



June 5, 2024

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U.S. Department of Justice, Antitrust Division
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Dear Ms. Lee:

The American Investment Council (AIC) welcomes the opportunity to respond to the Request for Information on Consolidation in Health Care Markets, Dkt. No. ATR 102 (RFI), that was issued by the Antitrust Division of the U.S. Department of Justice (DOJ), the Department of Health and Human Services (HHS), and the Federal Trade Commission (FTC) (collectively, the Agencies). AIC is an advocacy organization dedicated to developing and providing information to policymakers about the private investment industry, including its significant contributions to the long-term growth of the U.S. economy and to the retirement security of large numbers of American workers. Contrary to the picture that opponents seek to paint, private equity firms' contributions to the healthcare sector provide benefits to and create efficiencies for patients, providers, and employees, and as a result, benefit investors, which include many large public employee pensions funds.

AIC submits this letter on behalf of our membership, which includes the world's leading private equity and private credit funds.¹ In service of its mission, AIC has engaged with the DOJ and FTC regarding recent rulemaking proposals and submitted a number of detailed comment letters aimed at correcting popular misconceptions about the private equity industry.²

AIC is deeply concerned that the Agencies are unfairly targeting private equity investments in the healthcare industry based on anecdotal observations, while overlooking the many ways in which private equity improves competition. Private equity investments play an important role in the healthcare industry, as well as in the larger economy.³ Those investments provide substantial

¹ American Investment Council, *About the AIC – Our Members*, <https://www.investmentcouncil.org/about-the-aic/#our-members>.

² American Investment Council, Comment Letter on Draft Merger Guidelines (Sept. 18, 2023), <https://www.investmentcouncil.org/wp-content/uploads/2023/09/AIC-Merger-Guidelines-Comment-Letter.pdf>; American Investment Council, Comment Letter on Proposed Revisions to Hart-Scott-Rodino Premerger Notification Requirements (Sept. 27, 2023), <https://www.investmentcouncil.org/wp-content/uploads/2023/09/American-Investment-Council-Comments-re-Proposed-HSR-Amendments-9.27.2023.pdf>.

³ Empirical studies attest to substantial productivity gains and enhanced employment resulting from the capital infusion, managerial expertise, and synergies realized by private equity investment. See, e.g., Steven J. Davis, et al., *The (Heterogeneous) Economic Effects of Private equity Buyouts*, NBER (Apr. 2024), https://www.nber.org/system/files/working_papers/w26371/w26371.pdf; Joshua Cox & Bronwyn Bailey, *Private Equity Investment and Local Employment Growth: A County-Level*

amounts of capital to healthcare providers and life sciences companies, thus supporting the availability of quality, affordable healthcare in the United States, while, importantly, also funding development of new treatments and medical devices that benefit large numbers of patients. Without private equity investments, many healthcare businesses would face difficulties accessing capital and expertise to support their innovation, enhanced service delivery, and patient outcomes. Ignoring those tangible benefits, the RFI is replete with unsubstantiated references to “concerns” that private equity investments in healthcare providers “may harm health care quality, access, and/or costs,” thereby perpetuating a one-sided narrative that wrongly portrays private equity investments in the healthcare industry as bad for patients.⁴

The fact that the RFI does not signal openness to the proposition that private equity funds benefit “patients, health care workers, and other stakeholders” is not surprising given that the RFI was issued the day after the FTC held a one-sided “virtual public workshop” ostensibly intended to discuss the effects of private equity investment in the healthcare industry. As AIC has noted, the workshop did not present a diversity of views on the topic.⁵ Indeed, the FTC’s own press release about the workshop stated that participants would be sharing their “concerns” about the “harmful effects” of private equity investment in the healthcare industry.⁶ Similarly, the event page for the workshop explained that the FTC has “become increasingly concerned about the effects of private equity investment in [the healthcare] sector,” and that the FTC planned to feature at the workshop those “who have experienced, first-hand, the effects of” such private equity investments—the implication being that such experiences are uniformly negative.⁷ Unsurprisingly, all of those who participated in the workshop criticized the role of private equity in the healthcare industry.⁸ That happened despite the fact that AIC had provided the FTC with an extensive literature review in advance of the workshop which pointed out the beneficial effects of private equity investments in the healthcare industry.

In contrast to the public workshop, AIC learned that on March 6, 2024, the FTC hosted a more balanced session at which leading economists who have studied the effects of private equity investments in the healthcare industry presented the results of their research. Unfortunately, that session was not open to the public, and therefore the public was not given an opportunity to hear

Analysis, 22(3) J. Alternative Investments 42 (2020), <https://www.pm-research.com/content/ijaltinv/22/3/42>.

⁴ RFI at 5.

⁵ American Investment Council, Letter to Chair Khan (Apr. 9, 2024), <https://www.investmentcouncil.org/wp-content/uploads/2024/04/AIC-Letter-to-Chair-Khan-4.9.24-1.pdf>.

⁶ FTC, FTC to Host Virtual Workshop on Private Equity in Health Care (Feb. 14, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-host-virtual-workshop-private-equity-health-care>.

⁷ FTC, Private Capital, Public Impact: An FTC Workshop on Private Equity in Health Care, <https://www.ftc.gov/news-events/events/2024/03/private-capital-public-impact-ftc-workshop-private-equity-health-care>.

