



Health Care Consolidation

Harms & Remedies

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TEXAS ²⁰₃₆

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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

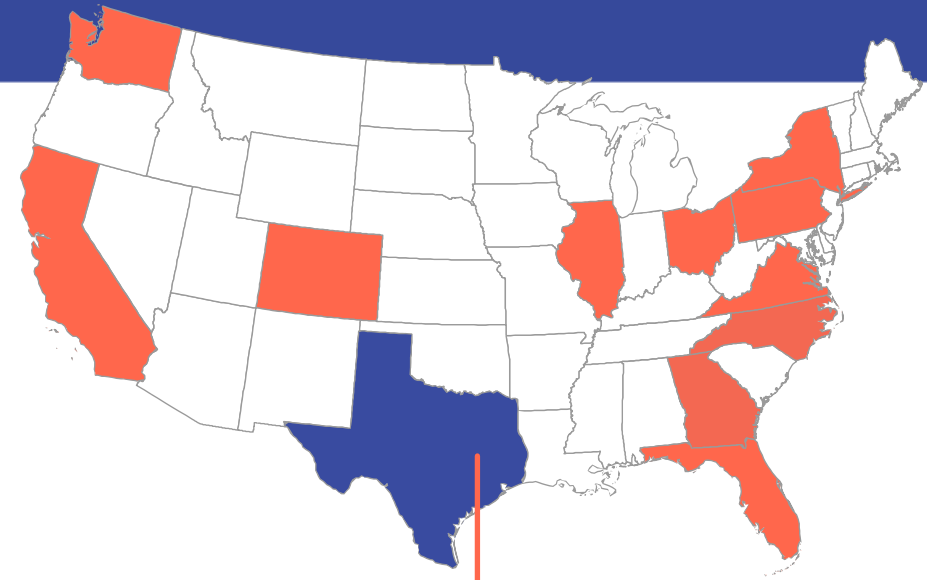
Peer states identified based on index including **15 factors** across 3 domains

