thead>
<tbody>
<tr>
<td>Kessler &amp; McClellan</td>
<td>U.S.</td>
<td>Medicare</td>
<td>Longitudinal</td>
<td>AMI mortality</td>
<td>Decreases</td>
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<td>Sari</td>
<td>U.S.</td>
<td>All</td>
<td>Longitudinal</td>
<td>7 HICUP QI categories</td>
<td>Decreases</td>
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<td>Decreases</td>
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<tr>
<td>Hamilton &amp; Ho</td>
<td>California</td>
<td>All</td>
<td>Mergers</td>
<td>Newborn 48 hour discharge rate, AMI, stroke mortality</td>
<td>No effect</td>
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<tr>
<td>Shortell et al.</td>
<td>Multiple states</td>
<td>All</td>
<td>Cross-section</td>
<td>Mortality for 16 conditions / procedures aggregated</td>
<td>No effect</td>
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<tr>
<td>Mukamel et al.</td>
<td>U.S.</td>
<td>Medicare</td>
<td>Cross-section</td>
<td>All cause, AMI, CHF, pneumonia and stroke mortality</td>
<td>No effect</td>
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<td>Shen</td>
<td>U.S.</td>
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<td>Longitudinal</td>
<td>AMI mortality</td>
<td>No effect</td>
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<tr>
<td>Gewrissonkon &amp; Town</td>
<td>L.A. County</td>
<td>All</td>
<td>Cross-section</td>
<td>AMI and pneumonia mortality</td>
<td>Decreases for HMO pts.; Increases for Medicare pts.</td>
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<tr>
<td>Mutter &amp; Wong</td>
<td>U.S.</td>
<td>All</td>
<td>Cross-section</td>
<td>38 HICUP QI measures</td>
<td>Varied by procedure</td>
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<tr>
<td>Mukamel et al.</td>
<td>California</td>
<td>All</td>
<td>Cross-section</td>
<td>All cause, AMI, CHF, pneumonia and stroke mortality</td>
<td>Increases</td>
</tr>
<tr>
<td>Voipp et al.</td>
<td>New Jersey &amp; New York</td>
<td>Under-65</td>
<td>Longitudinal</td>
<td>Cardiac catheterization rate, revascularization rate, AMI mortality</td>
<td>Increases</td>
</tr>
</tbody>
</table>

Source: Vogt and Town, 2006
Toward a Solution: Price Transparency & Variation
Can Transparency Make a Difference?

### Youngest Generations Most Engaged About Their Healthcare Costs

<table>
<thead>
<tr>
<th>Generations*</th>
<th>All</th>
<th>Gen Z</th>
<th>Millennials</th>
<th>Gen X</th>
<th>Baby Boomers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent of Patients Conducting Some Form of Research on Healthcare Costs</td>
<td>75%</td>
<td>85%</td>
<td>84%</td>
<td>73%</td>
<td>65%</td>
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<tr>
<td>Percent of Patients That Said Having Clear Information on Out-of-Pocket Costs Would Impact their Decision to Use a Healthcare Provider</td>
<td>49%</td>
<td>65%</td>
<td>60%</td>
<td>44%</td>
<td>34%</td>
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</table>


## Health Care Price Transparency

### Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Location</th>
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</thead>
<tbody>
<tr>
<td>1/1/21</td>
<td>Federal Price Transparency Rules Took Effect</td>
<td>Federal</td>
</tr>
<tr>
<td>7/19/21</td>
<td>CMS Proposed Increased Penalties for Non-Compliance</td>
<td>Federal</td>
</tr>
<tr>
<td>9/1/21</td>
<td>Texas Law (SB 1137) Took Effect</td>
<td>Texas</td>
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<tr>
<td>1/1/22</td>
<td>CMS Rules with Increased Penalty for Non-Compliance Take Effect</td>
<td>Federal</td>
</tr>
<tr>
<td>2/26/23</td>
<td>Texas Rules Clarifying the Enhanced Penalties in Texas Statute</td>
<td>Texas</td>
</tr>
<tr>
<td>1/1/22</td>
<td>Federal Rules &amp; Texas Law (HB 2090) for Machine-Readable Files Take Effect</td>
<td>Federal &amp; Texas</td>
</tr>
<tr>
<td>7/1/22</td>
<td>Federal Rules for Machine-Readable Files delayed enforcement date</td>
<td>Federal</td>
</tr>
<tr>
<td>1/1/23</td>
<td>Federal Rules for Consumer Comparison Tool for 500 Services Take Effect</td>
<td>Federal</td>
</tr>
<tr>
<td>1/1/24</td>
<td>Federal Rules and Texas Law for All Services Takes Effect</td>
<td>Federal &amp; Texas</td>
</tr>
</tbody>
</table>
Price Variation – CBC: North Texas

https://texas2036.shinyapps.io/hospital-pricing/
Regional Price Variation – Office Visit

https://texas2036.shinyapps.io/hospital-pricing/
Beyond Transparency: Next Steps
What Should Employers Do?