⁸ FTC, Private Capital, Public Impact: An FTC Workshop on Private Equity in Health Care – March 5, 2024 – Transcript, https://www.ftc.gov/system/files/ftc_gov/pdf/final-transcript-ftc-opp-be-private-equity-healthcare-workshop-3-5-24.pdf.

the other side of the story. Nor has the FTC made publicly available the presentation materials discussed during that closed-door session, notwithstanding AIC’s request that the FTC do so in our April 9, 2024 letter to Chair Khan.⁹

As discussed in more detail below, private equity investments in the healthcare industry enable the provision of quality, affordable healthcare to patients, while providing economic benefits to millions of Americans who depend on private equity firms for retirement security.

I. Private Equity Investment Greatly Benefits the U.S. Economy

The private equity industry is an essential pillar of the modern American economy, a catalyst of competition and innovation, and a critical partner to small businesses. According to a recent, detailed study conducted by Ernst & Young, in 2022, the private equity industry was responsible for approximately 6.5% of U.S. gross domestic product.¹⁰ The private equity industry employed 12 million people earning \$1 trillion in wages and benefits across all types of American communities, rural and urban.¹¹ The average employee of U.S. private equity firms and private equity-backed companies earned \$80,000 in wages and benefits, equating to roughly \$41 per hour for a full-time worker—well-above the national average wage.¹² The capital provided by private equity firms helps companies grow, hire, build, innovate, improve productivity, and, ultimately, compete against entrenched incumbents.¹³ In 2022, 85% of businesses funded by private equity had fewer than 500 employees.¹⁴ Many were emerging technology companies at the cutting edge of critical fields such as cybersecurity and life sciences.¹⁵ As a result of the private equity industry’s success, 89% of U.S. public pension funds (out of 176 that were surveyed in a recent

⁹ American Investment Council, Letter to Chair Khan (Apr. 9, 2024), *supra* n.5.

¹⁰ See Ernst & Young, *Economic Contribution of the US Private Equity Sector in 2022* (Apr. 2023), at 5, <https://www.investmentcouncil.org/wp-content/uploads/2023/04/EY-AIC-PE-economic-contribution-report-FINAL-04-20-2023.pdf>.

¹¹ *Id.* at 5, 9-10.

¹² *Id.* at 4-5, 11.

¹³ Greg Brown, Robert Harris & Shawn Munday, *Capital Structure and Leverage in Private Equity Buyouts*, 33 J. Applied Corporate Finance 42, 52 (2021), <https://uncipc.org/wp-content/uploads/2021/11/JACF-Summer-2021-Capital-Structure-and-Leverage-in-Buyouts-Brown-Harris-Munday.pdf>; Cox & Bailey, *supra* n.3; Jakob Wilhelmus & William Lee, *Private Equity IPOs: Generating Faster Job Growth and More Investment*, Milken Institute (2019), bit.ly/3LyKysk; Cesare Fracassi, Alessandro Previtiero & Albert Sheen, *Barbarians at the Store? Private Equity, Products, and Consumers*, 77 J. Finance 1439 (2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2911387; Shai Bernstein & Albert Sheen, *The Operational Consequences of Private Equity Buyouts: Evidence from the Restaurant Industry*, 29 Rev. Financial Studies 2387 (2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2336672.

¹⁴ Ernst & Young, *supra* n.10, at 9.

¹⁵ See American Investment Council, *Financing American Innovation: Private Equity’s Role in the Innovation Economy* (Feb. 2022), at 6, https://www.investmentcouncil.org/wp-content/uploads/2022/02/aic_tech_investments_final.pdf; American Investment Council, *Improving Medical Technologies: Private Equity’s Role in Life Sciences* (Mar. 2022), at 2 <https://www.investmentcouncil.org/wp-content/uploads/2022/04/aic-life-sciences-report2-1.pdf>.

study), serving 34 million public sector workers and retirees, have enjoyed returns that far exceed those of other asset classes.¹⁶ Indeed, much of private equity investment capital comes from state and municipal pension funds that have chosen to invest in private equity because of its above-market performance.

II. Private Equity Investments Greatly Benefit the U.S. Healthcare Industry

Not only does private equity investment create better-paying jobs, enhance gross domestic product, and produce above-market returns for investors (including pension funds, charities, and universities), it also supports quality, affordable healthcare for patients across America.

Today, private equity firms have nearly \$73 billion of capital that is dedicated to healthcare investments.¹⁷ New private equity firms are started every year, and many of them are focused on investing in healthcare. In recent years, the healthcare space has become increasingly complex and cumbersome, and private equity sponsors provide their sponsored businesses and physicians with operational expertise and technological support to achieve greater efficiency, innovation, and better patient care. More often than not, these new private equity firms are run by experts in the healthcare industry. Quite a few of them hire former medical doctors and other healthcare professionals who are experts in their field, and those doctors and professionals often become operating partners with the private equity firm, providing day-to-day consulting services to multiple portfolio companies.¹⁸

The RFI asserts, without citation, that “[r]ecent research suggests that transactions conducted by private equity funds have adversely affected patients, health care workers, and other stakeholders in some cases[.]”¹⁹ In fact, empirical evidence suggests the opposite. As discussed in more detail below, private equity investments are having a positive effect on hospitals, nursing homes, urgent care clinics, physician practice groups, pharmaceutical manufacturers, and medical device manufacturers. Far from harming patients, these private equity investments have produced life-saving and cost-reducing initiatives that improve patients’ lives.

A. Investing in Hospitals Maintains Healthcare Quality While Improving Operational Efficiency

Contrary to a few sensationalized headlines based on isolated anecdotes, recent research shows that private equity investment in hospitals has been a net positive.