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**



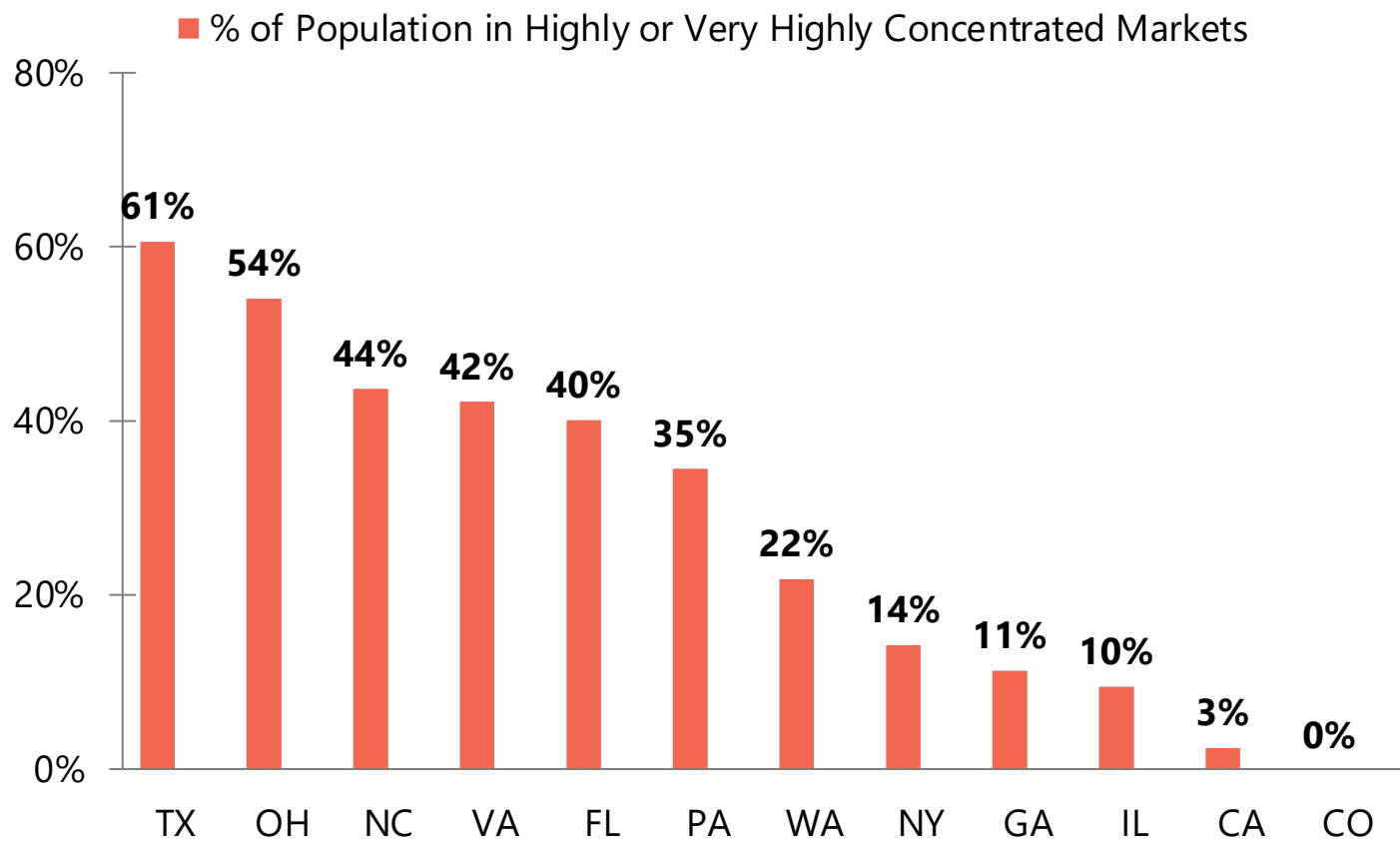
California
Colorado
Florida
Georgia

Illinois
New York
North Carolina
Ohio

Pennsylvania
Virginia
Washington

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



Concentration Level ⓘ


UNCONCENTRATED

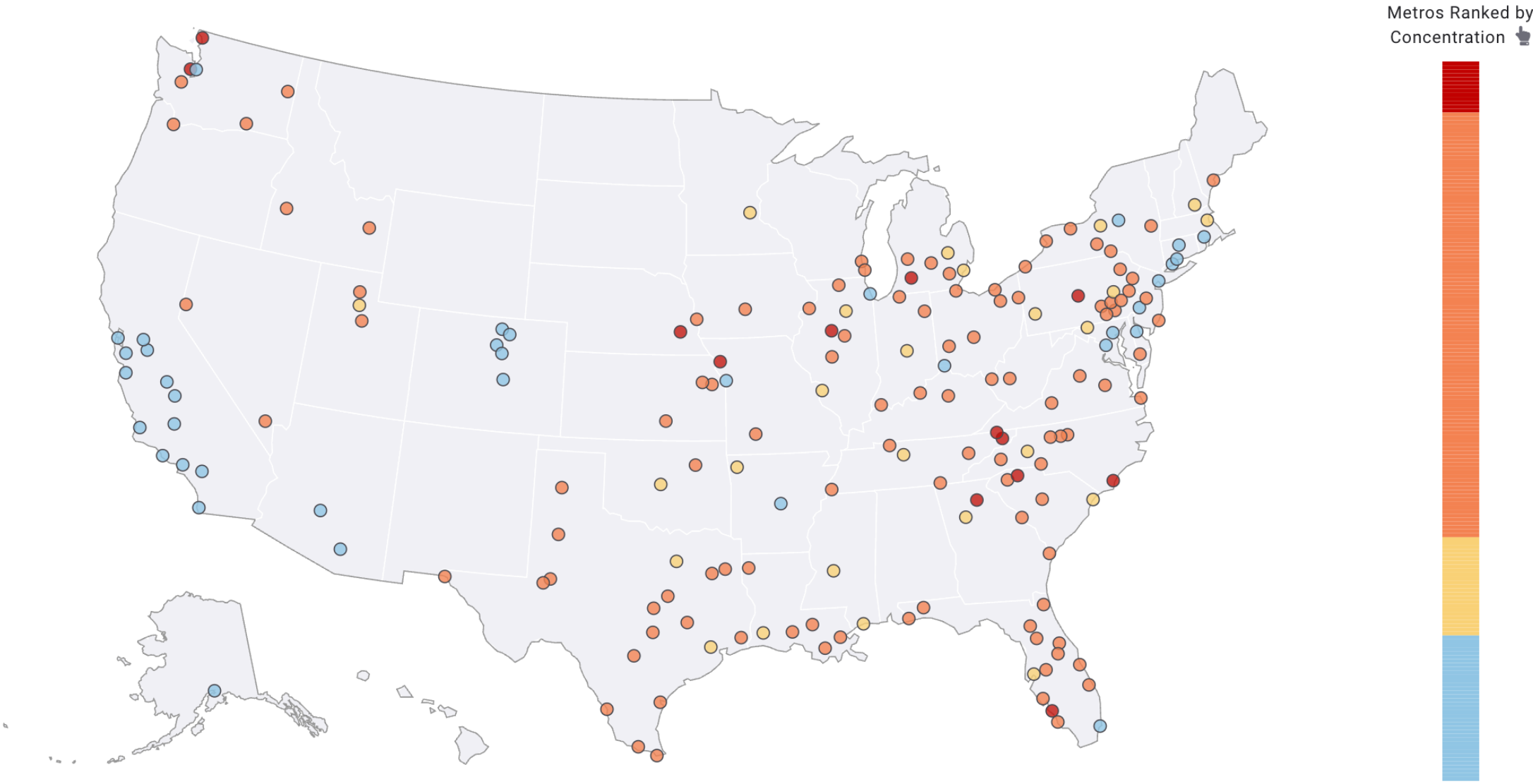
MODERATE

HIGH

VERY HIGH

 Find a metro... 

