



October 22, 2024

Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra,

We are writing to you regarding alarming trends in the health care industry related to the growing influence of private equity (PE) and the directly-related decline in standards of care for particularly vulnerable populations. PE's involvement in health care markets has exacerbated problems related to surprise medical billing, inadequate staffing and training, and a lack of oversight and due process.¹ We appreciate the Department of Health and Human Services (HHS) action to make PE ownership of nursing homes more transparent, but we remain concerned about PE's pervasive and expanding influence in other health care industries. Therefore, we urge HHS to continue taking aggressive action to protect patients from the detrimental effects of PE involvement in health care. Further, we request additional information on HHS's ability to address such harms and what, if any, additional authorities your Department needs to further target PE ownership of health care entities.

We are especially concerned by the problems wheelchair users face, which are emblematic of challenges related to PE involvement in the health care industry more broadly. Currently, wheelchair users seeking to repair their equipment face significant barriers as a result of a wheelchair supply market that is largely controlled by two PE-owned companies — National Seating and Mobility (NSM)² and Numotion³— which fail to provide adequate support for timely repairs.⁴ Results from informal surveys presented to a wheelchair repair task force in Connecticut found that, of 73 manual and power wheelchair users surveyed between November 2022 and January 2023, 76 percent said it took an average of at least one month to repair or

¹ NBC News, "Private equity firms now control many hospitals, ERs and nursing homes. Is it good for health care?" Gretchen Morgenson and Emmanuelle Saliba, May 13, 2020, <https://www.nbcnews.com/health/health-care/private-equity-firms-now-control-many-hospitals-ers-nursing-homes-n1203161>; USA Today, "Dentists under pressure to drill 'healthy teeth' for profit, former insiders allege," David Heath, Mark Greenblatt, and Aysha Bagchi, May 19, 2020, <https://www.usatoday.com/in-depth/news/investigations/2020/03/19/dental-chain-private-equity-drills-healthy-teeth-profit/4536783002/>.

² <chrome-extension://efaidnbmninnbpcjpcglclefindmkaj/https://www.nsm-seating.com/content/uploads/2020/03/National-Seating-Mobility-Announces-Purchase-Agreement-with-Cinven-FINAL-V3-10.3.1941.pdf>

³ <https://www.numotion.com/about-us/news/aea-investors-lp-acquires-numotion-the-nation-s-l>

⁴ McQuaid, Hugh. 2023. "Task Force Mulls Solutions to Prolonged Delays for Wheelchair Repairs." CT News Junkie. November 15, 2023. <https://ctnewsjunkie.com/2023/11/15/task-force-mulls-solutions-to-prolonged-delays-for-wheelchair-repairs/>.

replace equipment after they contacted their vendor.⁵ A 2016 survey of Massachusetts consumers by the Disability Law Center showed that 45% of respondents experienced delays in repairs; 40% could not get a status report; 55% were unable to leave their house during repairs, and 31% were unable to get to work during repairs.

For the nation's roughly 5.5 million wheelchair users, repairs that take weeks are the norm, leading many to be trapped at home and at risk for other detrimental effects.⁶ For example, among people who have waited for wheelchair repairs, 42% experienced a negative consequence, such as being unable to get out of bed.⁷ Repair delays have also led to injuries, hospitalizations, and death.⁸ This is especially dire for individuals who rely on power wheelchairs to survive. These individuals, almost all of whom have severe disabilities and most of whom have low incomes, typically have little to no bargaining or market power relative to the two large PE companies which dominate the industry. And, absent government intervention, the level of consumer protection for them is at a very low minimum.