¹⁶ See American Investment Council, *2022 Public Pension Study* (July 2022), at 2, https://www.investmentcouncil.org/wp-content/uploads/2022/07/22AIC002_2022-Report_SA-2226.pdf; Hal S. Scott & John Gulliver, *Expanding Opportunities for Investors and Retirees: Private Equity* (Nov. 2018), at 13 (citing numerous studies that “consistently find that private equity buyout funds outperform public market alternatives . . . net of fees”), <https://ssrn.com/abstract=3661572>.

¹⁷ American Investment Council and Pitchbook, *A Partner to Health Care: How Private Equity Complements and Strengthens the Health Care Industry* (Feb. 2024), at 3, <https://www.investmentcouncil.org/wp-content/uploads/2024/01/AIC-2023-Health-Care-Report.pdf>.

¹⁸ *Id.*

¹⁹ RFI at 5.

For example, according to research from Indiana University and Georgetown University, private equity-backed hospitals experience improvements in operating efficiency without compromising the delivery of quality healthcare.²⁰ The researchers acknowledge that “[t]here are opposing views regarding the growing presence of PE firms in the hospital industry,” and that the study sought to “shed light on this current debate by examining various outcomes at hospitals acquired by PE firms.”²¹ To do so, the study compiled a sample of “1,218 merger and acquisition deals in the hospital industry over the period spanning from 2001 to 2018,” then narrowed in on “281 deals where the acquirer is a for-profit organization, either a PE firm, a PE-owned hospital or a hospital with no PE ownership.”²² The study “analyze[d] PE-acquired hospitals relative to a control group of non-acquired hospitals that are closely matched,” and “also benchmark[ed] the effects of PE buyers against non-PE, for-profit buyers by comparing the outcomes of the hospitals they acquire.”²³ The outcomes that the study analyzed included “the survival [rate], operating performance, and employee profiles at PE-acquired hospitals,” and “changes in patient composition as well as mortality rates and readmission rates.”²⁴

To examine the effects of private equity acquisitions of hospitals on patient care, the study “examine[d] mortality rates and readmission rates related to heart attack, heart failure, and pneumonia at acquired hospitals.”²⁵ Notably, the study “d[id] not find that patients at PE-acquired hospitals experience significant increases in mortality rates,” and in fact concluded that “readmission rates do not increase for PE-acquired hospitals across any of the health conditions [examined].”²⁶ The researchers concluded that “[o]verall, we do not find deterioration of patient outcomes at PE-acquired hospitals.”²⁷

In terms of workers, the study found that although “the number of core workers”—defined as nurses, pharmacists, and physicians—“at PE-acquired hospitals temporarily drops over the first event window [from year 0 to year 4],” it “bounces back over the second event window [from year 5 to year 8],” and that, “at the end of our eight-year horizon, the number of core workers at PE-acquired hospitals does not differ from its pre-acquisition level.”²⁸ The research also did not show “a meaningful change in the wage rate paid to core workers in PE-acquired hospitals,” but it did reveal “a substantial decline in the wage rate of administrative workers, by around 7% over the long run.”²⁹ As the authors observed, “[t]his result reinforces the argument that PE acquirers trim

²⁰ Janet Gao, Merih Sevilir & Yongseok Kim, *Private Equity in the Hospital Industry*, European Corporate Governance Institute – Finance Working Paper No. 787/2021 (Apr. 2023), at 35, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3924517.

²¹ *Id.* at 1.

²² *Id.*

²³ *Id.* at 1-2.

²⁴ *Id.* at 1.

²⁵ *Id.* at 6.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 3.

²⁹ *Id.* at 4.

spending related to administrative functions.”³⁰ The authors also explained that their “findings suggest that PE firms focus on reducing excess overhead costs while sustaining critical healthcare providers, likely because of their operational expertise and business skills.”³¹ The researchers concluded that the “expertise and strategic decisions to restructure administrative functions smoothly without interrupting the normal course of business” is a unique upside of private equity investment given that “[n]on-PE acquirers and pre-deal executives of target hospitals may not possess such expertise” and “may also lack the high-powered incentives that PE firms have to trim employment and improve efficiency.”³²

In addition, the study found “no evidence of excessive closure of PE-acquired hospitals.”³³ According to the research, “PE-acquired hospitals are equally, if not more, likely to survive than their matched control group,” and “non-PE acquired hospitals are less likely to survive compared to their control group.”³⁴ As the researchers point out, “[t]his observation is at odds with the anecdotal claim that PE firms acquire hospitals with the purpose of closing them and profiting from the sale of their assets.”³⁵

In sum, according to this study, the “evidence does not support the argument that PE acquirers reduce the quality of medical treatment at target hospitals compared to targets of non-PE acquirers as well as control hospitals,” and that “[t]his finding complements the results from Liu (2021) that there is no significant change in the service quality of PE target hospitals.”³⁶ Such evidence-based analysis of a broad sample of hospitals purchased by private equity firms carries much more weight than isolated stories about specific hospital acquisitions that represent departures from the norm.

As another example, research from Duke University shows that private equity investment at short-term acute care hospitals increased the probability of hospitals providing a wider range of services.³⁷ The authors of this study noted that “[p]rivate equity investments in health care have drawn some controversy because of concerns that limited partners’ desire for high annualized returns on their investment and the abbreviated time horizon of private equity ownership (three to seven years) may drive a prioritization of profits over optimizing health care access, quality, and spending—that is, ‘profit over patients.’”³⁸ However, to assess whether this criticism is valid, the researchers “examined the relationship between private equity hospital acquisitions and changes

³⁰ *Id.*

³¹ *Id.* at 5.

³² *Id.* at 6.

³³ *Id.* at 2.

³⁴ *Id.* at 19.

³⁵ *Id.*

³⁶ *Id.* at 32.

