

February 8, 2024

House Behavioral Health and Health Care Committee
Oregon State Legislature
900 Court St. NE, H-484
Salem, OR 97301

H.B. 4130 Testimony – Private Equity Stakeholder Project

Dear Chairman Nosse, Vice Chairs Goodwin and Nelson, and Members of the Committee,

The Private Equity Stakeholder Project (PESP) is a financial watchdog organization that seeks to bring transparency and accountability to the private equity industry for the benefit of impacted communities and investors.

We appreciate this opportunity to testify in support of H.B. 4130, as it would do much to close loopholes that private equity and other corporate investors use to circumvent state corporate practice of medicine (CPOM) laws. Although Oregon,¹ like most states,² bars private equity firms from directly owning physicians' practices, firms often buy or create platform companies that partner with physician-owned medical groups. These physician management companies (PMC) manage business administration of medical practices, including insurance contracting and billing.

Such partnerships are troubling, as there is growing evidence demonstrating the negative impacts of private equity takeovers of provider practices.

Cost Increases for Patients

Of critical concern is private equity's impact on prices. A February 2022 study in JAMA found payments to anesthesia providers were higher for practices contracted with a PMC, particularly if the PMC was private equity-owned. For patients who received anesthesia in a facility with a PMC contract, costs increased 16.5%, and unit prices standardized by procedure complexity and

¹ ORS 58.375, https://oregon.public.law/statutes/ors_58.375.

² Bugbee, Mary, et al. "Recent Trends in Private Equity Healthcare Acquisitions." *Private Equity Stakeholder Project*, Feb. 2023, https://pestakeholder.org/wp-content/uploads/2023/02/PESP_Report_HC_Acquisitions_Feb2023_FINAL.pdf.

duration climbed by 18.7%. For private equity-owned PMCs, allowed amounts and unit prices increased by 26.0% and 25.6% respectively.³

A subsequent 2022 study published in JAMA found that private equity-acquired physician practices in the fields of dermatology, ophthalmology, and gastroenterology were associated with increased health spending and utilization.⁴

These studies raise concern that private equity ownership of physician practice management companies may lead to increased prices and higher premiums for patients.

Risks of Market Consolidation and Anti-Competition

A July 2023 study published by the American Antitrust Institute⁵ examined the prevalence and consequences of private equity market consolidation in physician practices. The authors made the following conclusions:⁶

- **Private equity acquisitions of physician practices are increasing.** The authors found that private equity firms have been increasingly acquiring physician practices across a number of physician specialties since 2012, increasing from 75 deals in 2012 to 484 deals in 2021, or more than six-fold increase in only 10 years.
- **Private equity firms are amassing high market shares in local physician practice markets.** At the local level, they found that individual private equity firms are acquiring competitively significant shares of physician practice markets. For example, in 28% of metropolitan statistical areas (MSAs), a single private equity firm has more than 30% market share by full-time-equivalent physicians, and in 13% of MSAs, the single private equity firm market share exceeds 50%.
- **Private equity acquisitions are associated with price and expenditure increases.** In 8 of the 10 physician practice specialties they studied, the authors found statistically

³ La Forgia, Ambar, et al. “Association of Physician Management Companies and Private Equity Investment With Commercial Health Care Prices Paid to Anesthesia Practitioners.” *JAMA Internal Medicine* 182, no. 4 (April 1, 2022): 396–404. <https://doi.org/10.1001/jamainternmed.2022.0004>.

⁴ Singh, Yashaswini, et al. “Association of Private Equity acquisition of physician practices with changes in health care spending and utilization.” *JAMA Health Forum*, vol. 3, no. 9, 2 Sept. 2022, <https://doi.org/10.1001/jamahealthforum.2022.2886>.

⁵ Schlegler, Robert M., et. al. “Monetizing Medicine: Private Equity and Competition in Physician Practice Markets.” *American Antitrust Institute*, July 10, 2023, <https://www.antitrustinstitute.org/wp-content/uploads/2023/07/AAI-UCB-EG-Private-Equity-I-Physician-Practice-Report-FINAL.pdf>

⁶ *Id.*

- significant price increases associated with private equity’s acquisition of a practice. These price increases range from 16% in oncology to 4% in primary care and dermatology. Private equity acquisitions are also associated with per-patient expenditure increases for 6 of 10 specialties, ranging from 4% to 16% depending on the specialty.
- **Price increases associated with private equity acquisitions are exceptionally high where a private equity firm controls a competitively significant share of the local market.** When they focused their analysis on markets where a single private equity firm controls more than 30% of the market, they found further elevated prices associated with private equity acquisitions in each of the 3 specialties with statistically significant results, for gastroenterology (18%), obstetrics and gynecology (16%), and dermatology (13%).
- **Increased attention to the competition impacts of private equity in physician markets is urgently needed.** The vast majority of the private equity acquisitions studied in the report took place without federal antitrust scrutiny and with limited state antitrust scrutiny. The market share and price results reported indicate that more scrutiny is warranted on private equity’s impact on competition. The pace at which private equity is entering these markets and monetizing medicine makes a quick response imperative.

The twin trends of cost increases and market consolidation associated with private equity investment in physicians’ practices make HB 4130 a timely and important bill.

Closing the Loophole

PESP strongly supports HB 4130 because it would do much to address the root issue of private equity consolidation and cost hikes: private equity’s ability to circumvent Oregon’s CPOM law in the first place. By limiting the control of PMCs by investors who are not licensed physicians, it follows that the problems associated with such partnerships will likely be curtailed as well.

Other states have already had success in implementing similar laws. For example, in New York, fee-splitting arrangements, where a PMC takes a percentage of the practice’s revenue in exchange for running the business, are prohibited.⁷ In the State of New York’s judgment against private equity-owned dental management company Aspen Dental, Attorney General Eric Schneiderman wrote that “medical and dental decisions should be made by licensed providers using their best clinical judgment and should not be influenced by management companies’ shared interest in potential profits. By enforcing New York’s laws banning the corporate practice

7

8

CRR-NY

29.1

[https://govt.westlaw.com/nycrr/Document/Ieca3f3eec22111dd97adcd755bda2840?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/Ieca3f3eec22111dd97adcd755bda2840?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

PRIVATE EQUITY
STAKEHOLDER
PROJECT

of medicine and fee-splitting between medical practitioners and unlicensed individuals and entities, today's agreement ensures that New Yorkers receive quality dental care.”⁸

PESP therefore encourages Oregon to join the growing body of states working to protect the decision-making integrity of the medical profession by passing H.B. 4130.

Best,

A handwritten signature in black ink, appearing to read "C. Noble". The signature is fluid and cursive, with a large initial "C" and a stylized "Noble".

Chris Noble, Esq.
Policy Director
Private Equity Stakeholder Project

⁸ Watson, Stephen T. "Aspen Dental Settles with NY AG's Office." *Buffalo News*, 18 June 2015, buffalonews.com/news/local/business/article_c811f921-b1df-5d33-9caf-443f25b5bd80.html.