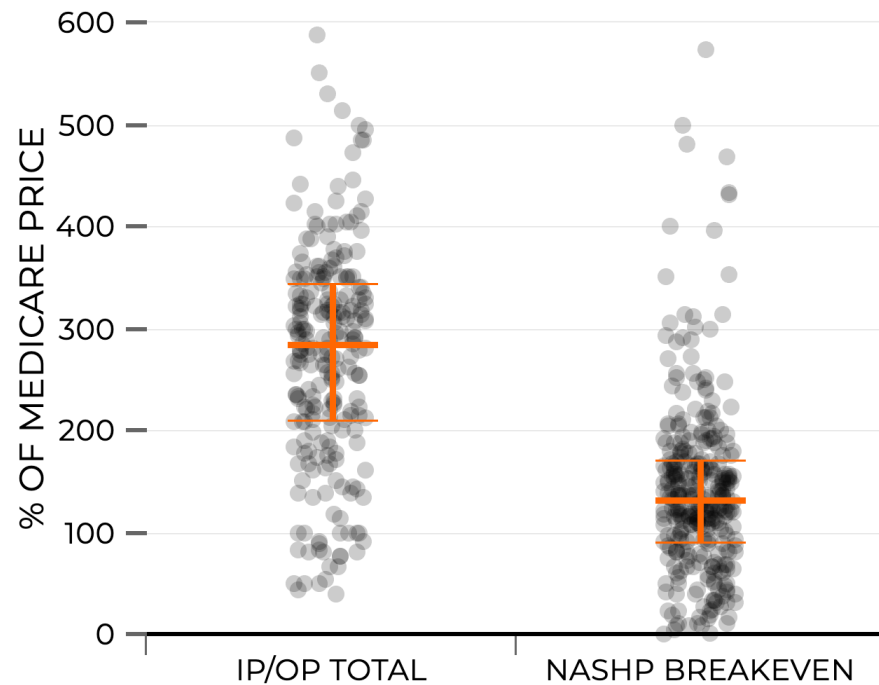
 Click or mouseover a group above to highlight on the map.
Hover over a city below to see more.



Commercial Prices vs Breakeven Prices

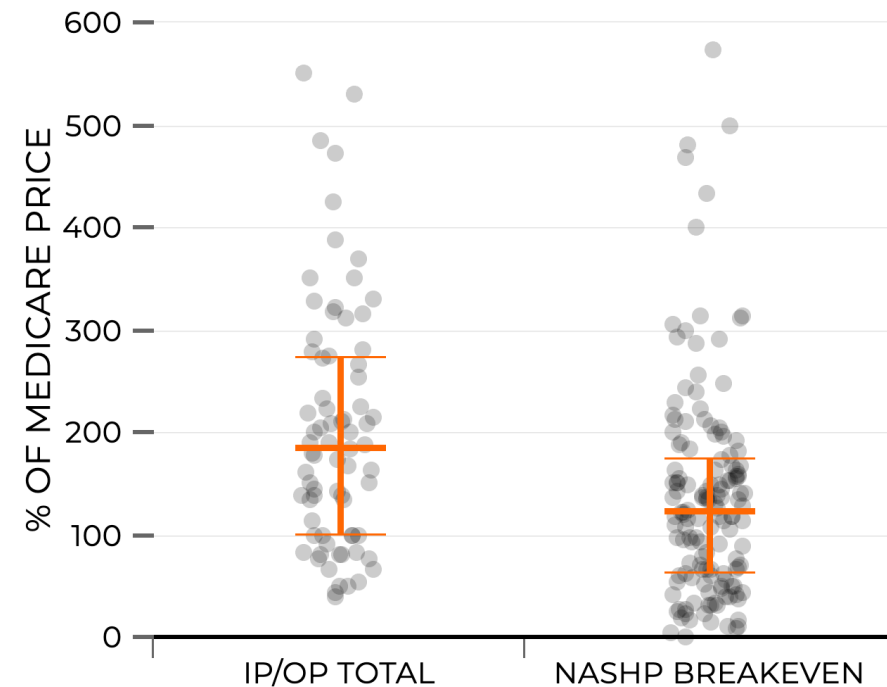
All Hospitals State-wide

COMMERCIAL & BREAKEVEN
RAND 2018-2020, NASHP 2019



Small Hospitals (<50 Beds)

COMMERCIAL & BREAKEVEN
RAND 2018-2020, NASHP 2019



Types of Anti-Competitive Practices

1

Used by Medical Providers

All or Nothing / Vertical-Tying

Requires a network to include all providers owned by the group in-network in order to get any of them.

Anti-Tiering / Anti-Steering

Prohibits benefit plans from encouraging enrollees to use lower-priced or higher-value providers, or to offer tiered networks based on provider prices.

2

Used by Insurers

All-Product Clauses

Requires a provider to be in-network with all of an insurer's products (PPO, HMO, EPO, etc...) if they wish to be a part of any of them.

Most-Favored Nation

Prohibits a provider from offering a lower price to any other buyer.

3

Used by Both

Gag Clauses

Already prohibited by federal law, but still appear common. Used to hide prices, claims data, or other valuable information.

In-House Referrals

Used by vertically consolidated entities to refer patients to other providers owned or controlled by the referring entity.

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.



HB 711: A Broad Coalition of Support

Thank You!



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