³⁷ Marcelo Cerullo, et al., *Private Equity Acquisition and Responsiveness to Service-Line Profitability at Short-Term Acute Care Hospitals*, 40(11) *Health Affairs* 1697, 1697 (2021), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.00541>.

³⁸ *Id.*

in service lines,” noting that “[p]rior research has shown that for-profit hospitals are significantly more likely to offer certain services based on profitability.”³⁹

The research revealed that private equity-backed hospitals tend to offer more services overall than their counterparts because they are more likely to add profitable services but are less likely to cut unprofitable ones. More specifically, “[r]elative to nonacquired hospitals, private equity acquisition was associated with a higher probability of adding specific profitable hospital-based services (interventional cardiac catheterization, hemodialysis, and labor and delivery), profitable technologies (robotic surgery and digital mammography), and freestanding or satellite emergency departments.”⁴⁰ At the same time, the research also showed that “private equity acquisition was associated with an increased probability of providing services that were previously categorized as unprofitable but that have more recently become areas of financial opportunity (for example, mental health services).”⁴¹ More specifically, “[p]rivate equity acquisition was associated with a significant increase in the probability of hospitals providing six of the eleven profitable services” that were studied, and conversely, among the list of seven unprofitable services studied, only one of them was associated with a decreased probability of availability after private equity acquisition.⁴² Further, although this research found that “private equity-acquired hospitals were less likely to add or continue services that have unreliable revenue streams or that may face competition from nonprofit hospitals (for example, outpatient psychiatry),” the authors observe that “[t]his may reflect a prevailing shift by acute care hospitals toward outpatient settings for appropriate procedures and synergies with existing holdings by private equity firms.”⁴³

B. Private Equity Investments in Nursing Homes Improve Operational Efficiency Without Compromising Quality of Care

Empirical evidence shows that private equity investments help nursing homes (or “NHs”) improve their financial well-being and the quality of care. For example, research from Miami University of Ohio and Georgetown University shows that private equity-owned nursing homes provide the same or better care as other for-profit nursing homes.⁴⁴ The study points out that between 1998 and 2008, “about 18% of for-profit NHs” had been “involved in PE transactions.”⁴⁵ It also notes that “[t]he media and public often view PE ownership through a negative lens, emphasizing the profit-driven nature of PE firms could lead to lower quality in NHs.”⁴⁶ However, the authors theorize that if changes implemented by PE firms “directly enhance how care is

³⁹ *Id.* at 1698.

⁴⁰ *Id.* at 1697.

⁴¹ *Id.*

⁴² *Id.* at 1700, 1703.

⁴³ *Id.* at 1697.

⁴⁴ John R. Bowlblis, et al., *Private Equity Ownership and Nursing Home Quality: An Instrumental Variables Approach*, 19 Int’l J. Health Econ. & Mgt. 273, 295 (2018), <https://doi.org/10.1007/s10754-018-9254-z>.

⁴⁵ *Id.* at 274.

⁴⁶ *Id.*

provided,” PE firms have the ability to “improve quality while at the same time increase the operational efficiency and profitability of NHs.”⁴⁷

In an effort to critically examine the effect of private equity ownership on the quality of nursing home care, the researchers analyzed data for all for-profit nursing homes in Ohio from 2005 to 2010, and, utilizing 17 measures of quality, compared the quality of care provided to long-stay residents at private equity nursing homes with the quality of care at other for-profit (non-private equity) nursing homes.⁴⁸ The researchers note that “[a]lthough the media and advocacy community are concerned that PE ownership would lead to lower quality, our results do not support this point of view.”⁴⁹

In particular, using the Ordinary Least Squares (OLS) statistical method,⁵⁰ the study showed that, out of 17 measures of nursing home quality, 8 measures indicated better quality of care at private equity nursing homes at a statistically significant level, and only 3 measures indicated lower quality of care at such nursing homes at a statistically significant level.⁵¹ Similarly, using the Two-Stage Residual Inclusion (2SRI) statistical method,⁵² the study revealed that “PE-owned NHs have 4.1 percentage points fewer residents using catheters, 2.3 percentage points fewer residents with moderate-severe pain, 6.7 percentage points fewer residents with incontinence, 2.6 percentage points fewer residents with significant weight loss, and 2.6 and 8.1 percentage points fewer low- and high-risk resident[s] with pressure ulcers.”⁵³ In addition, when the researchers controlled for nursing home “fixed effects and the potential selection of residents into PE-owned NHs,” using the 2SRI method, 15 of the 17 quality measures “indicat[e] better quality at PE-owned NHs,” and 5 of these measures “are statistically significant, with PE-owned NHs having fewer residents with moderate-severe pain, pressure ulcers among low-risk residents, contracture, use of antianxiety and antidepressant medication.”⁵⁴ The study also found that private equity nursing homes have higher registered nurse staffing levels and lower licensed practical nurse and certified nurse aide staffing levels, as measured by staffing hours.⁵⁵

The researchers also considered whether “PE firms cherry-pick NHs chains that had superior quality prior to their acquisitions,” positing that “[i]f this is the case, PE firms do not really enhance quality, but instead just select the outperformers that have better quality than other

⁴⁷ *Id.*

⁴⁸ *Id.* at 275. The data was comprised of 752,240 assessments of long-stay residents in 691 for-profit nursing homes. *Id.* at 278.

⁴⁹ *Id.* at 275.

⁵⁰ OLS is a statistical method used to estimate the parameters of a linear regression model.

⁵¹ *Id.* at 289.

