

Commercial Sector Prices



AV Health Policy Brief

Policy solutions for addressing health care consolidation and rising prices in the 119th Congress.

Unreasonably high health care costs in the United States are squeezing American patients, households, and employers, and straining federal and state budgets.

Rapidly rising prices for health care are a primary driver of increasing health spending. This problem has become particularly acute as large hospitals and health systems continue to acquire smaller hospitals and physician offices, using their increased market power to limit competition and increase prices. This consolidation restricts patients' choices for care and increases their health care costs—including premiums and out-of-pocket costs.

Congress can implement common-sense, bipartisan policy solutions to lower health care costs for consumers, employers, and taxpayers—and create a more competitive, functional health care market with fairer pricing.

Congress should take action on the policies below to address the urgent problems of health care consolidation and rising health care prices.

1. ENACT COMPREHENSIVE SITE-NEUTRAL PAYMENT REFORMS

Comprehensive site-neutral payment reform will ensure that patients are not charged more for routine care just because a facility is owned by a large hospital or health system. When hospitals and health systems buy up physician practices and convert them to hospital-owned outpatient clinics and offices (“outpatient departments”), they charge patients higher prices for the same services that are safely and regularly provided in a doctor’s office.

Enacting site-neutral reforms to protect patients from being charged more for services based on where they receive them would lower health care costs for patients and taxpayers, saving [billions of dollars in health care spending](#). It would also reduce the incentive for further consolidation in the health care industry.

Key steps Congress can take toward reaching comprehensive site-neutral reforms include:

- > Most narrowly, requiring site-neutral payments for physician-administered drugs under Medicare Part B, included in the House-passed [Lower Costs, More Transparency Act \(LCMT\) \(H.R.5378\)](#);
- > Removing exemptions to existing Medicare site-neutral payment policies to prevent off-campus outpatient departments from charging higher rates than physician offices — such as those included in the [Site-based Invoicing and Transparency Enhancement \(SITE\) Act \(S.1869\)](#); and
- > Most comprehensively, expanding Medicare site-neutral payments to services most commonly and safely performed in a lower-cost setting (e.g., physician office or ambulatory care setting) by paying the lower non-hospital rate, as included in the [2024 site-neutral framework released by Senators Cassidy and Hassan](#).

2. PROHIBIT OR LIMIT FACILITY FEES

Limiting or prohibiting facility fees, overhead charges added by hospitals and health systems for care received in hospital-owned outpatient departments beyond the other fees already being charged (such as the professional fee for physician services), would reduce health care spending and costs to consumers and create a fairer, more transparent pricing system. As hospitals buy up offices and clinics, they tack on new facility fees even though the facility where care is being delivered hasn’t changed and in some cases, the doctor remains the same.

Key steps Congress can take toward eliminating unjustified facility fees for the privately insured include:

- > Prohibiting hospitals from charging a facility fee for services provided at an **off-campus outpatient department** and prohibiting facility fees for telehealth, preventive, and low-complexity services provided at **on-campus outpatient departments**, as included in Senator Sanders’ [Primary Care and Health Workforce Expansion Act proposal](#) from 2023.



3. ENCOURAGE COMPETITION AND PREVENT HEALTH CARE MARKET CONSOLIDATION

By **limiting or prohibiting anticompetitive behaviors** that [drive up health care prices without clear improvements in quality](#), there is opportunity to encourage competition and prevent consolidation in the health care market.

Key steps Congress can take toward addressing anticompetitive behaviors include:

- > **Prohibiting anticompetitive contracting terms** between providers and insurers that limit market competition, including:
 - > **All-or-nothing terms** in which health systems require an insurer to contract with all facilities in the system if they want to contract with any of them;
 - > **Most-favored nation** clauses that require a provider to offer an insurer the lowest rate it offers to any insurer with which it contracts, which ultimately incentivizes providers to raise rates overall; and
 - > **“Anti-tiering”/“Anti-steering”** clauses that prevent insurers from using incentives or tools (such as tiering providers) to steer patients to higher-value, lower cost providers.

The [Healthy Competition for Better Care Act \(H.R.3120\)/\(S.1451\)](#) and the [Bipartisan Primary Care and Health Workforce Act \(S.2840\)](#) include provisions to ban these anticompetitive contracting terms.

- > **Increasing oversight of mergers and acquisitions**, including:
 - > Expanding the Federal Trade Commission’s (FTC) authority to include oversight over nonprofit hospital conduct; and
 - > Requiring reporting to the FTC for smaller and serial (i.e., “roll-up”) health care mergers and transactions that fall below current reporting requirements but result in consolidation of market power.

4. INCREASE TRANSPARENCY OF HEALTH CARE PRICES AND PROVIDER ENTITIES

Policies that ensure **robust transparency** to empower consumers, employers, researchers, and policymakers with essential information regarding the price of care and where it is received will enhance patient decision-making and employer purchasing decisions, strengthen market competition, and provide a better understanding of health care prices that can inform future policymaking.

Key steps Congress can take to strengthen transparency include:

- > Establish **site-of-service billing transparency** by requiring unique National Provider Identifiers (NPIs) to help address excessively high hospital payments when care is provided in lower-cost settings, including by requiring separate NPIs for off-campus outpatient departments:
 - > In Medicare, such as in the [LCMT \(H.R.5378\)](#); and
 - > In the commercial market, such as in the [Facilitating Accountability in Reimbursements \(FAIR\) Act \(H.R.3417\)](#), the [SITE Act \(S.1869\)](#), and the [Bipartisan Primary Care and Health Workforce Act \(S.2840\)](#).
- > Codify and strengthen the **hospital and insurer price transparency rules** including by ensuring robust enforcement and requirements to disclose negotiated rates as a clear dollar amount, among other policies. The [LCMT \(H.R.5378\)](#) and the [Health Care PRICE Transparency Act 2.0 \(S.3548\)](#) include provisions that could address such changes.
- > Require annual data collection on and public reporting of hospitals, health system, and certain physician practice ownership, including data on mergers, acquisitions, and ownership changes; business structures and tax status; and parent company details, including private equity ownership, of hospitals and physician groups. The [PATIENT Act \(H.R.3561\)](#) includes provisions to enhance **ownership transparency**.

For more information on these priorities, please contact Erica Socker, Vice President of Payor Reform (esocker@arnoldventures.org) or see [Arnold Ventures Commercial Sector Prices](#) for more information.