Faced with extensive complaints regarding their poor performance in conducting timely repairs, the wheelchair industry points to delays caused by *other* entities. The companies often cite the process of obtaining insurance authorization, supply chain problems, and labor shortages. But recent data provided by the industry itself shows that, on average, 60-82% of the total delay days are due *entirely* to the industry's inability to conduct timely in-home assessments and in-home repairs after all prior authorization has been obtained and all parts have been received.⁹ In addition, delays related to the supply chain are partly attributable to business decisions in recent years to minimize warehouse storage and keep fewer parts on hand, even when otherwise required by law.¹⁰

The wheelchair industry has also blamed delays on short-staffing and seems to believe the solution is to force individuals with broken wheelchairs to bring their wheelchairs and themselves to the companies' limited shop locations.¹¹ However, industry representatives have acknowledged that people with the necessary skills to work as wheelchair repair technicians exist in sufficient numbers in the labor market,¹² and, even in the best of circumstances, it is alarming to expect disabled individuals who are dependent on a wheelchair for mobility to transport themselves and their broken wheelchairs to a shop miles from home, particularly when shop staff

⁵ Ibid.

⁶ Staff, Jason Laughlin Globe, Updated October 22, 2023, and 4:35 p m Share on Facebook Share on TwitterView Comments. n.d. "Wheelchair Repairs Can Drag out for Months. In Mass., People with Disabilities Seek a Solution. - the Boston Globe." BostonGlobe.com. Accessed November 28, 2023. https://www.bostonglobe.com/2023/10/22/metro/wheelchair-repairs-can-drag-out-months-mass-people-with-disabilities-seek-solution/?p1=BGSearch_Advanced_Results.

⁷ Worobey, Lynn A, Allen W Heinemann, Kim A Anderson, Denise Fyffe, Trevor A Dyson-Hudson, Theresa Berner, and Michael L Boninger. 2022. "Factors Influencing Incidence of Wheelchair Repairs and Consequences among Individuals with Spinal Cord Injury" 103 (4): 779–89. <https://doi.org/10.1016/j.apmr.2021.01.094>.

⁸ US PIRG, https://publicinterestnetwork.org/wp-content/uploads/2022/05/USPIRGEF_Stranded_June2022.pdf.

⁹ [PowerPoint Presentation \(ct.gov\)](#), slides 14-19; [Consumer Advocate Presentation 11/9 \(ct.gov\)](#), at slide 9.

¹⁰ See, e.g., MassHealth regulations at 130 CMR 409.404(B)(1)(d) and 130 CMR 409.412(C).

¹¹ [PowerPoint Presentation \(ct.gov\)](#), slide 31

¹² Statement of Numotion Vice President Gary Gilberti to Connecticut Wheelchair Repair Task Force, 11/2/23 ("There are people with skill sets that they can step in and learn some of these things quickly"). See minutes of 11/2/23 meeting at page 6, [Wheelchair Repair Task Force - 11.2 Meeting Minutes.pdf \(ct.gov\)](#).

is prohibited from assisting consumers in transferring out of their wheelchairs. This is why wheelchair suppliers in Connecticut and Massachusetts, before being acquired by PE, always prioritized in-home repair services.¹³ Yet, the industry has continued to push this problematic policy instead of hiring sufficient repair staff – despite availability from within the existing labor market – to conduct timely in-home repairs, causing additional harm to a highly vulnerable set of health consumers.

These excuses do not address the underlying problem that many experts have identified: PE companies are structurally motivated to focus time and money on selling wheelchairs at the expense of investing more resources in repairs and customer service.¹⁴ Companies make thousands of dollars in profit from the sale of modern wheelchairs: NSM’s annual revenue as of June 2023, for example, was close to \$700 million.¹⁵ However, these companies lose money on repairs, just as car manufacturers routinely lose money on repairs during the warranty period – it is an inherent part of the business.