⁵² 2SRI is a two-stage statistical method that avoids endogeneity bias, which also applies to nonlinear contexts.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 283-84.

for-profit NHs.”⁵⁶ To test for this possibility, the researchers looked at “whether there are systematic differences in quality for NHs that were eventually acquired by a PE firm.”⁵⁷ Although the 2SRI method showed that “NH chains owned by PE firms had better or at least similar publicly reported quality as other for-profit NHs” prior to acquisition, the OLS method did not show any “consistent quality differences in the pre-acquisition period.”⁵⁸

In sum, despite recognizing concerns that “PE ownership theoretically can significantly lower NH quality and hurt vulnerable residents” due to “stronger profit motives and more powerful corporate control,” through “rigorous statistical analysis,” the study found that “such concern is not consistent with the empirical evidence” during the short and medium timeframe studied by the researchers.⁵⁹ The results of this study led the researchers to conclude “that quality among long-stay residents in PE NHs is generally similar, and in some cases may be better than other for-profit NHs” and that the results “provide evidence that PE ownership does not deteriorate NH quality.”⁶⁰

Recent research comparing private equity-backed nursing homes to other for-profit nursing homes during the COVID-19 pandemic likewise found that “PE ownership positively affected patients and staff under COVID-19.”⁶¹ This particular study, conducted by UCLA and Duke University, found that “when controlling for facilities’ characteristics, patient composition, and the size of local COVID-19 outbreaks, PE ownership is associated with lower likelihood of COVID-19 outbreaks among residents and staff, as well as with fewer shortages of critical PPE.”⁶² The researchers also explained that “[t]hese results are consistent with prior research in non-healthcare settings that observe PE owners to improve product . . . and workplace . . . safety,” and also explained that “the estimated effects of PE ownership are relative to other for-profit and chain facilities, suggesting that PE owners had unique managerial aptitude or resources not shared by other for-profit chains.”⁶³ The researchers further concluded that their study “suggests that policymakers, researchers, and the media should take an evidence-driven approach in assessing the impact of private equity in the healthcare industry,” and that “policymakers should exercise

⁵⁶ *Id.* at 293.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 295.

⁶⁰ *Id.*

⁶¹ Ashvin Gandhi, et al., *Have Private Equity Owned Nursing Homes Fared Worse Under COVID-19?* (Oct. 20, 2020), at 14, <http://dx.doi.org/10.2139/ssrn.3682892>.

⁶² *Id.* at 12; see also Robert Tyler Braun, et al., *Comparative Performance of Private Equity-Owned US Nursing Homes During the COVID-19 Pandemic*, JAMA Network Open (Oct. 28, 2020), at 1 (explaining that “[Covid-19] Cases in PE-owned nursing homes were not statistically different compared with for-profit and nonprofit facilities; nor were there statistically significant differences in COVID-19 deaths or deaths by any cause between PE-owned nursing homes and for-profit, nonprofit, and government-owned facilities.”).

⁶³ Gandhi, et al., *supra* n.61, at 12-13.

caution by ensuring that the necessary data is collected and analyzed to understand both the immediate and long-lasting effects of PE acquisitions in various healthcare settings.”⁶⁴

C. Private Equity Investments in Urgent Care Expand Access to Healthcare in Rural Communities

Private equity brings innovative solutions and provides critical access to healthcare in rural and underserved communities, of which there are many in this country. Americans living in rural and underserved communities face high barriers to accessing critical and, at times, lifesaving healthcare services. More than 130 rural hospitals have closed nationwide from 2010 to 2021.⁶⁵ According to a recent analysis, 418 rural hospitals in the United States (approximately 20% of all such hospitals) are vulnerable to closure.⁶⁶ Government policies (*e.g.*, sequestration and bad debt reimbursement) contribute to the declining revenue of rural hospitals. For instance, “sequestration will cost rural hospitals more than \$500 million [in 2024] and the equivalent of 9,000 healthcare jobs.”⁶⁷ Recent analysis also highlights disruptions to rural hospital reimbursement resulting from the switch of rural patients from traditional Medicare to Medicare Advantage.⁶⁸ In addition, in 2023, 65% of rural areas had a shortage of primary care physicians.⁶⁹ And, according to the Urgent Care Association, only 1% of urgent care centers operate in rural communities.⁷⁰

For “patients without urgent care options, relatively ‘local’ hospitals are their only option, and emergency room bills can be stratospheric.”⁷¹ Private equity provided \$15 billion in critically needed investment in more than 250 urgent care clinics as of 2020, many of which were in rural locations.⁷² These urgent care centers are a critical component of delivering needed care to rural communities, providing patients with access to care by enabling them to travel shorter distances to get the care they need without overwhelming the limited number of hospitals in their areas.⁷³

⁶⁴ *Id.* at 13.

⁶⁵ Drew Maloney, *Private Equity Is the Partner Health Care Needs*, RealClearHealth (Mar. 15, 2024), https://www.realclearhealth.com/blog/2024/03/15/private_equity_is_the_partner_health_care_needs_1018633.html#!.

⁶⁶ Chartis, *Unrelenting Pressure Pushes Rural Safety Net Crisis into Uncharted Territory* (Feb. 15, 2024), at 7, https://www.chartis.com/sites/default/files/documents/chartis_rural_study_pressure_pushes_rural_safety_net_crisis_into_uncharted_territory_feb_15_2024_fnl.pdf.

⁶⁷ *Id.* at 3.

⁶⁸ *Id.* at 3-4.

⁶⁹ Maloney, *supra* n.65.

⁷⁰ American Investment Council, *Building Competition: How Buy-and-Build Helps the American Economy* (Feb. 2023), at 8, https://www.investmentcouncil.org/wp-content/uploads/2023/02/2022_AIC_BB_report_V3.pdf.