1. Get Your Data!
   - Employers own their data and have a right to access it
   - Gag clauses are illegal
   - Employers have a fiduciary duty to evaluate the data
   - Compare your claims to publicly available price contracts

2. Tiered Networks
   - Group providers into tiers
   - Preferential cost-sharing options for highest-value providers
   - Broader Reach, Less "Hands On"
   - Less Effective After Deductible / MOOP

3. Steering
   - Shared Savings Incentives
   - Centers of Excellence
   - Targeted Interventions & Incentives, More "Hands On"
   - Can Still Work After Patient Hits Deductible / MOOP
Audience Poll Questions

1) Have you tried gaining access to your own claims data for benefit design or audit purposes?  
2) If yes, were you able to gain access?
ANSWERS
Audience Poll Questions

1) Have you tried or asked about implementing a tiered network, or steering patients to high-value care?

2) If yes, were you able to implement the design?
Policy Options
## Policy Options

<table>
<thead>
<tr>
<th>Further Transparency</th>
<th>Prohibit Anti-Competitive Contracting</th>
<th>Enhanced Anti-Trust Oversight</th>
</tr>
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<tbody>
<tr>
<td>• Codify and Enforce Existing Federal Transparency Rules</td>
<td>• All or Nothing</td>
<td>• Prohibit COPAs</td>
</tr>
<tr>
<td>• Require Meaningful, Timely, and Accurate Price Estimates</td>
<td>• All Products</td>
<td>• Empower Review of “Roll-up” Acquisitions</td>
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<td>• Enable Quality Transparency</td>
<td>• Vertical Tying</td>
<td>• Funding State Oversight &amp; Enforcement Agencies</td>
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<tr>
<td>• Establish &amp; Utilize All-Payer Claims Databases</td>
<td>• Gag</td>
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<tr>
<td>• Require Transparency of Ownership &amp; Control</td>
<td>• Most-Favored Nation</td>
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<td></td>
<td>• Anti-Tiering</td>
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<tr>
<td></td>
<td>• Anti-Steering</td>
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Further Transparency:
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- Enable Quality Transparency
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Prohibit Anti-Competitive Contracting:
- All or Nothing
- All Products
- Vertical Tying
- Gag
- Most-Favored Nation
- Anti-Tiering
- Anti-Steering

Enhanced Anti-Trust Oversight:
- Prohibit COPAs
- Empower Review of “Roll-up” Acquisitions
- Funding State Oversight & Enforcement Agencies
# Policy Options

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<tr>
<th>Government Rate-Setting</th>
<th>Deconsolidation</th>
<th>Increase Supply</th>
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<tbody>
<tr>
<td>• Direct Rate Setting</td>
<td>• Forced Breakups</td>
<td>• Repeal CON Laws</td>
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<tr>
<td>• Price Setting</td>
<td>• Incentivized Breakups</td>
<td>• Scope of Practice</td>
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<tr>
<td>• Global Budgets</td>
<td>• Threaten direct rate-setting in non-competitive markets</td>
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<tr>
<td>• Indirect</td>
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<tr>
<td>• Insurance Premium Review</td>
<td></td>
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<tr>
<td>• Network Adequacy Review</td>
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- For more information, visit [Texas.gov](http://Texas.gov)
Texas’ Story: Anti-Competitive Contracting
HB 711 restores competition to Texas' health care markets by prohibiting contracts that include:

- **Anti-steering clauses** that restrict employers and health plans from encouraging enrollees to obtain services at a competitor or from offering incentives to use specific providers
- **Anti-tiering clauses** that require employers and health plans to place all physicians, hospitals, and other facilities associated with a hospital system in the most favorable tier of providers
- **Gag clauses** that prohibit any party from disclosing relevant price or quality information to the government, enrollees, treating providers, plan sponsors, and potential enrollees and plan sponsors
- **Most favored nation clauses** that prevent providers from offering prices below those contracted with a particular carrier