The problems facing the wheelchair industry, with just two large PE-owned companies dominating the market as they gobble up smaller companies throughout the states, are illustrative of the powerful negative impact of PE in the health care industry overall. In a letter that we wrote to the CEO of U.S. Anesthesia Partners (USAP), we highlighted the excessive power wielded by USAP and its multibillion-dollar PE parent company, Welsh, Carson, Anderson & Stowe, in the anesthesia industry. USAP’s aggressive “roll-up” strategy is emblematic of the broader trend of PE firms using anticompetitive practices to build up monopoly power in the health care sector, which has led to a decline in quality of care and higher costs for patients.¹⁶ Other academic research suggests that ownership of nursing facilities by private equity companies and other types of investment firms is often associated with worse resident outcomes and increased mortality rates, prompting concerns about the quality of care offered by PE-owned facilities and other types of investment firms more broadly.¹⁷

The harms of PE involvement in health care are well documented. We appreciate HHS’s critical oversight of the health care sector in light of recent concerns related to the expansion of PE investment. In particular, we commend HHS’s final rule requiring nursing homes enrolled in Medicare or Medicaid to disclose additional information regarding their owners, operators, and

¹³ [David Morgana Statement.pdf \(ct.gov\)](#)

¹⁴ “PRIVATE EQUITY in DURABLE MEDICAL EQUIPMENT How Private Equity Profits off of Disabled and Chronically Ill Americans.” 2023. https://pestakeholder.org/wp-content/uploads/2023/11/PESP_Report_DME_2023.pdf.

¹⁵ “Wheelchair Repairs Can Drag out for Months. In Mass., People with Disabilities Seek a Solution. - the Boston Globe.” BostonGlobe.com. Accessed November 28, 2023. <https://www.bostonglobe.com/2023/10/22/metro/wheelchair-repairs-can-drag-out-months-mass-people-with-disabilities-seek-solution/>.

¹⁶ Federal Trade Commission, “Private Capital, Public Impact Workshop on Private Equity in Healthcare,” Remarks by Chair Lina M. Khan, March 5, 2024, https://www.ftc.gov/system/files/ftc_gov/pdf/2024.03.05-chair-khan-remarks-at-the-private-capital-public-impact-workshop-on-private-equity-in-healthcare.pdf.

¹⁷ “Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities; Definitions of Private Equity Companies and Real Estate Investment Trusts for Medicare Providers and Suppliers | CMS.” n.d. Wwww.cms.gov. Accessed November 28, 2023. <https://www.cms.gov/newsroom/fact-sheets/disclosures-ownership-and-additional-disclosable-parties-information-skilled-nursing-facilities-and-0>.

management, as well as the entities that exercise financial control over the facilities.¹⁸ Rules that increase ownership transparency in health care are critical to understanding just how expansive PE networks are in the industry, especially in light of growing concerns related to health care accessibility for particularly vulnerable populations.

Additionally, we commend the Administration for initiating a cross-government inquiry on the impact of corporate greed in health care.¹⁹ The information gathered by the Federal Trade Commission, the Department of Justice, and HHS will be critical to the oversight of these conglomerates and the work needed to scale back their harmful impact on patients. We are also appreciative of the recently-released joint HHS-OIG General Compliance Program Guidance for Healthcare Industry, which is consistent with HHS's trend toward greater scrutiny of private equity investment in health care.²⁰ However, as part of a voluntary, nonbinding compliance program, we are concerned that it will incentivize little, if any, change on the part of PE firms.

HHS can and must do more to help combat the misalignment of PE's short-term profit incentives with the well-being of our nation's most vulnerable populations. To understand the ways in which HHS is investigating long-standing problems associated with PE's involvement across our entire health care system, including with respect to wheelchair manufacturing and repairs, we ask that you provide answers to the following questions no later than November 8, 2024:

1. Please describe additional action HHS plans to take to:
 - a. Address the concerns of wheelchair users – in consultation with wheelchair user advocates who are experiencing harmful and degrading standards of care from NSM and Numotion because of long delays in obtaining needed repairs – by setting and enforcing, for all Medicare, Medicaid and CHIP enrollees, maximum numbers of days a patient must wait before the manufacturer or repair company:
 - i. conducts a requested in-home assessment;
 - ii. provides a loaner wheelchair during repairs, when beneficial to consumers²¹; and
 - iii. performs in-home repairs after any necessary prior authorizations have been obtained and any ordered parts have been received.
 - b. Proactively investigate the quality of service provided to wheelchair users by NSM and Numotion and compare against non-PE-owned suppliers.
 - c. Require disclosure of the ownership arrangements of all PE-owned health care providers and suppliers participating in federal programs such as Medicare and