⁷¹ *Id.* at 8.

⁷² Maloney, *supra* n.65.

⁷³ *Id.*

In 2017, West Virginia University conducted a study of MedExpress, a chain of urgent care centers in Appalachia that has been heavily supported by private equity.⁷⁴ With private equity capital, MedExpress was able to “open new locations in more rural areas throughout the region, where hospital closures have become common.”⁷⁵ According to the study, new MedExpress clinics were “associated with fewer short-term admissions to hospitals, fewer inpatient days, fewer emergency room visits, and a reduction in outpatient visits at hospitals.”⁷⁶ The study also concluded that “MedExpress entry would seem to be freeing up valuable resources for more serious medical situations” at overcrowded emergency rooms and that the availability of urgent care centers “leads to a substitution to a lower cost option” for patients.⁷⁷ Far from diminishing care for patients, private equity funded initiatives such as MedExpress are improving care in rural and underserved communities in significant ways.

D. Private Equity Investments in the Physician Practice Management Sector Provides Much Needed Capital and Leads to More Efficient and Comprehensive Care

Private equity investments in physician practice management have allowed providers to focus on providing better, more efficient, and more comprehensive care to patients. Physician practices face a growing number of challenges, including unsophisticated operations, poor technology, and lack of scale. In addition, for practices that are managed by physician owners, the physicians must juggle management and administrative functions while at the same time trying to take care of patients. These challenges, in combination with the need for technology and other forms of investment, increased reporting requirements, and changing reimbursement to value-based contracting, are driving physician group consolidation.

Sources of capital for physician group consolidation, however, are limited. One source is hospitals, but, in addition to operational difficulties, hospitals are not owned by doctors and therefore physicians do not participate in equity as they do when they own their own practice. A second source is payer-associated entities, but this raises concerns about payers gaming the system by owning providers, and it also means that physicians do not participate in equity. The third source is private equity, and it is the only option that allows physicians to remain as equity owners. Further, existing state laws governing private equity ownership of medical practices require clinical decisions to be made by physicians, not private equity-backed managers. According to one study, “[f]rom the physician point of view, acquisition by a PE firm was often perceived by interviewees as allowing physicians more autonomy, when compared to acquisition by a hospital. While substantial changes to management and business operations were reported, interviewees

⁷⁴ Amir B. Neto, et al., *The Effect of Health Care Entrepreneurship on Local Health: The Case of MedExpress in Appalachia* (2017), https://researchrepository.wvu.edu/econ_working-papers/30/; American Investment Council and Pitchbook, *supra* n.17, at 8.

⁷⁵ American Investment Council and Pitchbook, *supra* n.17, at 8.

⁷⁶ Neto et al., *supra* n.74, at 11.

⁷⁷ *Id.* at 12-13.

who had experienced an acquisition reported minimal changes in the governance of clinical roles. Clinical decision making was reported to have remained in the hands of the physicians.”⁷⁸

Contrary to the one-sided narrative that the FTC has been perpetuating, private equity companies help to create value by improving company productivity, which, in the case of physician practices, means improved medical care for patients. Specifically, after private equity ownership commences, physician groups have been shown to have improved clinical quality markers. For example, under private equity ownership, Oak Street Health, a primary care group that serves older adults, was able to expand to 67 clinics across 10 states as of September 2020, providing care to approximately 89,500 patients.⁷⁹ In 2020, Oak Street Health reported that it achieved “approximately 51% reduction in hospital admissions, 42% reduction in 30-day readmission rates, and 51% reduction in emergency department visits,” all while maintaining a Net Promoter Score (which measures the likelihood of patients recommending a healthcare provider’s services) of 90 across patients.⁸⁰ In addition, private equity-backed practices are able to see more patients and provide greater access to care.⁸¹ As the country faces a growing need for greater access to care—particularly in light of the declining availability of physician specialists⁸²—it has become more important for physician practices to operate efficiently. And the fact that private equity-backed practices are more efficient means that they can provide more care.

As with hospitals, nursing homes, and urgent care centers, private equity investment in physician practices is providing much needed capital and management expertise that is leading to higher quality and more comprehensive care for patients.

E. Private Equity Funding of New Treatments for Life-Threatening Conditions

Private equity has also invested significantly in businesses to help support research into deadly diseases and the development of life-saving treatments and therapies, filling critical funding gaps in the U.S. healthcare system. Over the past ten years, private equity has invested over \$123

⁷⁸ Eloise May O’Donnell, et al., *The Growth of Private Equity Investment in Health Care: Perspectives From Ophthalmology*, 39(6) Health Affairs 1026, 1030 (2020), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2019.01419>.

⁷⁹ SEC, Oak Street Health, Inc., Form S-1 (Nov. 30, 2020), <https://www.sec.gov/Archives/edgar/data/1564406/000119312520305587/d817452ds1.htm>.

⁸⁰ *Id.*

⁸¹ Brian W. Powers, William H. Shrank & Amol S. Navathe, *Private Equity and Health Care Delivery*, JAMA (Sept. 14, 2021), at 2, <https://jamanetwork.com/journals/jama/article-abstract/2783121>.