HB 711 also imposes a **fiduciary duty on health benefit plans**: If they encourage enrollees to obtain a service from a particular provider, including offering incentives to encourage specific providers, introducing or modifying a tiered network plan, or assigning providers into tiers, they must do it for the primary benefit of the enrollees, not themselves.
Our Approach & Messaging

HEALTHY MARKETS FOR HEALTHY TEXANS

INFORMED
Markets require transparency.
Increase access to data on price and quality for health care
Research Transparency: Improving the APCD
(HB 3414 by Oliverson)
(SB 2046 by Hancock)
Require providers to provide meaningful price estimates
(HB 3218 by Klick)

COMPETITIVE
Markets require options.
Options for coverage and care that all compete on a level playing field to meet Texans’ health care needs.
Fee Neutrality
(HB 1692 by Frank)
(SB 1275 by Hancock)

Consumer Choice
Benefit Plans
(HB 1001 by Capriglione)
(SB 605 by Springer)

ENGAGED
Markets require aligned incentives.
Reward those who choose high-quality, low-cost options.
Smart Shopper Protections
(HB 2002 by Oliverson)
Empowering Employers to Design Smart Networks
(HB 711 by Frank)

Support Healthy Markets in Texas

Texas employers and families are struggling to pay rising hospital and health care costs.

Texas has a highly-concentrated health care market.
A majority of Texas’ population (61%) lives in “highly” or “very highly concentrated” hospital market concentration, as compared to 3% in California and 10% in Illinois.

Texans are concerned about the cost of health care.
In a recent Texas Association of Business poll, Texans shared that health care cost increases were a greater concern than inflation.

On average, employer-sponsored health insurance now costs $22,000 per covered family, which is about one-third of the median wage of a Texas household.
Harnessing the NASHP Cost Tool
Area: Miles, Borris L. (District 13) | Hospital Size: 0 – 1700 beds | Hospital System: All

**Payer Mix**
As a percentage of total charges, 2021

<table>
<thead>
<tr>
<th>Payer</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
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</thead>
<tbody>
<tr>
<td>Medicare</td>
<td>12.3%</td>
<td>19.4%</td>
<td>21.1%</td>
</tr>
<tr>
<td>Commercial</td>
<td>40.7%</td>
<td>21.5%</td>
<td>19.0%</td>
</tr>
<tr>
<td>Medicaid</td>
<td>13.0%</td>
<td>13.1%</td>
<td>12.3%</td>
</tr>
<tr>
<td>Commercial Adv.</td>
<td>17.8%</td>
<td>19.0%</td>
<td>21.1%</td>
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<tr>
<td>SCHIP</td>
<td>0.5%</td>
<td>0.4%</td>
<td>0.4%</td>
</tr>
<tr>
<td>Uninsured</td>
<td>0.9%</td>
<td>1.1%</td>
<td>0.9%</td>
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**Operating Profit Margin**

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<tbody>
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<td>2020</td>
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<td></td>
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<tr>
<td>2021</td>
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**Commercial & Breakeven**

<table>
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<th>Year</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
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<tbody>
<tr>
<td>2019</td>
<td>266</td>
<td>256</td>
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</tr>
<tr>
<td>2020</td>
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<td>256</td>
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</tr>
<tr>
<td>2021</td>
<td>266</td>
<td>256</td>
<td>256</td>
</tr>
</tbody>
</table>

**Individualized Legislative District Reports**
Individual Hospital Reports
HB 711: A Broad Coalition of Support
Industry Responses & Thoughts

1. Hospitals
   - Strongly Opposed “All or Nothing.”
   - Unsuccessfully tried to water down anti-steering & anti-tiering
   - Asked for delayed effective date
   - Association was negotiated to neutral, but individual CEOs called legislative leadership in opposition

2. Doctors & Providers
   - Strongly Opposed All or Nothing
   - Lightly asked for inclusion of “all products clauses”
   - Disorganized politically on these issues
   - Some physician legislators were so angry at hospitals for other bills that they voted yes on this bill out of spite

3. Insurers
   - Were generally supportive
   - Played a background role
   - Were strongly opposed to imposing a fiduciary duty on PBMs that steer or tier
   - Also sought changes to state laws to allow fully-insured products to steer and tier (open to fiduciary duty)
Political Notes

a. Differing Republican Leadership
b. House Select Committee & Report
c. COVID Impact, Data, & Trust
d. Invested Legislative Champions
e. Flood the Zone & Other Legislation
Thank You!

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