¹⁸ <https://www.cms.gov/newsroom/press-releases/biden-harris-administration-continues-unprecedented-efforts-increase-transparency-nursing-home-0#:~:text=The%20final%20rule%20requires%20nursing,provide%20administrative%20services%20or%20clinical>

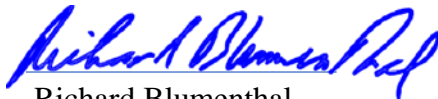
¹⁹ “Federal Trade Commission, the Department of Justice and the Department of Health and Human Services Launch Cross-Government Inquiry on Impact of Corporate Greed in Health Care.” Federal Trade Commission. March 5, 2024. <https://www.ftc.gov/news-events/news/press-releases/2024/03/federal-trade-commission-department-justice-department-health-human-services-launch-cross-government>

²⁰ “GENERAL COMPLIANCE PROGRAM GUIDANCE (COVER TITLE PAGE).” n.d. <https://oig.hhs.gov/documents/compliance-guidance/1135/HHS-OIG-GCPG-2023.pdf>

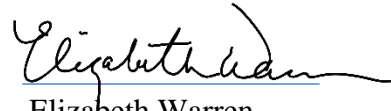
²¹ The provision of loaner wheelchairs is already expected in MassHealth regulations, 130 CMR 409.420(B) and (C), but should be required universally.

Medicaid and ensure that patients are made aware when PE firms acquire their health care provider or supplier.²²

- d. Increase scrutiny of health outcomes in PE-owned firms across the entire health care sector.
2. How does HHS understand the relationship between (a) the lack of timely repairs by the two PE-controlled suppliers and (b) the increasing rates at which wheelchair parts are breaking?²³
 - a. Please describe HHS's plans to examine the impact of the industry's choice of having limited repair resources on the speed and cost of wheelchair repairs.
 - b. Please describe HHS's plans to examine the relationship, if any, between lack of timely repairs and the high reported rate of wheelchair parts breaking.
3. How has HHS collaborated with the Department of Justice to integrate antitrust concerns into HHS OIG's investigation of our health care sector since the announcement of the agencies' partnership to protect health care markets in December 2022?²⁴
4. What collaborations have there been with the Federal Trade Commission to investigate anti-competitive actions by PE-owned health care firms and their owners?
5. What, if any, additional agency collaborations is HHS pursuing to further mitigate the negative impacts of PE ownership in the health care industry?
6. Does HHS need additional authorities to address harmful PE involvement in health care? If so, please describe what authorities are necessary.



Richard Blumenthal
United States Senate



Elizabeth Warren
United States Senate

²² “Most patients are unaware that these changes are taking place, and that their health care is ultimately owned and managed by financiers.” Private Equity Investments in Health Care May Increase Costs and Degrade Quality.” 2023. Columbia University Mailman School of Public Health. July 21, 2023. <https://www.publichealth.columbia.edu/news/private-equity-investments-health-care-may-increase-costs-degrade-quality>.

²³ See <https://pubmed.ncbi.nlm.nih.gov/22549473/>

²⁴ “Justice Department’s Antitrust Division and the Office of the Inspector General of the Department of Health and Human Services Announce Partnership to Protect Health Care Markets.” 2022. Office of Inspector General | Government Oversight | U.S. Department of Health and Human Services. December 12, 2022. <https://oig.hhs.gov/fraud/enforcement/justice-departments-antitrust-division-and-the-office-of-the-inspector-general-of-the-department-of-health-and-human-services-announce-partnership-to-protect-health-care-markets/>.