⁸² For example, “[f]rom 2020 to 2035, the total ophthalmology supply is projected to decrease by 2650 full-time equivalent (FTE) ophthalmologists (12% decline) and total demand is projected to increase by 5150 FTE ophthalmologists (24% increase), representing a supply and demand mismatch of 30% workforce inadequacy.” Sean T. Berkowitz, et al., *Ophthalmology Workforce Projections in the United States, 2020 to 2035*, 131(2) Ophthalmology 133, 133 (2024), [https://www.aaojournal.org/article/S0161-6420\(23\)00677-2/pdf](https://www.aaojournal.org/article/S0161-6420(23)00677-2/pdf).

billion in pharmaceutical manufacturers.⁸³ These investments have enabled the development of improved treatments for several life-threatening conditions, such as leukemia, Alzheimer’s disease, heart disease, HIV, and breast cancer, and for several debilitating conditions, including rheumatoid arthritis, diabetes, and ulcerative colitis.⁸⁴

On average, it takes 10-15 years and more than \$2.6 billion to develop and bring a new drug to market. Patients nationwide suffer from nearly 7,000 types of rare diseases, but only 5% of those rare diseases have any available treatment due to delays in the approval process for new drugs.⁸⁵ In fact, only 12% of the molecules that enter clinical trials ever receive Food and Drug Administration (FDA) approval.⁸⁶ Investments by private equity also help to further finance pharmaceutical manufacturers, especially over-the-counter and generic drug makers that provide lower-cost options to patients. Private equity firms also help pharmaceutical companies improve efficiencies by introducing new technologies and resources that lead to better innovations at a faster rate.

For example, in 2019, AIC member company Blackstone launched a new pharmaceutical company, Anthos Therapeutics, to create new therapies for high-risk cardiovascular issues. This led to the development of Anthos’ MAA868, which “has the potential to prevent a variety of cardiovascular disorders with minimal or no bleeding risk, which would provide major advantages over the conventional standards of care.”⁸⁷ This new treatment could provide a safer alternative for the 12.1 million Americans expected to suffer from atrial fibrillation by 2030.⁸⁸

As another example, in January 2018, pharmaceutical manufacturer Pfizer announced it would shut down drug development for early- and mid-stage neuroscience drug development, citing expensive and time-consuming research requirements. Private equity firm Bain Capital stepped up to partner with Pfizer by forming a new company, Cerevel Therapeutics, to continue developing treatments for deadly diseases, including Alzheimer’s disease and Parkinson’s disease. Bain invested \$350 million in the new company, with Pfizer providing key researchers and science officers. According to CNBC, “[i]ts lead programs include a medicine for the symptoms of Parkinson’s disease that is likely to enter late-stage clinical testing next year, and one for epilepsy

⁸³ American Investment Council, *Lifesaving Innovation – Brought To You By Private Equity* (Apr. 4, 2024), <https://www.investmentcouncil.org/lifesaving-pharmaceutical-treatments-brought-to-you-by-private-equity/>.

⁸⁴ *Id.*

⁸⁵ PhRMA, *Research & Development Policy Framework* (Jan. 22, 2024), <https://phrma.org/en/policy-issues/Research-and-Development-Policy-Framework>.

⁸⁶ *Id.*

⁸⁷ American Investment Council, *Lifesaving Innovation – Brought To You By Private Equity*, *supra* n.83.

⁸⁸ *Id.*

that is ready to start mid-stage studies. Other compounds target Alzheimer’s disease, schizophrenia, and addiction.”⁸⁹

In 2018, Headlands Research, a globally integrated clinical trial organization based in Portland, Oregon, partnered with private equity firm Kohlberg Kravis & Roberts to work on improving the clinical trial process by emphasizing scientific rigor, quality data, and patient representation.⁹⁰ “Headlands wouldn’t be where it is right now without the benefit of private equity, both from a capital perspective, but also just the resources and knowledge to build and grow,” said Mark Blumling, CEO of Headlands Research.⁹¹

F. Private Equity Funding of Medical Innovations That Improve Patients’ Quality of Life

Private equity investment also helps fund critical medical research and technological developments. Over the past decade, more than 870 medical manufacturers partnered with private equity firms to grow their footprints, innovate new products, hire industry experts, and ultimately distribute the resulting medical devices to providers and patients in need of this type of care.⁹²

In particular, private equity firms have invested more than \$125 billion in medical device manufacturers over the past decade.⁹³ Of note, medical device manufacturers spend on average \$54 million in research and development and testing costs to bring a novel complex medical device to market. When failed devices and studies are taken into account, these costs rise to \$522 million per device.⁹⁴ Absent private equity investments, many medical device manufacturers could not provide life-changing devices to patients, devices that result in more successful surgeries and shorter, less painful recovery times.

As one example, Ev3, a medical device manufacturer based in Plymouth, Minnesota, partnered with AIC member Warburg Pincus, healthcare specialist The Vertical Group, and Dale Spencer, a veteran of the medical device industry. Ev3 quickly became an important player in the manufacture of stents, catheters, and other specialized medical devices. By the time Ev3 went public, its headcount had grown to 1,350 employees, which not only created jobs but allowed for

⁸⁹ *Id.*; Meg Tirrell, *Bain Capital Teams with Pfizer to Create New Neuroscience-Focused Company*, CNBC (Oct. 23, 2018), <https://www.cnbc.com/2018/10/23/bain-capital-teams-with-pfizer-to-create-new-neuroscience-focused-company.html>.

⁹⁰ American Investment Council, *Lifesaving Innovation – Brought To You By Private Equity*, *supra* n.83; Claire Rychlewski, *Headlands Research Has Active M&A Pipeline, CEO Says*, Mergermarket (Nov. 19, 2019), <https://headlandsresearch.com/wp-content/uploads/Mergermarket-11.19.19.pdf>.

⁹¹ American Investment Council, *Lifesaving Innovation – Brought To You By Private Equity*, *supra* n.83.

⁹² American Investment Council, *Innovative Medical Devices That Improve Lives Are Fueled By Private Equity* (Mar. 19, 2024), <https://www.investmentcouncil.org/innovative-medical-devices-that-improve-lives-are-fueled-by-private-equity/>.

⁹³ *Id.*

⁹⁴ *Id.*

the provision of life-changing medical devices to a greater number of patients in need, thanks to private equity sponsorship.⁹⁵

III. Targeting Private Equity Investment in the Healthcare Industry for Further Regulation Will Hinder, Not Promote, Competition

As the foregoing helps illustrate, private equity investment introduces top-tier management expertise to the healthcare sector, enabling providers to focus on patient care, and also infuses capital that pays for advancements in technology, all of which improve patient outcomes. This approach not only benefits the companies (including the providers and employees who work for them) and the patients they serve, but it also promotes innovation and job creation, which benefits the U.S. economy as a whole. The notion that private equity firms harm the companies in which they invest by degrading their products and services or by slashing provider jobs makes no sense. Private equity firms aim to create greater value for businesses through their investment, which requires improving, not degrading, a business's operations and performance. As the Chair of the Economics Department at DePaul University explained: "Private equity can play an important role in not just fixing the[] chronic problems" in the healthcare sector—such as "high costs, chronic inefficiency, and the labyrinth patients must navigate to receive care"—but also "in delivering a paradigm shift in healthcare delivery."⁹⁶ "Through strategic expansions, technological advancements, enhanced patient experiences, and quality care, along with managerial expertise, private equity promises to bring managerial innovation in a sector in dire need of reform."⁹⁷

Rather than target private equity investment for further regulation,⁹⁸ the Agencies should recognize that much of the opposition to private equity investment in the healthcare industry stems from a reluctance on the part of incumbent healthcare providers—who are often unable or unwilling (due to the risk involved) to make the type of substantial investments made by private equity—to compete with the efficiencies and advancements that private equity investment can bring about. "[T]he challenges currently plaguing the healthcare sector, including numerous anti-competitive practices and suffocating regulations that stifle innovation, exist independently of PE investment," and "[t]he system's design, which limits competition and drives up costs, benefits the established healthcare entities at the expense of consumers."⁹⁹ Targeting private equity investment through regulation may in fact hinder competition by leaving the established entities—health

⁹⁵ *Id.*

⁹⁶ Tony Lo Sasso, *Private Equity Is Not the Boogeyman In Healthcare*, RealClearMarkets (Mar. 21, 2024), https://www.realclearmarkets.com/articles/2024/03/21/private_equity_is_not_the_boogeyman_in_healthcare_1019369.html.

⁹⁷ *Id.*

⁹⁸ Investments in the healthcare industry are already subject to robust regulatory oversight, including indirect ownership disclosures, conflicts of interest rules (including those pertaining to indirect ownership), and board-level oversight and guidance. *See, e.g.,* Medicare Provider Enrollment, Chain, and Ownership System, *Medicare Enrollment for Providers and Suppliers*, <https://pecos.cms.hhs.gov/pecos/help-main/faq.jsp>; HHS Office of Inspector General, *Compliance Resources for Health Care Boards*, <https://oig.hhs.gov/compliance/compliance-resource-material/>.

⁹⁹ Sasso, *supra* n.96.

systems and healthcare payers—to create even larger power centers in local markets that would raise healthcare costs and reduce patient choice. Because both history and empirical data show that “private equity can engage in and win fair competitive battles across various industries,” and because “a competitive healthcare market is the best path forward to prioritize patient care and innovation,”¹⁰⁰ the Agencies should resist any impulse to impose restrictions on private equity investment in the healthcare sector. That is especially true when evidence-based research shows the many positive contributions that private equity firms have made—and will continue to make—to the healthcare industry.

* * *

In sum, private equity plays a critical role in supporting quality, affordable, and accessible healthcare in the United States. While private equity has become a convenient scapegoat for problems in the healthcare industry, the facts demonstrate that private equity firms are actually solving problems, not creating them.

If the Agencies want to study the causes of problems in the American healthcare system, they should do so based on balanced information and not cater to opponents of private equity. The effects of private investment on the healthcare industry are ultimately an empirical question and ought to be assessed objectively and based on facts, rather than by sweeping, negative generalizations. AIC encourages the Agencies to adopt a neutral, evidence-based approach. AIC recommends that the Agencies create a working group that brings together diverse, informed viewpoints to better understand the complex issues affecting the American healthcare system. AIC stands ready to assist the Agencies in identifying experts for such a working group who could speak to the beneficial impacts of private equity investment in the healthcare sector. AIC also would be happy to provide the Agencies with additional empirical work that supports the idea that the impact of private equity investment in the healthcare industry has been, on balance, strongly positive.¹⁰¹ Given the important ways in which private equity benefits patients, providers, and investors, including retirees, it is important to ensure that anti-business rhetoric does not crowd out reasoned and fair-minded competition policy.

Sincerely,

/s/ Rebekah Goshorn Jurata

Rebekah Goshorn Jurata
General Counsel
American Investment Council

¹⁰⁰ *Id.*

¹⁰¹ AIC is submitting all of the materials that it has cited in this letter. Those materials are available [here](#). AIC also directs the Agencies to an extensive literature review that it previously provided in its March 4, 2024 letter to Chair Khan that addresses the impacts of private equity investment in general and specifically in the healthcare sector. American Investment Council, Letter to Chair Khan (Mar. 4, 2024), https://www.investmentcouncil.org/wp-content/uploads/2024/03/202.03.04_AIC-to-FTC-and-Chair-Khan-re-Health-Care-Workshop.pdf.